

## DEMOCRATIC REPUBLIC OF THE CONGO

The Democratic Republic of the Congo (DRC) is a nominally centralized republic with a population of approximately 68 million. The president and the lower house of parliament (National Assembly) are popularly elected; the members of the upper house (the Senate) are chosen by provincial assemblies. Multiparty presidential and National Assembly elections in 2006 were judged to be credible, despite some irregularities, while indirect elections for senators in 2007 were marred by allegations of vote buying. There were many instances in which state security forces acted independently of civilian control and of military command.

In all areas of the country, state security forces continued to act with impunity throughout the year, committing many serious abuses, including unlawful killings, disappearances, torture, rape and engaging in arbitrary arrests and detention. Severe and life-threatening conditions in prison and detention facilities, prolonged pretrial detention, lack of an independent and effective judiciary, and arbitrary interference with privacy, family, and home also remained serious problems. Members of the state security forces continued to abuse and threaten journalists, contributing to a decline in press freedom. Internally displaced persons remained a major problem, and the integration of ex-combatants and members of rebel and militia groups (RMGs) into state security forces and governance institutions was slow and uneven. Government corruption remained pervasive, and some corporations purchased minerals from suppliers who financed mining activities by armed entities that committed serious human rights abuses. Elements of the state security forces were charged in the death of one of the country's leading human rights defenders and at times beat or threatened local human rights advocates and obstructed or threatened UN human rights investigators. State security forces retained and recruited child soldiers and compelled forced labor by civilians. Societal discrimination against women and ethnic minorities, trafficking in persons, child labor, and lack of protection of workers' rights continued to be widespread throughout the country. Enslavement of and discrimination against Pygmies occurred.

Internal conflicts, mainly in the east, continued to significantly affect the human rights situation and challenged the government's limited ability to effectively control its territory, which was particularly the case in North and South Kivu provinces. The conflicts permitted armed entities to commit violent abuses against civilians, with little chance that the government would be able to hold the perpetrators accountable. These entities included RMGs, such as the Democratic

Forces for the Liberation of Rwanda (FDLR) and the Mai-Mai (community-based self-defense groups), as well as dissident elements of the state armed forces, including former members of the National Congress for the Defense of the People (CNDP) and some "regular" units of the Armed Forces of the DRC (FARDC). During the year RMGs continued to commit numerous, serious abuses--some of which may have constituted war crimes--including unlawful killings, disappearances, and torture. RMGs also recruited and retained child soldiers, compelled forced labor, and committed widespread crimes of sexual violence. The situation was complicated the incomplete implementation of the March 2009 peace agreements involving the government and several RMGs that operated in North and South Kivu. In October the UN Office of the High Commissioner for Human Rights (UNOHCHR) detailed allegations of serious abuses, including potential war crimes and crimes against humanity, committed in the country by foreign militaries and other armed entities between 1993 and 2003 (see sections 1.e. and 5). In the eastern provinces of North and South Kivu, the illegal exploitation of natural resources continued to contribute to conflict. Many armed entities in the east, including some FARDC units, engaged in the illegal exploitation and trade of natural resources. Some RMGs, have cooperated with criminal networks within the FARDC that have militarized the mineral trade and continued to compete for control over mineral-rich areas. In September, President Joseph Kabila imposed an indefinite suspension of all mining activity in North and South Kivu and Maniema provinces, which remained in effect at year's end. A separate conflict involving the Lord's Resistance Army (LRA) in the Haut Uele and Bas Uele districts of Orientale Province in the northeast continued to have an extremely negative effect on human rights during the year, resulting in deaths, injuries, abductions, forced labor, looting, and general insecurity. Interethnic conflict in Equateur Province resulted in numerous refugees and internally-displaced persons (IDPs). While the security situation in Equateur stabilized during the year, the IDPs did not return.

## **RESPECT FOR HUMAN RIGHTS**

Section 1    Respect for the Integrity of the Person, Including Freedom From:

a.    Arbitrary or Unlawful Deprivation of Life

There were reports that the government or its agents committed politically motivated killings. For example, during the year members of police allegedly killed a leading human rights activist and disappeared his colleague (see section 5).

In addition, during the year dissident elements of the FARDC, which were comprised of ex-CNDP members poorly integrated into the FARDC and led by General Bosco Ntaganda, were allegedly implicated in at least eight politically motivated killings, as well as the arbitrary arrest and temporary detention of seven other individuals, and the abduction and disappearance of another. The killings and other acts targeted members loyal to the previous CNDP commander, Laurent Nkunda, whom Ntaganda had replaced as the leader of the CNDP in January 2009, when the Rwandan government arrested and detained Nkunda in Rwanda. The ouster of Nkunda divided the CNDP movement to some extent between Nkunda and Ntaganda supporters. The killings allegedly were an attempt by Ntaganda to assert his authority over the group and quell any division.

According to Human Rights Watch (HRW), one of the targeted killings occurred on September 14, and it resulted in the shooting death of Lieutenant Colonel Antoine Balibuno, an Nkunda supporter, immediately following a nighttime meeting at a bar in Goma with Lieutenant Colonel Kabakule Kennedy and Lieutenant Colonel John Asiki, both of whom were known supporters of Ntaganda. Balibuno had reportedly told HRW and others in the preceding months that Ntaganda had repeatedly threatened him for refusing to support Ntaganda's leadership of the CNDP. Another killing documented by HRW allegedly took place in Gisenyi, Rwanda on June 20. A group of men including one of Ntaganda's body guards and, according to witnesses, Rwandan security agents entered the home of Denis Ntare Semadwinda, an Nkunda supporter. Semadwinda was stabbed repeatedly and his throat was slit. According to reports received by HRW, Semadwinda may have been in contact with General Kayumba Nyamwasa, an opponent of the Rwandan president who reportedly escaped a murder attempt in South Africa during the year. HRW, which called on the government to arrest Ntaganda, also reported that in the cases of arbitrary arrest and detention, Ntaganda had dictated what the charges should be and instructed judicial officials not to follow due process. Ntaganda, Kennedy, and Asiki remained free at year's end.

There were reports of state security forces engaged in summary executions, extrajudicial killings, rape and other abuses of civilians in the east and in other parts of the country during clashes with RMGs (see section 1.g.).

There were several occasions during the year when members of state security forces arbitrarily and summarily killed civilians, sometimes during apprehension or while holding them in custody, sometimes during protests, and often for failing to surrender their possessions, submit to rape, or perform personal services. In the

cases below, which are not an exhaustive list of such killings during the year, authorities did not investigate or prosecute any of the perpetrators.

In April soldiers allegedly killed a journalist (see section 2.a.).

On May 5, agents of the military intelligence agency DEMIAP fired into a crowd of demonstrators in Kinshasa, killing one and injuring several. A day prior to the shooting, state security forces had arrested several members of the Church of Jesus Christ our Lord in Kinshasa at Kinshasa's airport for "security reasons." Those arrested were released after three and a half months in prison with no charges and no trial. No action was taken against the DEMIAP agents responsible for the shootings.

On June 2, two FARDC soldiers robbed and shot two civilians in Kabaye, North Kivu, which resulted in the death of one of the victims. An intelligence officer of the First Operational Area refused to transfer suspects to a judge investigating the killing. No additional information was available at year's end.

On September 29, the Republican Guard (GR) arrested and severely beat Armand Tungulu, a Congolese national for throwing a rock at the presidential motorcade in Kinshasa, according to witnesses. On October 2, the prosecutor general reported that the detainee had apparently committed suicide while in the GR's custody at Tshatshi military camp during the night. He added that a medical examiner had been assigned to the case. According to media reports, despite requests from Tungulu's wife, officials had not given Tungulu's body to his family, despite the family's requests. There was no additional information by year's end.

There were no reports of authorities taking action in the following cases of unlawful killings committed by state security forces in 2009:

- the fatal shooting of a man by a Congolese National Police (PNC) officer during a protest in January in Kolwezi, Katanga;
- the fatal beating of a Tanzanian man in January by two Directorate General of Migration (DGM) agents and two PNC officers in Lubumbashi, Katanga, following his arrest for alleged document fraud;
- the death of a woman in Njingala, North Kivu, from injuries she sustained in April during a gang rape by 10 FARDC soldiers who invaded her home;
- the death by torture of a man by FARDC intelligence officers in April in Kamandi Lac, North Kivu; or

- the fatal beating of a detained woman in her prison cell by PNC officers in June in Bena Mpiana, Kasai Oriental.

Authorities took no further action on the 2008 killing of a civilian in Bulukutu, Equateur, by a PNC officer, or the 2008 killing of an artisanal miner in Katanga by a police officer attached to the Provincial Mining Office in Kalukalanga. There was also no additional information regarding the arbitrary arrest and illegal three-month detention of a man, who later died from mistreatment, by the commander of the Karawa Police Station in Equateur in 2008.

Authorities in Bas-Congo Province, in the west, took no action regarding the deaths of at least 205 members of the Bundu Dia Kongo (BDK), a political-religious group seeking greater provincial autonomy, during demonstrations in 2008 and 2007. Investigative reports by the UN Joint Human Rights Office (UNJHRO) in 2008 concluded that police used excessive force in both incidents and that in 2008 police committed arbitrary executions and raped local residents. Although the government, rejecting these conclusions, committed in 2008 to conduct its own investigation, Philip Alston, the UN special rapporteur on extrajudicial, summary, or arbitrary executions (UNSRESAE), found that authorities--including then head of the PNC John Numbi--had not held to account any of the PNC members responsible for the killings. During UNSRESAE Alston's visit, the governor ordered the mayor of Kisantu to prevent him from interviewing witnesses or holding any meetings.

There were no developments in the 2008 case of a FARDC soldier who shot and killed a civilian in Mahagi Port, Orientale.

Authorities took no action against those responsible for summarily executing and otherwise killing approximately 300 persons in 2007 during armed confrontations in Kinshasa between forces loyal to President Kabila and rival forces loyal to former vice president Jean-Pierre Bemba.

Attempts to investigate a 2004 massacre in Kilwa, Katanga Province, which was allegedly committed by FARDC soldiers with logistical help from a mining company, continued to meet with problems following Katanga government officials' decision in 2008 to prevent a local nongovernmental organization (NGO), as well as the victims' foreign attorneys, from visiting Kilwa. As a result, during the year survivors and relatives of the 73 victims of the massacre filed a class action lawsuit in Quebec against the Canadian company Anvil Mining, which responded to the lawsuit by saying there had been numerous investigations and

court proceedings but "no findings adverse to Anvil or any of its employees have arisen." There were no further legal developments regarding the 2007 acquittal by a military court of several FARDC soldiers and three Anvil Mining employees accused of involvement in the Kilwa massacre. In 2008 the Lubumbashi Military Court of Appeal rejected legal motions by victims' relatives challenging the acquittals.

There were no reported developments regarding any of the other alleged killings by authorities in 2007 that were previously reported.

During the year a UN human rights mapping report detailed killings by foreign militaries between 1993 and 2003 (see section 1.g.).

RMGs in conflict zones committed unlawful killings during the year, and there were reports that some corporations facilitated such killings and other abuses by sourcing minerals from areas controlled by armed entities, including FARDC units (see section 1.g.).

#### b. Disappearance

There were reports of disappearances caused by government forces. Authorities often refused to acknowledge the detention of suspects, and in some cases they detained suspects in secret detention facilities.

For example, in August FARDC soldiers kidnapped a civil society leader and did not disclose his whereabouts while illegally detaining him in an underground jail (see section 1.c.).

According to a report released in April 2009 by the African Association for the Defense of Human Rights (ASADHO), state security forces continued to use forced disappearances to repress individuals. ASADHO noted the disappearance of 16 persons, including students, police officers, and soldiers, following their initial arrest earlier in 2009. Their whereabouts remained unknown at year's end.

In February 2009 the UN Working Group on Enforced or Involuntary Disappearances (UNWGEID) reported to the UN Human Rights Council (UNHRC) that, as of 2008, there were 43 unsettled cases of forced or involuntary disappearance that had been reported to the UNWGEID, although none of them originated during the year. Underlining that an enforced disappearance was "a continuing offense for as long as the fate or whereabouts of the victim remains

unclarified," the UNWGEID stated that, as in 2008, the government did not respond to UN inquiries about the cases. There were no reports of government efforts to investigate disappearances and abductions, including those in which security force members were accused of involvement.

There was no information about the whereabouts of three lawyers in Kinshasa, who were abducted by three armed men in 2007 and allegedly detained by the National Intelligence Agency (ANR).

RMGs and FARDC units kidnapped numerous persons, generally for forced labor, military service, or sexual services, and there were reports that some corporations facilitated such killings and other abuses by sourcing minerals from areas controlled by these armed entities. Many of the victims disappeared (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

At the beginning of the year, the law did not specifically criminalize torture; however, during the parliamentary session between March and June lawmakers adopted a law criminalizing torture. Despite this reform, the government did not effectively enforce the law, and during the year there were many credible reports by informed sources that security services tortured civilians, particularly detainees and prisoners, and employed other types of cruel, inhuman, and degrading punishment. Most cases of torture were perpetrated by members of the police, the ANR, and the FARDC, according to credible sources. There were very few reports of government authorities taking action against members of state security forces responsible for these acts.

For example, on August 24, FARDC units comprised of ex-CNDP members kidnapped Sylvestre Bwira, president of the civil society in Masisi, North Kivu, and held and severely beat him in an underground prison for six days. The abuses occurred after he had sent an open letter to President Kabila on August 2, denouncing abuses committed with impunity by General Ntaganda's troops and the parallel CNDP administration in Masisi Territory. Authorities had taken no action by year's end.

The UNJHRO reported several cases of torture and cruel, inhuman, and degrading treatment. For example, on August 21, FARDC soldiers arrested five persons, including two minors, suspected of involvement in an attack on a MONUSCO

peacekeeping base in Kirumba, in the Lubero Territory in North Kivu, which killed three peacekeepers. During their detention at the headquarters of the 12th FARDC Sector in Kasando, Lubero Territory, soldier's allegedly tortured them, giving them between 40 and 120 lashes each and burning and mutilating their feet and hands to obtain confessions. The five were transferred on August 22 to the Goma military court. There were no reports that authorities had investigated or disciplined the accused FARDC soldiers, and no additional information was available.

There were no reports of authorities taking action in the following cases of severe beatings of suspects by state security forces in 2009 and 2008:

- the severe beating of a suspected thief who was subsequently denied food and water for two days by ANR agents in January 2009, in Kabimba, Katanga;
- the severe beating and stabbing of two women in February 2009 by several FARDC soldiers from the Second Integrated Brigade in Butembo, North Kivu, during a break-in at the women's home;
- the severe beating, extortion, and other forms of mistreatment of a man in February 2009 by five PNC officers in Kaleba, Katanga, under a PNC commander who allegedly routinely ordered the torture of civilians to extort money;
- the all-night beating of two civilians suspended from a tree by three GR soldiers named Vandome, Jean-Paul, and Mapendo in May 2009 in Kahungula, Bandundu;
- the beating and robbery of a civilian by two FARDC soldiers in Kalemie, Katanga, in 2008;
- the severe beating of a man by five FARDC soldiers in Mbuji-Mayi, Kasai Oriental in 2008 for resisting their efforts to steal his motorbike;
- the cruel, inhuman, and degrading treatment of a civilian in 2008 by seven PNC officers in Bena-Leka, Kasai Occidental, under the command of Tshipamba Nzolo; or
- the torture of a police officer by officers of the police's Mobile Intervention Group (GMI) in Mbuji-Mayi, Kasai Oriental, in 2008.

Authorities took no action against members of state security forces who tortured a judicial investigator in Orientale Province (see section 1.d.) in 2007.

On several occasions during the year, police beat and arrested journalists who wrote or broadcast material they did not like (see section 2.a.).



There were continuing reports, including many from the UNJHRO, of rape of civilians by members of the state security forces, both in the context of the conflict in the east (see section 1.g.) and elsewhere. For example, in Kasai Occidental, on March 13, four policemen from Kampungu police station in Mweka Territory allegedly arrested the daughter of a man they sought and then raped her throughout the night while she was detained. No additional information was available.

During the year a police commander raped a 15-year-old girl (see prison and detention center conditions in section 1.c.).

No additional information was available regarding the investigation that a public prosecutor ordered in 2009 into the rape of a 13-year-old girl in March 2009 by the head of the office of the Ministry of Urban Planning and Housing in Bulungu, Bandundu.

At year's end no additional information was available on a FARDC soldier in Rwindi, North Kivu, whom military authorities arrested and detained after he allegedly raped a three-year-old girl in 2008.

There were no reports of authorities taking further action regarding the abduction and repeated rape over a four-day period of a 14-year-old girl by a FARDC lieutenant in Gemena, Equateur, who had been arrested and then released; or the rape of 13 women and six girls in Ngele, Equateur, and the cruel, inhumane, and degrading treatment of the village's male residents by police officers.

RMGs committed sexual violence and other types of abuses against civilians during the year, and some corporations facilitated sexual violence against civilians by supporting--through the illicit trade in mineral resources--armed entities, including some FARDC units (see section 1.g.).

Some church leaders beat, whipped, and starved children accused of witchcraft (see section 6).

### Prison and Detention Center Conditions

Conditions in most prisons remained severe and life-threatening. During the year UN Secretary-General Ban Ki-moon reported to the UN Security Council that the prison system merited urgent reform, as it continued to be characterized by "catastrophic conditions of detention," including severe overcrowding and lack of

medical facilities, and that in several instances, detainees died from starvation, as no budget had been allocated to cover operational costs, including food and other basic needs. The penal system was underfunded, and most prisons were overcrowded, poorly maintained, and lacked sanitation facilities. In all prisons except the Kinshasa Penitentiary and Reeducation Center (CPRK), the government had not provided food for years. Prisoners' friends and families provided the only available food and necessities. Malnutrition was widespread, and some prisoners starved to death. Prison staff often forced family members of prisoners to pay bribes for the right to bring food to prisoners.

The country's justice minister called the prisons "death houses" in a plea to the international community for immediate assistance. According to ASADHO's April 2009 report *Rule of Law Put to the Test*, medical equipment and medicines were absent in virtually all the prisons and detention centers. In 2009 the UN secretary-general reported that prison populations exceeded capacity by 600 percent and expressed concern about lack of food and health care, outdated prison laws and regulations, and severe shortcomings in infrastructure and training for prison guards.

While evaluating the country's prison system in July 2009, Dimitri Titov, the UN assistant secretary for the rule of law and security institutions in the Department of Peacekeeping Operations, visited the prison in Goma, North Kivu, where he found a prison facility built for 150 prisoners housing 850, 650 of whom had not been tried yet. There was no separation of men, women, and children or of civilian and military detainees, which Titov called unacceptable. Titov said overcrowding was so great in the dilapidated prison that inmates slept in hallways and next to septic tanks, facilitating the spread of disease in what he called inhumane conditions. Noting that he had toured numerous prisons in post-conflict African countries, he deemed the prison in Goma "the most terrible I've ever seen." Titov also visited the prison in Bunia, Orientale, where he found the prison population exceeded the facility's capacity by 250 percent. While underlining efforts by donor countries to improve prison conditions in the country, he urged the government to match those efforts.

Temporary holding cells in some prisons were extremely small. Many had no windows, lights, electricity, running water, or toilet facilities; access to potable water or temperature-regulated cells was nonexistent.

Violence, particularly sexual violence, continued to be a serious problem in prisons, along with life-threatening diseases such as HIV/AIDS. Male prisoners

raped other prisoners, including men, women, and children. Citing the prison rape cases that it had registered during the year, ASADHO reported in June 2009 that "women are frequently raped" and that prison rapes "are sometimes organized in cahoots with prison authorities." ASADHO also noted that men, especially new inmates, were sodomized by prison gangs. In June 2009, during an attempted prison escape and subsequent riot at the Central Prison in Goma, North Kivu, 24 military detainees raped 23 female prisoners. PNC officers shot and killed one perpetrator.

Deaths of detainees were common due to deplorable living conditions, malnutrition, and lack of medical care. For example, on February 12, 191 persons were detained in a 36-by-23-foot cell in Tshikapa's prison, Kasai Occidental Province, without ventilation resulting in the death of three detainees due to suffocation. Also in February the UNJHRO documented seven cases of death in detention throughout the country, mainly due to bad detention conditions. Over a two-week period in July, three inmates died from starvation in Bulungu Prison, in Bandundu Province. On June 26, a detainee died in Idiofa prison in Bandundu, after failing to pay for the medical care he needed, even though health care is a state obligation in the country. On June 8 and 11, two detainees of Kalemie central prison in Maniema Province died from diseases a few days after their admission to the General Hospital of Kalemie.

In July 2009 the UNJHRO reported that prisoners were dying in Bunia prison, including from malnutrition and tuberculosis. Local NGO Me Lonjiringa reported in July 2009 that the physical and hygienic conditions of Bunia prison were so bad that being detained there was "a death sentence." UN High Commissioner for Human Rights Navi Pillay reported that between March 2008 and March 2009, at least 65 prisoners died in prisons. Pillay concluded that confinement in a Congolese prison in itself often amounted to cruel, inhumane, or degrading treatment.

Health care and medical attention remained inadequate, and infectious diseases rampant. In rare cases prison doctors provided care; however, they often lacked medicines and supplies. According to a nurse at the Bunia Central prison, in 2009 many prisoners were in desperate need of a transfer to the hospital for medical care but were often denied.

Numerous prisoners attempted to escape, sometimes to avoid what they viewed as certain death from starvation, according to the UNJHRO. In June 140 inmates escaped various prisons across the country, and only 23 of them were recaptured,

according to the UNJHRO. According to media reports, in Gemena prison, in Equateur, where a growing backlog of pretrial detention cases continued to outgrow the capacity of the prison and the lone prosecutor who served the area, almost 200 pretrial inmates rioted and escaped on November 16 due to lack of food; only a handful were reportedly recaptured.

Guards were few and often unpaid, and some lived in the prisons for lack of homes. According to the UN secretary-general, approximately 95 per cent of the personnel working in the correctional facilities were not civil servants but rather self-appointed and lacked formal training for the responsibilities of their positions. There was no training institution for prison personnel, including wardens. Lack of authority and surveillance resulted in detainee death and abuse. For example, the UNJHRO reported that on January 31, an inmate in Bukavu's central prison was tied up and beaten to death by six co-detainees.

Installations remained rudimentary, contributing to high rates of escape across the prison system. According to a March 2009 report by seven UN special rapporteurs and representatives, "The disastrous state of the prison system, perhaps the weakest link in the justice chain, facilitates escapes of suspects and convicts, including high profile offenders who sometimes 'escape' with the connivance of the authorities. For this reason, but also in light of the generally appalling prison conditions...penitentiary reform is an absolute necessity." The group recommended that the government and its technical assistance partners make it a priority to implement the new Strategic Plan on Prison Reform and Training, developed by the Ministry of Justice and the UN peacekeeping mission MONUC, whose name was changed to MONUSCO in May.

Larger prisons sometimes had separate facilities for women and juveniles, but others generally did not. Prison officials held pretrial detainees together with convicted prisoners and treated both groups the same. They generally held individuals detained on state security grounds in special sections. Government security services often clandestinely transferred such prisoners to secret prisons. Civilian and military prisons and detention facilities held both soldiers and civilians, since none of the military's prisons were operational, according to a March report by the UN secretary-general.

According to ASADHO, sleeping arrangements in prisons and detention centers were hierarchical and corrupt. Due to overcrowding, the best sleeping spots went to those who were able to pay. Those at the bottom of the hierarchy had to sleep on cement floors or outside in the courtyards.

According to MONUSCO, in 2009 fewer than 90 of the country's 230 prisons actually held prisoners; while there were no reports of the government officially closing prisons during the year, dozens of prisons that had not functioned for years remained closed. Most prisons were dilapidated or seriously neglected.

Prisoners routinely escaped from prisons in all provinces. In some cases, security personnel who were detained or convicted of serious crimes were released from prison by military associates or by bribing unpaid guards.

Even harsher conditions prevailed in small detention centers, which were extremely overcrowded; had no toilets, mattresses, or medical care; and provided detainees with insufficient amounts of light, air, and water. Originally intended to house short-term detainees, they were often used for lengthy incarceration. They generally operated without dedicated funding and with minimal regulation or oversight. Informed sources stated that detention center authorities often arbitrarily beat or tortured detainees. Guards frequently extorted bribes from family members and NGOs for permission to visit detainees or provide food and other necessities.

Despite President Kabila's 2006 decision to close illegal jails operated by the military or other state security forces, there were no reports of such closures during the year. According to MONUSCO, the security services, particularly the intelligence services and the GR, continued to operate numerous illegal detention facilities characterized by harsh and life-threatening conditions. Authorities routinely denied family members, friends, and lawyers access to these illegal facilities.

Authorities took no action against ANR agents who tortured six inmates in 2008 in Musenze Central Prison in Goma, North Kivu.

The law provides that minors may be detained only as a last resort; however, in part due to the absence of juvenile justice or education centers, authorities commonly detained minors. Many children endured pretrial detention without seeing a judge, lawyer, or social worker; for orphaned children, pretrial detention often continued for months or years. In February 2009 the UN Committee on the Rights of the Child (UNCRC) noted that the child protection code, promulgated in January 2009, provides for juvenile courts to become operational by 2011. However, the UNCRC expressed concern over the way in which the justice system continued to handle juveniles and the lack of a juvenile justice system. According to the UNJHRO, during the night of May 8, a 15-year-old girl who had been raped

was illegally detained in a PNC cell with the alleged perpetrator and subsequently raped by the police commander in charge of the investigation. There were no reports of authorities taking any action against the commander.

Authorities denied some prisoners and detainees access to visitors and did not permit them to have contact with or submit complaints to judicial authorities (see section 1.d.). The government had not established an effective or reliable system to monitor detention facilities, and authorities very rarely investigated allegations of inhumane prison or detention center conditions. There were no government ombudsmen serving to protect the rights of prisoners and detainees. There were no reports of authorities preventing prisoners or detainees from practicing their religion.

In general the government allowed the International Committee of the Red Cross, MONUSCO, and some NGOs access to all official detention facilities; however, it did not allow these organizations access to illegal government-run detention facilities, including those run by the ANR, the GR, and units of the FARDC, including ex-CNDP FARDC units in Masisi territory, North Kivu.

RMGs sometimes detained civilians, often for ransom, but little information was available concerning the conditions of detention (see section 1.g.).

With MONUSCO's support, the reconstruction of the Ndolo military prison in Kinshasa was completed during the year, and plans to make the prison operational had been finalized by October. At the Goma Central Prison, construction of a structure designed to separate juveniles and women neared completion. However, according to the UN Secretary-General's report to the UN Security Council in October, despite those efforts, prison conditions throughout the country, particularly in conflict-affected areas, remained dire. Calling prison conditions one of the major human rights crises in the country, the UNJHRO opened a special office during the year to better address the problem and recommended that the government create prison farms to ensure food supply for inmates and generate revenue to procure basic medicines.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest or detention; however, state security forces routinely arbitrarily arrested and detained persons.

#### Role of the Police and Security Apparatus

Among other elements, the state security forces consist of the PNC, which operates under the Ministry of Interior and has primary responsibility for law enforcement and public order. The PNC includes the Rapid Intervention Police and the Integrated Police Unit. The ANR, overseen by the president's national security advisor, is responsible for internal and external security. Other agencies include the military intelligence service of the Ministry of Defense; the DGM, responsible for border control; the GR, which reports directly to the presidency; and the FARDC, which is part of the Ministry of Defense and generally responsible for external security, but which also carries out an internal security role.

State security forces generally remained undisciplined, corrupt, lacked training, were grossly underfunded, and received little pay (see section 4).

There were mechanisms available to investigate abuses by state security forces and address internal discipline problems, although the mechanisms remained weak and ineffective, particularly for addressing misconduct by mid- and high-ranking officials. However, some progress was made during the year related to internal discipline of the PNC, as authorities charged eight PNC officers following the disappearance of human rights defender Fidele Bazana Edadi and the killing of his colleague, long-time activist Floribert Chebeya, who was last heard from just before entering PNC headquarters in Kinshasa after being summoned by the head of the national police, John Numbi. Nevertheless, several rule of law experts in the country and almost 80 local and international human rights NGOs have expressed serious concerns about the credibility and independence of the investigation and the trial (see section 5). Numbi, who was implicated by several reports in serious human rights abuses in recent years, was suspended from his position in June pending an investigation, but authorities did not charge him or put him on trial, and dozens of civil society members alleged that Numbi continued to perform official duties despite the official suspension.

Created in 2007, the Inspection General d'Audit (IGA) is the internal discipline system within the PNC. As an internal oversight mechanism, it aims, among other things, to address police corruption and other types of police misconduct and human rights violations perpetrated by the police force. While the existence of the IGA was considered a positive legal step, at year's end it was not fully functioning, suffering from a lack of infrastructure, training, and awareness regarding its role and existence, especially at the provincial level.

Members of the FARDC, police, and intelligence sectors continued to commit the majority of the country's human rights abuses. For example, on February 16, the deputy police commander of Sankuru, Kasai Oriental Province, and 20 PNC agents burned 89 homes and pillaged 47 others in retaliation for the killing of a policeman by the population. On February 16 and 18, they also pillaged two schools and broke 19 windows in the local hospital. Authorities arrested six policemen, including the deputy commander, and placed them under a temporary arrest warrant. On April 14, the trial began at the Lodja military tribunal, but one of the policemen escaped before the trial began. No additional information was available at year's end.

The FARDC consisted of between 130,000 and 155,000 soldiers, including 60,000 who have reached or are close to retirement age. Approximately half of the force was deployed during the year in the conflict-affected east. The FARDC was ineffective, due in part to weak command and control, poor operational planning, low administrative and logistical capacity, and questionable loyalty on the part of some of its soldiers. Other serious obstacles to the formation of a coherent national army included lack of equipment and barracks.

In addition, in October 2009 UN Special Representative of the Secretary-General Alan Doss reported to the UN Security Council that "the fast-track integration of up to 20,000 elements of former armed groups, some with very bad human rights records, into the FARDC has aggravated existing problems of indiscipline and crimes committed against the population."

For example, in August a FARDC general ordered his soldiers to kidnap a FARDC colonel to force a military prosecutor to release another FARDC colonel, who had been arrested on charges of insubordination (see section 1.g.).

During the year there were increases in crimes committed against civilians in areas of the east where the FARDC was present, particularly regarding Operation Amani Leo (see section 1.g.). MONUSCO--as mandated by the UN Security Council--continued to condition its logistical military support to FARDC units on accountability for human rights abuses. For example, after MONUSCO suspended its support in June to the FARDC 911th, or "Bear," Battalion in Orientale, owing to the serious and persistent human rights violations committed by some of its elements, authorities arrested six officers of the battalion and transferred them to the relevant judicial authorities, according to a report submitted to the UN Security Council in October.



According to UNSRESAE Alston, "regular failures" by the government to provide soldiers their rations and pay, together with embezzlement by commanders, contributed to indiscipline as soldiers continued "to literally prey on the population." FARDC units throughout the country regularly engaged in illegal taxation and harassment of civilians. They set up checkpoints to collect "taxes," often arresting individuals who could not pay the demanded bribes and stealing whatever food and money they could. According to the UNJHRO, there was a direct correlation between salaries siphoned off by corrupt officers and the level of human rights abuses committed by the FARDC, the GR, the PNC, the DGM and the ANR. Abuses by FARDC soldiers were dramatically reduced in areas where they were paid and fed.

Impunity in the state security forces remained a severe, widespread problem, and the weaknesses of the justice system continued to play a large role in the problem (see section 1.e.). The government prosecuted and disciplined few security force personnel for abusing civilians. According to the UN secretary-general's report to the UN Security Council in March, military justice institutions continued to face challenges, including a severe shortage of military judges and prosecutors, with only 350 of a required 818 military magistrates being deployed. Magistrates, prosecutors, and investigators were poorly trained, had little or no resources for investigations, and limited, if any, access to legal codes. In addition, the military justice system was often subjected to political and command interference, and security arrangements for magistrates in conflict-affected areas remained inadequate. Magistrates who attempted to investigate politically connected high-level FARDC officers were threatened (see section 1.a.), as were witnesses providing information to judicial officers.

According to a HRW July 2009 report, *Soldiers Who Rape, Commanders Who Condone*, the military justice system remained a weak institution. HRW underscored that "only a small fraction" of the total number of acts of sexual violence committed by FARDC soldiers had been prosecuted. As an example, HRW reported that, during 2008, 27 soldiers were convicted of crimes of sexual violence in North and South Kivu. During the same year, the UN registered 7,703 new cases of sexual violence (by FARDC soldiers and other perpetrators) in North and South Kivu.

The Operational Military Court, which the government established during the year to address abuses committed by FARDC officers during military operations, made some progress in prosecuting a small number of low-ranking perpetrators. However, it lacked adequate staff, the ability to conduct its own independent

investigations, and the power to undertake high-level prosecutions, and there remained concerns about the court's respect for due process (see section 1.e.).

Most of the prosecutions undertaken by the military justice system continued to be lower-ranking officers or soldiers; rarely were mid-level or senior-level officers investigated for having committed acts of sexual violence. Although no general had yet been convicted, either for his own actions or for failing to control his troops, a general (General Jerome Kakwavu) was arrested for rape and other crimes in April. When they were convicted, sentences were rarely carried out. For example, in July 2009 a military court found Lieutenant Colonel Ndayambaje Kipanga guilty of raping four girls in Rutshuru, North Kivu. Prior to the arrest of General Kakwavu, he was the highest-ranking FARDC officer convicted. However, he was convicted in absentia after escaping custody two days after his arrest in May 2009, due to lax detention procedures, and he remained at large at year's end..

In its November 2009 report to the UN Security Council, the UNGOE cited meetings it held with military justice prosecutors in North and South Kivu, who "reiterated the limitations...in effectively prosecuting sexual violence and underscored the lack of willingness at the highest level of the FARDC military command to ensure that perpetrators are held accountable." Examples provided by the UNGOE of FARDC commanders who had failed to take any action after being notified of rape cases committed by their men included Colonel Alphonse Mpanzu of the 8th Integrated Brigade, deployed in Uvira (South Kivu) in the context of Kimia II (at least two cases of rape), and Lieutenant Colonel Salumu Mulenda, commander of the 33rd Brigade deployed in Uvira and Walungu territories (13 cases of rape). In addition, more than 50 cases of abuse by the 33rd Brigade (lootings, arbitrary detention, and burning of civilian properties) had been reported since the beginning of Kimia II operations, according to the group.

Several individuals accused of numerous serious abuses held senior positions in the FARDC. Of the "FARDC five," the five senior FARDC commanders whose impunity for alleged crimes of sexual violence was raised again with President Kabila by the UN Security Council in May 2009, three were in detention by year's end, their investigations had been completed, and their cases were ready for trial. General Kakwavu had been arrested and was awaiting trial, as well as colonels Safari and Mobuli. Major Pitchen, also known as Joseph Papy Ilunga, was located in Equateur. The Ministry of Defense sent a letter to his commander requesting he be transferred to the military prosecutor, but the commander refused. At year's end, Major Pitchen, who already had a warrant for his arrest due to a conviction of rape

in Bukavu, continued commanding a battalion of troops. Colonel Mosala was requested to remain under house arrest but was not legally required to do so; he fled and his whereabouts were unknown. He was presumed to have fled the country.

Following his assessment visit in October 2009, UNSRESAE Alston characterized impunity within the state security forces as "chronic," noting that "endemic corruption and political interference ensure that anyone with money or connections can escape investigation, prosecution, and judgment." For example, in June FARDC forces attacked an integration center in Nyaleke, North Kivu. The commander of the 1113th Battalion, based in Oicha, North Kivu, first arrested, and then released eight of the defendants in exchange for a large amount of money. A captain of the 1113th Battalion also released suspects in the same case and refused to respond to a summons to appear in court. In addition, on August 12, ex-CNDP FARDC elements forcibly freed a former commander from the Goma Military Prosecutor's office after authorities had arrested the former commander for refusing to be redeployed from Walikale Territory following accusations of human rights abuses by FARDC elements under his command.

On October 5, General Bosco Ntaganda, an ex-CNDP chief of staff who was loosely integrated into the FARDC during 2009 (but who has not followed or been subjected to the same command chain as the "regular," non-integrated FARDC forces) told Reuters that he continued to command FARDC troops in the east as "the number two" commander in Operation Amani Leo. (The International Criminal Court (ICC) issued an arrest warrant for Ntaganda in 2006 relating to the recruitment and use of child soldiers.) His comments contradicted official FARDC statements that he had no role in Amani Leo; however, the UN GOE reported in December that General Ntaganda "remained deputy commander of Amani Leo operations." At year's end General Ntaganda continued to live and openly circulate in Goma, North Kivu. In his 2009 report, UNSRESAE Alston expressed concern that both government and UN officials had indicated they would not take steps to arrest General Ntaganda.

During the year the government took few significant steps to reform the state security forces, and three important draft pieces of legislation to reform the armed forces had yet to be adopted by parliament. According to the UN secretary-general's October report to the UN Security Council, "Progress on reform of FARDC was largely stalled...Several bilateral training programs supporting the implementation of the army reform plan were stalled or completed, while the continuation of others was in question." The FARDC continued to cooperate with

the EU Mission to Provide Advice on and Assistance with Security Sector Reform in its chain of payments project, which aimed to improve the FARDC's salary distribution system, prevent fraud and embezzlement, and ensure payments reached soldiers.

There were a few convictions of state security forces members, usually low ranking, during the year. For example, on July 22, the military tribunal in Goma sentenced Lieutenant Bahati, Warrant Officer Kambere, Sergeant -Major Bandoa and Balume to 20 years in prison for rape and armed robbery.

In addition, some Congolese military prosecutors participated in joint investigation teams (JITs) a UN initiative launched during the year that focused on investigating crimes of sexual violence in the east. JITs, which consisted of UNJHRO officers and Congolese military prosecutors and investigators, received allegations of rape and other abuses from human rights groups and deployed to remote areas to investigate and collect evidence for judicial cases. The UNJHRO officers provided the military prosecutors and investigators with transportation, normally a debilitating deficiency in the investigation process. As the military prosecutors and investigators collected and processed information, they received in-the-field coaching and training in technical areas, such as forensics, witness protection and interviewing, and child protection. Although the JITs were ad hoc in nature and lacked adequate funding and personnel resources, participating military prosecutors and investigators and NGOs viewed JITs as a small but effective component in the fight against impunity.

In July 2009 announced that the government had adopted a policy of "zero tolerance" for human rights violations by the state security forces following intense criticism by donor countries and international human rights groups. The FARDC disseminated instructions to all soldiers that protecting the population was their duty and warned that rape and other crimes against civilians would be punished. In December 2009 several members of the Universal Periodic Review Working Group (UPRWG) commended the government for adopting this policy but expressed concern over severe deficiencies in its implementation. Several members of the UPRWG urged the government to implement by June 2010 the short-term anti-impunity reforms that were recommended by UNSRESAE Alston, who said in October 2009 that FARDC soldiers faced "no risk of punishment" for abuses, partly due to their anonymity. Alston urged the government to require all FARDC soldiers to wear uniforms showing their names and unit affiliation and recommended that the UN Security Council make this step a precondition for any further UN assistance. He also urged the government to immediately indict key

members of the military alleged to have committed war crimes, crimes against humanity, and other serious offenses, particularly General Ntaganda, Innocent Zimurinda, Sultani Makenga, Bernard Byamungu, and Salumu Mulenda. At year's end, the government had not taken these steps.

During the Amani Leo Operation, and at the request of the FARDC, MONUSCO conducted human rights screening--designed to identify and remove human rights abusers from the operation--on a small number of battalions in North Kivu that MONUSCO would support (depending upon the results of the screening process), approximately 1,500 soldiers in total; however, those in battalions not receiving support from MONUSCO were not vetted (see section 1.g.) .

However, during the year the government continued to maintain joint military oversight committees with MONUSCO in several provinces. They were composed of military officers, military magistrates, MONUSCO human rights officers, and MONUC child protection officers. They met monthly to monitor, investigate, and develop strategies to combat sexual violence and other human rights abuses. Their effectiveness remained mixed at year's end.

#### Arrest Procedures and Treatment While in Detention

By law arrests for offenses punishable by more than six months' imprisonment require warrants. Detainees must appear before a magistrate within 48 hours. Authorities must inform those arrested of their rights and the reason for their arrest, and may not arrest a family member instead of the individual being sought. They may not arrest individuals for non-felony offenses, such as debt and civil offenses. Authorities must allow arrested individuals to contact their families and consult with attorneys. In practice, security officials routinely violated all of these requirements. No functioning bail system existed, and detainees had little access to legal counsel if unable to pay. Authorities often held suspects in incommunicado detention, including in illegal facilities run by the ANR and the GR, and refused to acknowledge their detention.

Security personnel arrested and detained without charge perceived opponents and critics of the government during the year, sometimes under the pretext of state security, often denying due process, such as access to an attorney (see sections 1.a., 2.a. and 5).

Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members.

The military intelligence agency, DEMIAP, arbitrarily arrested persons and subjected them to prolonged arbitrary detention (see section 1.a.).

On July 21, in Kinshasa, PNC officers arrested without warrant the coordinator of the NGO Solidarity for Social Promotion and Peace (SOPROP) and a nurse, also a member of the organization, and held them in custody at the Mont-Amba police station. Police also detained three other SOPROP members when they visited the police station to support the victims; police allegedly beat one of the three. The five SOPROP members were released the same day. Authorities took no action against those responsible.

On September 29, members of the PNC arrested two women who witnessed and allegedly filmed the beating of a man by GR members after he threw a rock at the presidential motorcade. The two women were held in detention for several days until being released. The man was arrested and died in a GR detention cell, allegedly after committing suicide (see section 1.a.).

Of the 174 inmates determined in 2008 by the vice-minister of human rights to be illegally detained in the CPRK, seven remained in prison at the end of 2009, but it was unclear how many remained in prison at the end of the year.

Prolonged pretrial detention, often ranging from months to years, remained a problem, as pretrial detainees constituted at least 70 percent of the prison population, according to the UN. In March UN Secretary-General Ban Ki-moon reported that of approximately 18,000 inmates throughout the country, at least 70 percent were pretrial detainees. In July Bandundu civil society leaders reported that inmates at Bulungu prison spent two to three years on average in detention before being tried. Trial delays were due to factors such as judicial inefficiency, corruption, financial constraints, and staff shortages. Prison officials often held individuals after their sentences had expired due to disorganization, judicial inefficiency, or corruption. Prison records remained grossly inadequate, and authorities kept individuals in prison even after their sentences had been served.

e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, the judiciary was inefficient, corrupt, and subject to influence. Judges, who were poorly compensated, remained subject to influence and coercion by officials and other influential individuals.

Following his October 2009 assessment of the country, UNSRESAE Alston concluded that "across the country, endemic corruption and political interference ensure that anyone with money or connections can escape investigation, prosecution, and judgment. Judges' appointments, removals, and promotions are subjected to frequent political interference."

On January 21, Front for Patriotic Resistance in Ituri (FRPI) leader Bernard Kakado, 86, appeared for the first time at the Bunia military court after a length of two years and five months in custody. Kakado was being prosecuted by 23 victims for killings, rapes and lootings perpetrated from 2006 through 2007.

In a March 2009 report to the UNHRC, the UN special rapporteur on the independence of judges and lawyers and six other UN special rapporteurs and representatives collectively underscored that "political interference at all stages of the criminal process is very common." The report cited "numerous incidents, especially in the east," in which military and civilian judges and prosecutors were threatened and attacked by FARDC soldiers or members of nongovernmental armed entities "to intimidate them, disrupt criminal proceedings, and ensure impunity." It also noted that "extremely low salaries" in the justice, law enforcement, and penitentiary sectors facilitated corruption at all levels.

Judicial corruption remained pervasive, particularly among magistrates. The judicial system was funded with less than 1 percent of the national budget and was poorly staffed, with a very limited presence outside of Kinshasa. A study by an international NGO concerned with justice reform identified a variety of challenges that continued to hinder the planning and execution of the judicial branch budget, including declining annual budgets allocated to the judicial branch; failure to pay salaries of court personnel on a regular basis; failure to allocate costs for court operations; and the lack of transparency in the use of funds allocated to the judiciary.

There were fewer than 1,500 magistrates (judges who serve in the lowest level courts) serving the entire population (one magistrate for every 45,000 citizens), and two-thirds of them were located in Kinshasa, Matadi (Bas-Congo), and Lubumbashi (Katanga). There were fewer than 200 courts, of which approximately 50 were functioning during the year.

According to the UNJHRO, despite some convictions of members of the FARDC during the year, law enforcement personnel and magistrates continued to treat rape

and sexual violence in general with a marked lack of seriousness. Consequently, men accused of rape were often granted bail or given relatively light sentences, and out-of-court settlements of sexual violence cases remained widespread. However, during the year the government cooperated with the UN and donor nations to train civil and military judges in methods to effectively adjudicate rape cases.

The civilian judicial system failed to dispense justice consistently and was widely disparaged by the international community and citizens as ineffective and corrupt.

The constitution provided for new judicial institutions and laid the foundation for an independent judiciary by removing previous presidential powers to appoint and remove magistrates. The constitution divided the Supreme Court's functions into a Constitutional Court, Appeals Court, the Administrative Oversight Agency and the High Council of Magistrates (CSM), the country's supreme judicial oversight body, which is charged with disciplining judges and prosecutors and protecting the judiciary from executive intimidation and manipulation. However, by the end of 2009, the CSM was not fully operational, and no legislation had been promulgated to establish the Constitutional Court, the Appeals Court, or the Administrative Oversight Agency. In the absence of the judicial institutions provided for by the 2006 constitution, the existing structures--including the Supreme Court, Appeals Court, Superior Court (Tribunal de Grande Instance), and the misdemeanor courts known as Tribunaux de Paix--continued operating.

While the new structures provided for in the constitution were designed in part to increase access to justice, the government still had not implemented structures that were introduced by laws promulgated decades ago. For example, the 1982 law establishing the Tribunaux de Paix, which handle cases involving crimes punishable by less than five years' imprisonment, provides for one tribunal in each town and rural zone. According to an August 2009 report by the International Bar Association's Human Rights Institute (IBAHRI) and International Legal Assistance Consortium (ILAC), if this law were carried out, there should be 180 of these tribunals; however, only 58 were in place, and only 45 were functioning.

During the year the government continued a process begun in October 2009 to recruit and hire 1,000 new magistrates, including approximately 100 female judges, to help address the problems of unfair trials and lack of access to justice. By year's end, the deployment of the magistrates to the provincial courts had not been undertaken, and the government had not budgeted to deploy the judges.



Military courts, which had broad discretion in sentencing and provided no appeal to civilian courts, continued to try military as well as civilian defendants during the year. Some areas of the country, particularly the east, continued to be served only by military justice, due to the absence of any operational civilian justice component. Although the constitution limits jurisdiction of military courts to members of the FARDC and PNC, at year's end, the military judicial code and the military penal code of 2002 had not been harmonized with the constitution. In August 2009, the minister of justice initiated a reform process that aimed in part to harmonize military justice with the constitution; however, the military code of justice, in place prior to the adoption of the present constitution, continued in force during the year. It prescribed trial by military courts of all cases involving state security, including offenses related to military personnel, and "weapons of war" (firearms), whether the defendants were members of the military or civilians.

In 2007 the UN's resident expert on human rights recommended that the government establish a clearer separation between civilian and military jurisdictions; however, no action was taken by parliament during the year to address this recommendation.

In December 2009 the UN secretary-general reported to the UN Security Council about "extraordinary" military justice mechanisms established in the Kivus, including the Operational Military Court (see section 1.d.). He expressed concern that, "while contributing to discipline within the FARDC, there continued to be serious doubts regarding the legal basis of the mechanisms and their respect of fair trial standards, particularly since they do not contemplate a right of appeal." In addition, in its report to the UPRWG, a coalition of international NGOs criticized the newly created Operational Military Court for disrespecting basic due process rules. Of particular concern was the lack of an appeals process. However, on February 13, the Operational Military Court in North Kivu sentenced five FARDC soldiers to death for murder, one soldier to 20 years of imprisonment for rape, and two soldiers to five years of imprisonment for arbitrary arrest.

The law requires that a defendant can be tried only by a judge in the military justice system who is of equal or higher rank than the accused. In practice, this provision continued to provide senior military suspects with protection from prosecution.

According to the August 2009 report by the IBAHRI and ILAC, there were two main reasons why the executive branch and military command "continue to violate the independence of military judges" and prosecutors:

- First, alliances between government forces and various rebel groups continued to foster loyalties that have prompted government officials to try to prevent the prosecution of some of the leaders and members of these armed entities. For example, according to IBAHRI and ILAC, in a letter from the minister of justice obtained by NGOs, the minister "ordered that no action be taken against members of [the CNDP], and that ongoing proceedings were to be discontinued." The date of the letter, February 9, 2009, was shortly before the March 2009 peace agreement in which the CNDP formally agreed to cease hostilities against--and integrate into--the FARDC and assist in operations against the FDLR.
- Second, military police and military prosecutors remained dependent on the military chain of command for logistical and administrative requirements, and military judges and prosecutors were sometimes beaten or even tortured for having acted against members of the FARDC without prior authorization from the commander.

According to the UNJHRO, high-ranking military officers continued to adjudicate cases in which their own soldiers were implicated. Their alleged interference resulted in several out-of-court settlements regarding rape cases. However, there were some encouraging prosecutions during the year. For example, on July 22, the military tribunal in Goma condemned Lieutenant Bahati, Warrant Officer Kambere, Sergeant-Major Bandoa, and Balume to 20 years in prison for rape and armed robbery.

In their March 2009 report to the UNHRC, seven UN special rapporteurs and representatives underscored the need for the government to increase the justice portion of the national budget "to an acceptable level comparable with other countries (2-6 percent)." During the year the government increased the justice portion of the national budget to 0.1 percent. Emphasizing the importance of expanding the justice system in rural territories, the report underscored the lack of mobile courts and the need for increased or "hardship" pay to induce qualified judicial personnel to serve in conflict posts.

None of the courts or offices surveyed by an international NGO in four provinces (Katanga, Maniema, Bandundu, and South Kivu) had received operational or capital improvement funding from the central government in at least 10 years, forcing courts to rely on extralegal fees to pay for basic supplies and remuneration of "volunteer clerks," who were used by court offices to fill gaps when civil service

employees retired and were not replaced. A significant source of case management delay was the inability of courts to cover the costs of serving documents and other costs of litigation, including, for example, costs of transport for witnesses and victims in initial stages of prosecution. While there was some limited donor support for capital improvement and more limited support for operational costs, it was not enough to have an appreciable effect on courts' ability to function as viable institutions.

In their March 2009 report to the UNHRC, seven UN special rapporteurs and representatives highlighted the need for transitional justice and truth-seeking initiatives, and recommended establishing mixed courts comprising national and international judges and sitting in national courts. While no mixed courts were established during the year, on October 1 the UNOHCHR published a human rights mapping report, which was endorsed by the government and catalogued the most serious violations of human rights and international humanitarian law committed in the country between March 1993 and June 2003. The government called the UNOHCHR Human Rights Mapping report "credible" and, while not supportive of the recommendation to re-establish the country's dilapidated National Truth and Reconciliation Commission, expressed support for the concept of establishing a mixed domestic chambers to address the most serious crimes highlighted by the UNOHCHR's mapping report. The Ministry of Justice sponsored a two-day workshop to draft legislation related to the mixed chambers on November 29 and 30.

### Trial Procedures

The constitution provides for a presumption of innocence; however, in practice most detainees were treated as already having been convicted. Although the government permitted, and in some cases provided, legal counsel, lawyers often did not have free access to defendants. The public could attend trials only at the discretion of the presiding judge. Juries are not used. During trials defendants have the right to be present and to be provided a defense attorney. However, in practice these rights were not always respected. Defendants have the right to appeal in most cases except those involving national security, armed robbery, and smuggling, which the Court of State Security generally adjudicated. Defendants have the right to confront and question witnesses against them and can present evidence and witnesses in their own defense. The law requires that defendants have access to government-held evidence, but this right was not always observed in practice. There were no reports of women or specific ethnic groups being systematically denied these rights.

### Political Prisoners and Detainees

There were reports of political prisoners and detainees. In 2009 the UNJHRO estimated that there were at least 200 political prisoners in detention at the end of the year. The government permitted access to some political prisoners by international human rights organizations and MONUC; however, authorities consistently denied access to detention facilities run by the GR and the ANR (see section 1.c.).

### Civil Judicial Procedures and Remedies

Civil courts exist for lawsuits and other disputes, but the public widely viewed them as corrupt. The party willing to pay the higher bribe was generally believed to receive decisions in its favor. Most individuals could not afford the often prohibitive fees associated with filing a civil case. While the law stipulates access to free legal counsel for citizens in civil trials, in practice magistrates remained overburdened by large caseloads in areas outside of Kinshasa. It was difficult to retain the continued services of lawyers, who often spent minimal time outside of the capital. No civil court exists specifically to address human rights violations.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits arbitrary interference with privacy, family, home, or correspondence; however, state security forces routinely ignored these provisions. Soldiers, demobilized soldiers, deserters, and police continued to harass and rob civilians. State security forces routinely ignored legal requirements and entered and searched homes or vehicles without warrants. In general those responsible for such acts remained unidentified and unpunished. State security forces sometimes looted homes, businesses, and schools.

Authorities took no action in the cases detailed in this subsection in 2009 or 2008.

Authorities at times arrested or beat a relative or associate of a person they sought to arrest (see section 1.c.).

Armed entities operating outside government control in the east routinely subjected civilians to arbitrary interference with privacy, family, home, and correspondence, and some corporations facilitated such abuses by supporting--through the illicit

trade in mineral resources--armed entities, including FARDC units (see section 1.g.).

g. Use of Excessive Force and Other Abuses in Internal Conflicts

Internal conflict continued in rural and mineral-rich parts of the east, particularly in North Kivu and South Kivu, Bas Uele and Haut Uele Districts of Orientale, and to a lesser degree, the Ituri District of Orientale. According to a countrywide International Rescue Committee mortality survey released in 2008, conflict and related humanitarian crises, including the destruction and deterioration of essential infrastructure such as health centers, resulted in the deaths of an estimated 5.4 million Congolese between 1998 and 2007, or the equivalent of 45,000 per month throughout the survey period.

Despite the integration of former CNDP rebels into the FARDC in 2009, the FDLR, LRA, and some Mai-Mai groups increasingly formed coalitions during the year and continued to battle government forces and attack civilian populations. Military preparations during the year, and the fighting itself, led to further depredations against civilians by members of state security forces and armed entities. This continuation of fighting in the east, which impeded humanitarian aid in some areas kept the figure of internally displaced persons at approximately 1.7 million by the end of the year, exacerbating an already severe humanitarian crisis.

The UN peacekeeping mission, MONUC, continued to maintain several thousand soldiers and civilian personnel in the country to assist the government in establishing and maintaining peace and security, particularly in the east. In May the UN Security Council extended MONUC's mandate for 12 months, changing the name from MONUC to MONUSCO (UN Organization Stabilization Mission in the Congo), with an emphasis on the eastern part of the DRC and retaining protection of civilians as the Mission's top priority, and authorizing a drawdown of 2,000 peacekeeping soldiers troops by June 30 from areas where the security situation permits. At the end of the year, approximately 19,000 MONUSCO peacekeepers, military observers, and police continued efforts to effectively implement the mission's mandate, most notably with regard to its top priority of protecting civilians.

Despite the presence of MONUSCO, armed entities, including ex-CNDP FARDC units in the east, continued to kill, abduct, torture, and rape civilians and burn and destroy villages.

All parties continued to use mass rape and sexual violence with impunity, often as weapons of conflict, and to humiliate and punish individuals, victims, families, and communities. The UN Population Fund (UNFPA) reported 12,838 cases of sexual violence for both adults and children in North and South Kivu and Province Orientale in 2009. According to HRW, between January 2009 and September 2009, the total number of sexual violence cases registered at health centers in North and South Kivu exceeded 7,500, a near doubling of the total for the same period in 2008. In 2009 the International Rescue Committee, which registered approximately 1,200 cases of rape in South Kivu, found that up to 80 percent of survivors identified their assailants as members of either the FARDC or RMGs. While the actual number of cases was likely much higher, lack of data, social stigma, lack of confidence in the judiciary, and fear of reprisals prevented many rape survivors from coming forward.

According to MONUSCO, between July 30 and August 2, 303 women, children, and men were raped in 13 villages in Walikale, North Kivu by a coalition of the FDLR, Mai Mai Cheka, and combatants lead by Colonel Emmanuel Nsengiyumva, a former member of the CNDP and the FARDC. The perpetrators also looted more than 1,000 homes and abducted 116 civilians, whom they subjected to forced labor. The UN reported that from late July to early August, rebel groups raped an additional 260 individuals in several isolated incidents in South Kivu. According to the UN, one of the villages attacked, Luvungi, where more than 100 persons were raped, was a lucrative target for looting because it was a mining hub located only four miles from gold mines. A UN investigation in August found that the perpetrators "sought to block off the transport of minerals to Goma and Bukavu, as well as force the return of FARDC troops from the mining areas."

In addition, the UNGOE's November report underscored another link between the rapes and exploitation of minerals. In the weeks prior to the rapes, criminal elements of the FARDC, including the 212th FARDC Brigade, were competing for control of lucrative deployments near mines, including Bisie mine. The competition for minerals within the FARDC and a false belief that the FDLR posed no threat in the area led the commander of the 212th Brigade, ex-CNDP FARDC Lieutenant Colonel Yusef Mboneza, to disobey orders to move to the area where the armed entities were located and where the rapes later took place. The insubordination and competing parallel chains of command occurred at the expense of civilian protection and underscored the need for more effective integration of the ex-CNDP FARDC elements and other former RMGs into the FARDC.

According to the UNGOE, on August 12, authorities arrested Colonel Mboneza for insubordination related to his failure to follow orders to combat Mai-Mai Sheka, an armed entity active in Walikale Territory, North Kivu, and the FDLR. According to the UNGOE's report of November, FARDC General Ntaganda, a former CNDP rebel, subsequently sent more than 100 soldiers to kidnap Mboneza's rival commanding officer, and then overran the Military Prosecutor's Office and forced the release of Colonel Mboneza. By year's end, authorities had not taken any disciplinary action against Colonel Mboneza.

Between September 1 and 18, MONUSCO conducted Operation Shop Window to improve the protection of local populations in Walikale and support government efforts to capture the perpetrators of the attacks from late July to early August. The operation resulted in the surrender of 27 Mai-Mai elements and the arrest of three Mai-Mai elements and one FDLR element. On October 5, following a joint MONUSCO-FARDC operation, authorities incarcerated "Lieutenant Colonel" Mayele, the "chief of staff" of the Mai-Mai Cheka group, who was alleged to have coordinated the attacks in Walikale Territory from July 30 to August 2, along with FDLR elements led by "Colonel" Serafim.

In October, while discussing the rapes committed in July and August in Walikale Territory, UN Special Representative on Sexual Violence Margot Wallstrom told the UN Security Council that the rapes "demonstrate a nexus between the illicit exploitation of natural resources by armed elements and patterns of sexual violence." She underscored the competition over mining interests in the east "as one of the root causes of conflict and sexual violence."

Rapes committed against a single woman by large numbers of armed men sometimes resulted in vaginal fistulas, a rupture of vaginal tissue that left survivors unable to control bodily functions and likely to be ostracized.

During the year the incidents of men being raped continued as a result of the violence between nongovernmental armed entities and the FARDC. The number of male rape cases may have numbered in the hundreds during the year, but statistics for male rape were even more difficult to compile than those for female rape, as social stigma prevented many male survivors from coming forward. According to the American Bar Association, which ran a legal aid clinic in North Kivu for survivors of sexual violence, 10 percent of its cases during June 2009 were men. NGOs and medical workers reported that the humiliation was often so severe that male rape survivors came forward only if they had urgent health problems, and

according to HRW, two men whose penises were cinched with rope died a few days later because they were too embarrassed to seek help.

The recruitment and use of children by all armed entities active in North and South Kivu and Orientale, including the FARDC (particularly ex-CNDP elements), continued. HRW reported that of approximately 1,000 documented males recruited between September and December in the east, at least 261 were under the age of 18. In July the UN secretary-general reported that joint military operations against the FDLR and the LRA had put children at high risk and made them more vulnerable to recruitment and use as soldiers, sexual slaves, porters or other domestic workers. According to the UNGOE report released in November, during 2009 a significant number of children who had previously been recruited into RMGs were brought into the new FARDC structures during the integration process.

According to a UN Children's Fund (UNICEF) estimate in late March 2009, 8,000 children had yet to be demobilized from the ranks of RMGs and several units of government security forces in the east, where they served as combatants, porters, spies, and sex slaves. The estimate represented an increase of 4,500 children, compared with the UNICEF estimate for 2008; however, it was very difficult to verify actual numbers, as estimates were provided based on the numbers of children who had been demobilized, not counted within the ranks.

From January to September, MONUC/MONUSCO facilitated the release of 1,559 children from the FARDC and RMGs. Between October 2008 and December 2009, the Resolution 1612 Joint Action Committee reported that 3,180 children, overwhelmingly male, were released from RMGs and the FARDC.

The Resolution 1612 Country Task Force is pursuing advocacy with the government to commit to, negotiate, and implement an action plan to end the recruitment and use of children by the FARDC, as requested by UN Security Council resolutions 1539, 1612, and 1882. The action plan would facilitate, among other things, the commitment of the government and the FARDC to release all children remaining within the FARDC's ranks and put an end to the recruitment and use of children, mainly through military orders and measures to clearly prohibit the practice, as well as through systematic investigation of perpetrators of child rights violations.

Fighting between the FARDC and nongovernmental armed entities continued to displace populations and limit humanitarian access to conflict areas. According to



the UN Office for the Coordination of Humanitarian Affairs (OCHA), between January and June there were 105 attacks on humanitarian agencies working in the country, which represented a significant increase, compared with the 84 attacks between January and October of 2009, and the 36 attacks during the first 10 months of 2008.

In North and South Kivu, the illegal exploitation and trade of natural resources by armed actors, including criminal elements of the FARDC, continued to prolong the conflict, facilitate the purchase of small arms to commit abuses, and reduce government revenues needed for increasing security and rebuilding the country. Generating direct and indirect financing for armed actors and conflict, the exploitation of natural resources continued to include minerals such as cassiterite (a tin oxide), the rare mineral tantalum, and wolframite, all of which are key components in electronic products, as well as gold, timber, charcoal, fishing, and land.

The illegal trade in minerals continued to be both a symptom and a cause of the conflict in the Kivu provinces. While FARDC military operations during the year and in 2009 drove many RMGs, such as the FDLR, out of the principal mining areas in the Kivus, the RMGs continued to control hundreds of more remote mining deposits, increasingly pillaged mineral traders and transporters, and employed intermediaries to purchase minerals in mines they could no longer access. Ex-CNDP FARDC elements remained loyal to and in some cases shared mining profits with General Ntaganda--who remained the subject of an outstanding ICC arrest warrant--as they continued to gain control over large areas rich in natural resources in North and South Kivu provinces, including Walikale Territory, the part of North Kivu that is richest in cassiterite.

The law specifically prohibits the involvement of the FARDC in mining and the mineral trade; the law also prohibits nonstate armed actors from engaging in mining. However, the government did not effectively enforce the law. According to the UNGOE, "in the Kivu provinces, it appears, almost every mining deposit is controlled by an armed group. The armed groups include regular FARDC units."

Criminal involvement by some FARDC units--as well as by RMGs--ranged from protection rackets (including protection fees paid by mining pit managers to avoid pillage or to facilitate smuggling) to indirect commercial control (including the use of illegal tax revenues to buy and sell minerals near mining sites), and direct coercive control (including pillage). In addition, FARDC units and RMGs

routinely forced civilians to work for them or relinquish their mineral production and extorted illegal "taxes."

Some observers expressed concern over the government's decision in September to suspend indefinitely all mining activities in three eastern provinces. There were reports that, following the suspension, the military's control of the mines intensified and that some FARDC elements increased their use of forced labor in the mines since mine activity had dropped following the suspension.

In a December report, Global Witness drew on data it had collected earlier in the year to estimate that military units and officials were receiving between \$1.1 and \$2.2 million a month from the Bisie mine in North Kivu, or \$14.4 million and \$28.8 million a year. Global Witness also estimated that illegal taxes on diggers outside the mineshafts in Bisie earned the FARDC officials and soldiers between \$45,600 and \$90,000 per month, and that they earned between \$3,300 and \$16,800 a month in illegal taxes on porters traveling to Bisie.

On November 29, UN Security Council Resolution 1952 endorsed the UNGOE's recommendations for supply chain due diligence developed for importers, processing industries, and consumers of Congolese mineral products to ensure that companies do not exacerbate the conflict by "providing direct or indirect support to illegal armed groups... those found to violate the asset freeze and travel ban on sanctioned individuals and entities...or criminal networks and perpetrators of serious violations of international humanitarian law and human rights abuses, including those within the national armed forces."

The UNGOE's reporting in 2010 presented information indicating that Etablissement Namukaya, a gold exporting company based in the Kivu provinces, purchased gold from traders who were linked to armed entities in eastern DRC, bought gold from a mine that provided visiting FARDC officers gold, and worked with members of the FDLR in an attempt to sell material that they claimed was uranium. The report also presented information indicating that Geminaco, a mining company with offices in Goma, North Kivu, gained control of the gold mine at Omate in Walikale with the support of FARDC General Amisi Kumba (the commander of FARDC land forces), General Mayala, and Colonel Mboneza. According to UNGOE reporting, Geminaco sought agreements with elements of the FARDC and the Mai-Mai Sheka to ensure that Geminaco could continue its operations at Omate.

The November 2009 UNGOE report presented information indicating that the following Kivus-based exporters regularly purchased minerals from FDLR-controlled mines in eastern DRC :

MDM,  
Etablissement Muyeye,  
Panju,  
Huaying Trading Company (HTC), and  
Clepad.

The November 2009 UNGOE report also presented information indicating that World Mining Company (WMC), based in the Kivu provinces, received shipments of cassiterite from a mining zone where production was controlled by DRC Armed Forces soldiers under the command of Lieutenant Colonel Zimurinda. The same report also indicated that the DRC-based company Hill Side's cassiterite supply chains originated from conflict-affected areas of North Kivu, including near the Bisie mine of Walikale Territory. Dissident elements of the DRC's state security forces controlled significant mining interests in this area. According to information presented by the UNGOE in 2009 and 2010, the dissident state security elements that controlled the Bisie mine and other mines in Walikale unlawfully used and recruited child soldiers, deliberately and regularly prevented UN peacekeepers from repatriating foreign combatants, regularly engaged in the extortion of miners and other local residents and were loyal to and engaged in mining activities, some of which were financed by General Bosco Ntaganda.

In addition, the same report presented information indicating that the supply chains of the following corporations, all based outside of the DRC, included one or more of the nine DRC-based companies mentioned above, and originated from areas in which mines were controlled by armed entities, such as the FDLR, which perpetrated serious human rights abuses in the eastern DRC during the year:

Malaysian Smelting Corporation (based in Malaysia),  
African Ventures Ltd. (based in Hong Kong)  
Refractory Metals and Mining Company Ltd. (based in Hong Kong),  
Thailand Smelting and Refining Company (based in Thailand),  
Amalgamated Metals Corporation (based in the United Kingdom)  
Afrimex (based in the United Kingdom)  
Minerals Supply Africa (based in Rwanda),  
Cronimet Central Africa AG (based in Switzerland),  
Cronimet Mining GmbH (based in Germany),

Trademet (based in Belgium), and  
Traxys (based in Belgium).

In addition, according to the UNGOE interim report of May 2010, "in the Kivu provinces, it appears, almost every mining deposit is controlled by an armed group." In December 2010, an international NGO, Global Witness, published a report examining measures it deemed necessary to "end the conflict minerals trade" in eastern DRC. According to the report, the export records of the DRC government's Division of Mines showed that two Chinese companies and one Hong Kong company purchased 100 percent of the 41.4 tons of columbite-tantalite (or "coltan"), a metallic ore which--when refined--yields tantalum, exported from conflict-affected North Kivu Province in May 2010. According to Global Witness, the three companies were Fogang Jiata Metals, which was the top importer of coltan from the Kivu provinces in 2009 according to DRC government statistics, Star 2000 Services, and Hong Kong-based Unilink Trading Hong Kong. In addition, Global Witness identified Chinese state-owned company CNMC Ningxia Orient Nonferrous Metal Group as one of the top three tantalum smelting and producing companies in the world and reported that the company declined to identify for Global Witness the origin of the tantalum ore that it used.

At times verification of reported abuses in the east was difficult due to geographical remoteness and hazardous security conditions; however, MONUSCO's presence allowed observers to gather more information than would have otherwise been possible.

#### Abuses by State Security Forces

State security forces arrested, illegally detained, raped, tortured, and summarily executed or otherwise killed civilians and looted villages during military actions against nongovernmental armed entities during the year, according to reports by UN agencies and NGOs. Impunity remained a severe problem, and several individuals in the state security forces continued to hold high positions despite credible evidence of their involvement in serious human rights abuses or despite failing to hold their subordinates accountable for committing serious abuses (see section 1.d.).

Taking advantage of parallel command structures, ex-CNDP FARDC units in the east controlled their own stockpile of weapons and resisted central government orders to deploy outside of the mineral-rich east. In addition, some ex-CNDP

elements collaborated with RMGs who were officially their enemies, according to the UNGOE.

Of 3,723 "incidents" reported in the first six months of the year by UNHCR in North Kivu, 1,302 (35 percent) were caused by the FARDC, compared with 698 (19 percent) by the FDLR.

During the Amani Leo Operation, and at the request of the FARDC, MONUSCO conducted human rights screening to remove human rights abusers from the operation, on a small number of battalions in North Kivu (approximately 1,500 soldiers), who were tasked with holding areas from which the FDLR and residual RMGs had been dislodged in the context of Operation Amani Leo. However, nonvetted battalions did not receive MONUSCO support. The majority of operations conducted in Amani Leo throughout the year were undertaken by the FARDC without support from MONUSCO. As FARDC soldiers spread throughout the Kivus for operations that did not receive MONUSCO support, reports of violations increased.

For example, on February 2, members of the 3221st Battalion killed the head of an elementary school and his son in Mwenga, South Kivu, because of suspicions of collaboration with the FDLR. By year's end there were no reports of an investigation or judicial proceedings.

According to the UNJHRO, on February 21, FARDC soldiers of the 512th Brigade attacked a truck rented by an international NGO killing one civilian in Shabunda, South Kivu. By year's end there were no reports of an investigation or judicial proceedings.

In April FARDC troops engaged in operations against Enyele insurgents who attacked Mbandaka, Equateur Province, and temporarily took control of the airport. Refugees and IDPs who fled violence that began in 2009 have been reluctant to return due to the presence of FARDC troops. According to the UNJHRO, during operations to restore order in Equateur FARDC soldiers detained at least 20 persons suspected of involvement in the Enyele insurgency at the 3rd Military Region and subsequently executed them. In addition, FARDC and/or PNC agents were involved in 12 cases of rape during the same time period. Four of these cases were being investigated by authorities. No other details were available at year's end.

On September 17, the FARDC launched operations in the Walikale area of North Kivu, without MONUSCO support, to clear the area of FDLR and other armed entities and to enforce the mining ban enacted by President Kabila. The UNJHRO reported that on September 21 and 22, the 221st Brigade engaged in looting, beating and raping of civilians near Kibua for their alleged collaboration with FDLR and APCLS forces.

By the beginning of the year, UN and FARDC officials stated that the newly integrated FARDC units in Orientale, composed of approximately 6,000 soldiers, had become a major security threat during Rudi II military operations against the LRA in Haut and Bas Uele, Orientale. According to the UNGOE report of November, "most troops have not been rotated in over a year and allegations of human right abuses continued to be reported."

Neither Congolese nor Rwandan authorities took any steps to investigate or prosecute any members of the FARDC or the Rwandan Defense Forces allegedly involved in the killing of 201 civilians and other abuses in North Kivu during the joint DRC-Rwanda military operations (Umoja Wetu) against the FDLR in January and February 2009.

Congolese authorities took no steps to investigate the killing of more than 500 civilians and other abuses, such as the sexual enslavement of refugees, in North Kivu during FARDC-only operations against the FDLR during 2009, including the killing of at least 50 Hutu Rwandan refugees in April 2009 by predominantly ex-CNDP FARDC soldiers under the command of Lieutenant Colonel Innocent Zimurinda in Shalio, North Kivu.

There were no known reports that authorities were taking steps to investigate or prosecute the commander or members of the FARDC's 213th Brigade implicated in the killing of at least 62 civilians between May and September 2009, during its participation in Kimia II, in the Lukweti area near Nyabiondo, North Kivu. Investigations by human rights organizations indicated as many as 270 may have been killed during this period. MONUC ceased all support for this brigade in late 2009.

Authorities took no steps to investigate or prosecute those responsible for killing an employee of Secours Catholique-Caritas, an international human rights and humanitarian organization, in Musezero, North Kivu, in July 2009. According to the NGO, villagers reported seeing two men in FARDC uniforms stop the employee before shooting him.

Congolese authorities also took no steps to investigate the killing of at least 19 civilians in December 2009 in Masisi Territory, North Kivu, during fighting between FARDC soldiers.

Military authorities took no action against any of the following FARDC elements accused of killings: members of the FARDC 13th Integrated Brigade reportedly responsible for the disappearance of at least six civilians and the arbitrary execution of at least one civilian during 2008 in Kamatsi, Orientale; or members of the FARDC 2nd Integrated Brigade who allegedly killed eight civilians in 2008 in Musezero, North Kivu.

No further information was available regarding the 2008 arrest of 24 FARDC soldiers accused of allegedly committing serious abuses against the local populations, including the killing of nine civilians, the rape of three girls, and the pillaging of numerous homes, stores, and restaurants.

The FARDC also continued to physically abuse and arbitrarily arrest civilians in the east.

FARDC soldiers engaged in anti-FDLR operations often arbitrarily arrested civilians whom they suspected of being collaborators or sympathizers of the FDLR and detained them without charge for days or weeks, often beating them and demanding payment for their release. HRW documented more than 160 such cases between January and September 2009 in the Kivus; however, there were no reports of authorities taking disciplinary action against those soldiers responsible for the arbitrary arrests.

There were no reports of authorities investigating FARDC soldiers deployed to Kanyola, South Kivu, who allegedly forced civilians from Walungu village, South Kivu, to carry their belongings on the road from Nkokwe to Hombo. The soldiers beat the men each time they tried to rest, and two civilians died of exhaustion and mistreatment.

Authorities took no action against FARDC elements accused of gang-raping nine women and committing other abuses in 2008 after reportedly deserting their units in Orientale.

Rape by members of state security forces remained a serious problem, and perpetrators enjoyed almost total impunity. According to a December 2009 report

by HRW, in North Kivu, in 349 of the 639 sexual violence cases documented by HRW, the victim or other witnesses clearly identified the perpetrators as government soldiers.

On or around June 6, four FARDC soldiers allegedly raped 10 girls at Mahagi market. Two of the girls were hospitalized and a doctor confirmed the rapes, according to MONUSCO.

On June 16, a FARDC lieutenant in Kisangani attempted to kidnap and rape a four-year-old girl. Authorities arrested him on June 17 and held him in the 9th Region's headquarters until his eventual court martial and incarceration.

Authorities took no action to bring to justice ex-CNDP FARDC soldiers who violently raped and beat a rape counselor in January 2009 in South Kivu after accusing her of denouncing them and reporting on the rapes.

No additional information was available regarding a FARDC soldier from the 17th Integrated Brigade who raped a 10-year-old boy in Walungu, South Kivu, in March 2009. The soldier's commander subsequently arrested him and transferred him to the military prosecutor's office in Bukavu, where he remained in detention pending the outcome of an investigation.

Authorities took no action against FARDC soldiers in Nyamilima, North Kivu, who allegedly raped eight women and five minors in June 2009 during a riot protesting a delay in the payment of their salary.

There were no reports of authorities taking action against soldiers of the FARDC 7th and 15th integrated brigades, who raped at least 10 women while retreating amid combat operations in the Rutshuru Territory villages of Kibirizi and Nyanzale in North Kivu between September and December 2009.

There were no reports of authorities taking action against FARDC soldiers from the 131st Battalion of the 13th Integrated Brigade who raped seven women in the village of Lubero Territory, North Kivu, in 2009.

Authorities took no action against a FARDC soldier of the 14th Integrated Brigade, who in 2008 arrested and raped a woman suspected of collaborating with the FDLR.



The use and treatment of child soldiers by FARDC elements--particularly fast-track integrated brigades composed mainly of ex-CNDP members--remained a problem. In December the UNGOE reported to the UN Security Council that during 2009 the MONUC Child Protection Section documented 686 cases of child recruitment attributable to the FARDC, compared with 631 children released by the FARDC during the same time. The FARDC showed what the UN secretary-general called "a dramatic increase" in the number of children within its ranks in 2009. According to the UN secretary-general's report of July, following the fast-track integration of former rebels and militia members in 2009, which brought many child soldiers from RMGs into the ranks of the FARDC, "the FARDC not only accounted for the highest number of children recruited during October 2008 through December 2009 but was also the only armed entity for which an increase in child recruitment was documented. By contrast, all the other groups showed a downward trend in child recruitment, with the transfer of their children to the FARDC."

In December the UNGOE underscored concerns that UN child protection officers had been denied access to physically screen nearly two thirds of the FARDC combatants in military operations supported by the UN to ensure children were not involved. The UNGOE reported that "since the outset of the Amani Leo operations, only one FARDC battalion has been fully screened by the MONUSCO Child Protection Section." The UNGOE added that, while some FARDC commanders have cooperated in efforts to separate children from FARDC units, others have hidden children or continued to recruit children, including some of those who had previously been separated. In 2009 the UNGOE expressed concern that ex-CNDP officers in FARDC units in the east "repeatedly and deliberately obstructed MONUC from repatriating foreign fighters from their ranks." Sometimes the obstruction involved death threats. During the year and in 2009, the UNGOE reported that the acts of obstruction occurred often under the command of certain colonels and lieutenant colonels, including Colonel Gwigwi Busogi, Colonel Baudouin Ngaruye, Lieutenant Colonel Antoine Manzi, Lieutenant Colonel Bisamaza, Salumu Mulenda, and Colonel Innocent Zimurinda, who was sanctioned by the UN Security Council in December for recruitment and use of child soldiers and other grave abuses against children. Gwigwi, along with his commanders, systematically hid children from child protection officers and otherwise obstructed their efforts, according to witnesses. Between May and August, MONUSCO documented a further 15 cases of children who had been used as soldiers by senior officers under Gwigwi's command. Gwigwi commanded the 24th Sector of the FARDC in Kalehe, South Kivu, for most of the year but was redeployed as deputy commander of the 4th operational zone in Uvira.

UNICEF expressed concern about frequent reports of the prolonged detention of children at detention centers following their separation from armed entities. The group noted that children were often subjected to interrogation and inhumane treatment.

Government security forces in the east continued to force men, women, and children, including IDPs, to serve as porters, mine workers, and domestic laborers. For example, the UNJHRO reported that on May 21, a FARDC soldier in South Kivu allegedly shot a woman who refused to transport military goods.

During the year mining operations at Bisie mine in North Kivu reportedly supported arms transfers by FARDC elements that benefited nongovernmental armed actors; there were also reports that the FARDC mining operations benefited an ICC-indicted FARDC general. According to the UNGOE's November report, ex-CNDP FARDC elements of the 212th Brigade, who were led by Lieutenant Colonel Yusef Mboneza and his deputy Colonel Hassani continued to maintain a presence at the Bisie mine and maintain their own illegal tax regime, which they used to extort one kilo of cassiterite from all diggers each time they exited a mining pit and \$20 every time a digger worked at night. The UNGOE reported that Colonel Hassani continued to share his mineral profits from Bisie with General Ntaganda, who remained subject to an outstanding arrest warrant issued by the ICC. Furthermore, the UNGOE presented evidence indicating that Colonel Hassani's brother Faustin Ndahiriwe handled Colonel Hassani's mineral investments, and that Ndahiriwe had commandeered his own mining pit in Bisie. In 2009 the UNGOE had established that Ndahiriwe "has directly supplied a number of businesses in Goma with cassiterite... particularly Hill Side," a mineral exporting business that the UNGOE reported was prefinanced by MSA. Previously, the UNGOE had reported in November 2009 that MSA "prefinanced" Hill Side, a mineral exporting business "that has purchased large quantities of minerals from Ndahiriwe." Finally, according to the UNGOE report of November, a Walikale military prosecutor issued an arrest warrant accusing Captain Zidane, who oversaw Colonel Mboneza's mining interests and investments at Bisie, of providing weapons to bandits to attack a mineral trader carrying over \$10,000. However, on April 7 Lieutenant Colonel Mboneza destroyed the warrant and detained the officers carrying it.

According to the UNGOE, during the year FARDC units were increasingly involved in land disputes and land grabs, which often resulted in violence. FARDC units composed of mainly ex-CNDP members forcibly displaced large numbers of

civilians from land in the Mushake zone of Masisi Territory, North Kivu, in order to find grazing areas for cattle being brought in from Rwanda. The UNGOE reported that ex-CNDP FARDC soldiers under Colonel Baudouin forced more than 180 families from their land at Tchaninga. Throughout the year stories of unknown persons, either refugees from camps in Rwanda, economic migrants from Rwanda, or IDPs from other areas in the DRC, trickled back to reoccupy contested land in the Kivus, exacerbating ethnic and land-based tensions among local communities.

#### Abuses by Armed Entities Outside Central Government Control

Illegal armed entities committed numerous serious abuses, especially in rural areas of North and South Kivu and Orientale during the year. Such groups killed, raped, and tortured civilians, often as retribution for alleged collaboration with government forces.

Armed entities maintained and recruited child soldiers, including by force, sometimes from schools and churches, and sometimes killed, threatened, and harassed humanitarian workers.

Many armed entities abducted men, women, and children and compelled them to transport looted goods for long distances without pay. On occasion, armed entities also forced civilians to mine. Armed entities forced men, women and children to provide household labor or sexual services for periods ranging from several days to several months. Armed entities in conflict-affected areas in the east used children, including child soldiers, for forced labor in mines.

Armed entities in parts of the east sometimes detained civilians, often for ransom. They continued to loot, extort, and illegally tax civilians in areas they occupied.

There were no credible attempts by nonstate armed entities to investigate abuses allegedly committed by their fighters.

#### National Congress for the Defense of the People (CNDP)

In January 2009 Rwandan officials arrested General Laurent Nkunda, who remained in Rwandan custody at year's end, and CNDP chief of staff General Bosco Ntaganda became the leader of the CNDP. In January 2009 the government and the CNDP announced an alliance, and Ntaganda agreed to rapidly integrate the CNDP into the FARDC. In addition the CNDP agreed to transform itself into a political movement. Integration of the CNDP into the FARDC was uneven, with

large numbers of the CNDP continuing to operate within their old command and control structures. This ambiguous and incomplete integration contributed to impunity within the CNDP. After a public statement by the president noting their redeployment to other areas in the DRC, FARDC members who had belonged to the CNDP refused to leave North Kivu and began actively recruiting new members. In November, ex-CNDP FARDC members were actively recruiting children to serve in their ranks by visiting schools in North Kivu and demanding lists of recently demobilized children. They were also targeting young adult men to serve in their ranks.

No action was taken against CNDP combatants for any of the following alleged human rights abuses, all of which were committed prior to the CNDP's integration into the FARDC in 2009: arbitrary execution in 2008 by CNDP elements of at least 30 civilians in the vicinity of Kalonge, North Kivu; abduction of 15 civilians from Kitchanga, North Kivu, and related abuses by 15 CNDP combatants in 2008; the arbitrary arrest, illegal detention, and beating of four civilians in Karuba, North Kivu, by CNDP elements in 2008; the summary execution of three children by CNDP colonel Sultani Makenga during 2008; the killing of an Italian aid worker in 2008 by an unidentified armed entity in CNDP-held territory in Rutshuru, North Kivu; or the 2008 cases of aggressive and forcible recruitment of children by the CNDP for use as combatants, bodyguards, and porters.

In September 2009 the UNJHRO released an investigation report on the deaths of civilians during and following the 2008 fighting in the North Kivu town of Kiwanja between CNDP and local Mai Mai combatants. The UNJHRO concluded that, after the intense fighting between Mai Mai combatants and the CNDP had ended and the Mai Mai had retreated from Kiwanja, CNDP elements conducted targeted reprisal killings of the villagers, mainly young men whom they suspected of belonging to or supporting the Mai Mai. The UNJHRO confirmed 67 arbitrary executions perpetrated by the CNDP. However, unconfirmed allegations received by UNJHRO human rights officers suggested that the number of victims could be much higher. (Other human rights groups reported in 2008 that as many as 200 civilians may have been killed during and after the fighting between CNDP and Mai Mai combatants.) In addition the UNJHRO received testimonies alleging that the CNDP burned homes and a police station, raped a woman, arbitrarily arrested and detained civilians, abducted 23 men and boys to forcibly recruit them as combatants, and dismantled camps for IDPs in and around Kiwanja after the CNDP took over local administration. The UNJHRO also received allegations of abuses by other armed entities in Kiwanja (see subsections below on abuses by the

Mai-Mai and FDLR) and offered conclusions and recommendations regarding MONUC military personnel stationed in Kiwanja during the events (see section 5).

#### The Democratic Forces for the Liberation of Rwanda (FDLR)

The FDLR, which was led by individuals responsible for fomenting and implementing the Rwandan genocide, committed several killings during the year. Between 3,500 and 8,000 FDLR fighters remained in the provinces of North and South Kivu. According to the UNJHRO, on February 8, FDLR elements attacked Punia, Maniema Province, killing two FARDC soldiers. They also allegedly killed an unknown number of civilians, kidnapped 50 others, burned approximately 200 houses, and stole one ton of cassiterite. The abductees were forced to carry the looted items. During the night of February 3, civilians in Walikale, North Kivu, were forced to hide in the forest for fear of further attacks after the FDLR attacked, killing six inhabitants, injuring five others, and looting and burning many houses. During the night of February 11, in Mwenga Territory, South Kivu, FDLR combatants allegedly kidnapped approximately 15 women, five of whom they killed.

Following the launch of operation Umoja Wetu in January 2009, FDLR forces began to attack dozens of villages and towns across North and South Kivu. According to HRW, between late January and September 2009, the FDLR deliberately killed at least 701 civilians in North and South Kivu; more than half of the victims were women and children. Between January and October 2009, the FDLR committed an average of 50 to 60 killings per month, compared with fewer than 10 killings per month in 2008, according to UNSRESAE Alston.

While being pursued by the RDF and FARDC in January 2009, FDLR forces in Masisi Territory (North Kivu) blocked village roads and killed those who tried to flee. FDLR combatants also abducted scores of civilians as hostages, seemingly for use as "human shields" against the impending attack; however, when the hostages tried to escape as Umoja Wetu forces began attacking the FDLR's Kibua headquarters in January 2009, FDLR combatants shot and hacked to death many of them.

In April 2009 the FDLR attacked the Mianga village in the Waloaluanda area. According to HRW, FDLR attackers decapitated the local chief and killed three other local authorities whom they accused of collaborating with the FARDC. Over the days that followed, the FDLR deliberately killed a further 41 civilians, injured many others, and then burned the village to the ground.

In May 2009, machete-wielding FDLR combatants shot, hacked, and burned to death at least 96 civilians, including 25 children, in Busurungi, Waloaluanda (North Kivu), largely in retaliation for the killing of Rwandan Hutu refugees by FARDC soldiers at Shalio two weeks before. The FDLR attackers then destroyed Busurungi, burning to the ground 702 houses, three health centers, and several schools and churches, according to HRW.

Between January and September 2009, the FDLR destroyed at least 7,051 homes and other structures and perpetrated 290 cases of sexual violence in North and South Kivu in areas affected by military operations. According to HRW, in March 2009, in the Ziralo area of Kalehe Territory, seven FDLR combatants gang-raped a 60-year-old woman. When her daughter resisted being raped, the attackers shot and killed her.

According to MONUSCO, from July 30 to August 2, 303 women, children, and men were raped in a systematic assault by the FDLR, in cooperation with other armed elements in Walikale territory, North Kivu.

In 2009, scores of women were abducted and forced to serve as sex slaves in FDLR camps, where they were raped repeatedly for weeks or months at a time.

According to the November report by the UNGOE, the FDLR seemed to have increased abductions and hostage-taking during the year and ransom demands were becoming more frequent.

The FDLR took no credible action to investigate or address human rights abuses allegedly committed by its members, including FDLR members responsible for the following reported abuses: the 2008 killing of the village chief of Kilali, North Kivu; arbitrary execution of three civilians in Tchanishasha, South Kivu, in 2008; or the killing of three residents of Kabunga, North Kivu, in 2008.

In its September 2009 report about abuses committed in Kiwanja, North Kivu, during and after clashes involving CNDP and Mai-Mai combatants in 2008, the UNJHRO highlighted testimonies it collected alleging that FDLR combatants executed seven individuals and raped four women in Kiwanja.

#### Ituri District Militia Groups

Despite the signing of a 2006 ceasefire agreement between militias in the Ituri District of Orientale, including the Front for National Integration (FNI), the Congolese Revolutionary Movement, the FRPI, and the government, the FRPI refused to participate in the peace process and was implicated in abuses committed against civilians in Ituri District during the year.

As the FARDC's Iron Stone operation in Ituri, Orientale, continued, Ugandan authorities arrested the leader of the FPJC, Sharif Manda on September 1.

Abuses by militias in Ituri were more often acts of banditry, rather than politically or ethnically motivated violence.

On August 9, the military tribunal in Bunia sentenced Kakado Banaba Yonga, spiritual leader for FRPI militia leader Colonel Cobra Matata, to life in prison for war crimes, including attacks against civilians, rape, and sexual slavery that he had committed.

There were no credible reports of action taken by rebel leaders in Ituri District against those responsible for the following abuses: the 2008 attack on villages in and around Lalo and Djurukidogo in Ituri District by FNI combatants, who burned children to death and kidnapped individuals; and attacks by FPRI members on local populations in Tchey and other villages of Orientale in 2008.

No additional information was available regarding the case of Yves Kawa Panga Mandro, alias Chief Kawa, a former Ituri militia leader convicted in 2006 for crimes against humanity in 2003. In 2008, the Kisangani Court of Appeal, citing the 2005 amnesty law, acquitted Kawa. According to the UNJHRO, the appeals judge ruled that the prosecution had made a number of errors in the case. However, Kawa remained in detention in the CPRK prison in Kinshasa while the prosecutor appealed the decision of the appeals court to the High Military Court in Kinshasa.

### Mai-Mai

Various Mai-Mai community-based militia groups in the provinces of South Kivu, North Kivu, and Katanga continued to commit abuses against civilians, including killings, abductions, and rapes. According to the UNGOE, the use of children as soldiers by Coalition of Patriots in the Congolese Resistance (PARECO) and other Mai-Mai groups in North Kivu Province was endemic.

During the year various Mai-Mai groups continued to commit abuses against civilians, including the recruitment and use of children for use as soldiers. For example, according to MONUSCO, from July 30 to August 2, 303 women, children, and men were raped in a systematic assault by FDLR, Mai Mai Cheka, and ex-CNDP ex-FARDC Colonel Emmanuel in 13 villages around the Kibua area in Walikale territory, North Kivu (see above in section 1.g.). According to the UNGOE report of November, Mai Mai Cheka "is a creation of a criminal network within the FARDC," and in August a FARDC officer was arrested for his failure to combat the militia (see section 1.d.).

On October 5, Mai Mai Cheka deputy commander Lieutenant Colonel Mayele, one of the suspected perpetrator of the rapes, was surrendered by his commander and taken into custody by MONUSCO.

Fighting between some Mai-Mai groups and the FARDC continued during the year, displacing persons and causing insecurity.

Authorities took no action against PARECO combatants, who allegedly raped a woman, stabbed a 17-year-old girl, and arbitrarily executed six other civilians during an attack on Luwuzi, North Kivu, in 2008.

In its September 2009 report about abuses committed in Kiwanja, North Kivu, during and after clashes involving CNDP and Mai-Mai combatants in 2008, the UNJHRO highlighted evidence of two civilian deaths and 50 persons injured during the combat. In addition, the report included testimonies alleging that, outside the context of combat, Mai-Mai combatants killed at least one civilian and abducted several persons in Kiwanja. The UNJHRO also concluded that the CNDP committed targeted executions of civilians (see preceding subsection on CNDP abuses).

There were no further developments in the trial of Katanga Mai-Mai leader Gideon for war crimes and crimes against humanity.

#### Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU)

In June the FARDC launched Operation Ruwenzori against the ADF, an Islamist Ugandan-led group that has been operating in the eastern part of the country since the late 1990s.



MONUSCO officials reported that members of ADF/NALU engaged in petty theft and extortion.

#### Lord's Resistance Army (LRA)

The LRA moved away from the DRC's Garamba National Park (Orientale Province) to eastern Central African Republic (CAR); however, several elements remained in northeastern DRC. The LRA was responsible for killing, raping, and kidnapping hundreds of persons in the DRC, CAR, and Sudan as it continued to seek the overthrow of the Ugandan government. The LRA continued to hold children it had forcibly abducted.

Between February 2009 and August 2010, the LRA abducted an estimated 650 persons, including children and women, and continued to cause displacement in Orientale.

Rudia II, the FARDC-led operation against the LRA, continued in cooperation with the Ugandan People's Defense Forces and with logistical support from MONUSCO. LRA attacks continued throughout the year, resulting in executions, abductions, and sexual violence, although the level and intensity of the attacks decreased as the group fragmented into smaller units.

Between February 1 and 13, LRA combatants killed 76 persons in fishing villages throughout Niangara Territory in Orientale, according to HRW. On February 26, LRA elements killed at least 80 persons in Kpanga, Niangara Territory.

During a four-day period in December 2009, the LRA killed 321 civilians and abducted at least 250, including at least 80 children, in the Makombo area of Haut Uele.

There were no credible attempts by LRA leaders to prevent abuses or punish combatants for past abuses.

The LRA continued to attack local villages and forced citizens to flee in Ango, Dungu, Niangara, and Faradje Territories, Orientale. The UNHCR estimated that there were more than 390,000 internally displaced persons in the territory as of August 31.

#### Abuses by Foreign Powers

On October 1, the UNOHCHR issued the report of a mapping exercise documenting alleged atrocities committed in the country in the decade between March 1993 and June 2003. The report described more than 600 incidents that allegedly took place in the country over the 10-year period, raising serious allegations of brutal and horrific mass killings, rape and other abuses during the period in question believed to have been committed by armed forces and other non-state groups from Angola, Burundi, Rwanda, Uganda and Zimbabwe. The report also described allegations of human rights abuses by Congolese armed entities. The DRC government responded in writing to the UNOHCHR report and also began considering the creation of mixed chambers to prosecute these alleged crimes (see sections 1.e. and 5).

#### Abuses by UN Peacekeepers

A number of sexual exploitation and abuse (SEA) cases by MONUSCO peacekeepers were under investigation. MONUSCO reported that the number of the most serious SEA allegations decreased from 37 in 2009 to 33 during the year. MONUSCO repatriated 11 contingent members during the year on disciplinary grounds, a significant drop from the 33 sent home in 2009.

#### Section 2 Respect for Civil Liberties, Including:

##### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, the government restricted these rights in practice, and freedom of the press declined during the year. The government intimidated journalists and publishers into practicing self-censorship. In September, 29 members of a worldwide coalition of press freedom groups expressed concern about the "constant decline in the climate for journalists and steadily shrinking space for free expression" in the country in advance of the 2011 presidential election. In an open letter, the 31 members of the International Freedom of Expression Exchange (IFEX), including the Media Institute of Southern Africa and Congolese NGO Journalist in Danger, called on President Kabila to declare a moratorium on imprisoning journalists on charges of defamation or insulting the authorities. IFEX also called for the rapid creation of the proposed Higher Council for Broadcasting and Communication (CSAC) to ensure candidates would have equitable access to state-owned media in 2011.

Following an assessment visit to the country in June 2009, Margaret Sekaggya, the UN special rapporteur on human rights defenders, said journalists and other human

rights defenders "face illegitimate restrictions of their right to freedoms of opinion and expression" and underscored that the country's "defenders, in particular journalists, who report on human rights abuses committed by state and nonstate actors, are killed, threatened, tortured, or arbitrarily arrested and their offices raided."

Generally individuals could privately criticize the government, its officials, and private citizens without being subject to official reprisals. However, public criticism of government officials and government conduct or decisions regarding issues such as conflict and insurgencies, management of natural resources, or corruption sometimes resulted in harsh responses, often from the ANR, the intelligence service under the president's control. For example, on April 11, ANR officials arrested Antenne A-TV journalists Jean-Denis Bankonga and Jean-Louis Miasuekama at their office and held them in detention for three hours. Officials had wanted to arrest the station's information director for announcing that the government had set up a commission to negotiate with the Enyele insurgents on April 8.

Authorities took no action against the responsible ANR agents in Goma who, in 2008, arbitrarily arrested, detained, and mistreated for several days a member of the Union for Democracy and Social Progress/Goma for discussing politics with local citizens.

A large and active private press functioned throughout the country, and the government licensed a large number of daily newspapers to publish. The government required every newspaper to pay a license fee of 250,000 Congolese francs (approximately \$280) and complete several administrative requirements before publishing. Many journalists lacked professional training, received little, if any, salary, and were vulnerable to manipulation by wealthy individuals, government officials, and politicians who provided cash or other benefits to encourage certain types of articles. Many newspapers remained critical of the government, and many others showed bias toward it or supported particular political parties. The government press agency published the *Daily Bulletin* that included news reports, decrees, and official statements.

Radio remained the most important medium of public information due to limited literacy and the relatively high cost of newspapers and television. More than 350 privately owned radio and television stations operated independently, according to the transitional state media regulatory body. The state owned three radio stations and three television stations, Congolese National Radio-Television (RTNC) 1,

RTNC 2, and a channel that broadcast parliament sessions live. The UN operated Radio Okapi, which was the only nationwide radio network. The president's family also owned and operated television station Digital Congo. Political parties represented in the government could generally gain access to RTNC.

State security forces did not generally arrest or harass foreign journalists; however, in 2009 government authorities imposed an indefinite suspension on broadcasts by Radio France Internationale (RFI). RFI's broadcasting signal was restored across the country on October 12 and was allowed to open a local office and appointed an foreign journalist. Government authorities informed foreign journalists that the military code of justice (criminal penalties, including imprisonment) would be applied to any foreign journalists who committed press offenses, causing international journalists to express concern over their ability to report on sensitive subjects such as the conflict in the east and corruption.

During the year security force members killed a journalist. In North Kivu, on April 5, armed men in military uniform killed Patient Chebeya, a journalist-cameraman for the RTNC, at the entrance of his home in the eastern city of Beni. According to Chebeya's wife, the gunmen told Chebeya they had come to kill him and seized videotapes, mobile phones, and money. On April 17, the Military Garrison Tribunal of Beni convicted a sub-lieutenant and an adjutant of the 1113th FARDC Battalion for his murder, sentencing them to the death penalty and financial payments of \$75,000 and restitution of the stolen property.

In 2008 unknown assailants in Bukavu shot and killed Didace Namujimbo, a journalist for Radio Okapi. On May 4, the Military Tribunal in Bukavu sentenced two soldiers and a civilian to death for the journalist's murder, and condemned seven others to prison terms ranging from seven months to five years.

State security forces beat, arbitrarily arrested, harassed, and intimidated local journalists because of their reporting. For example, in April Jullson Eninga, publishing director of *Le Journal*, was arrested in Kinshasa for publishing an FDLR newsletter, but was acquitted of all charges on September 6.

On July 27, PNC officers in Kinshasa arbitrarily arrested Pascale Mulunda, editor of *Le Monitor*, a weekly newspaper, for allegedly committing libel when reporting on June 23 the alleged corruption by an official within the Ministry of Mines. The arrest was made following a complaint filed by the official. In addition, the editor of *Le Barometer*, Jeff Saile, reportedly went into hiding after receiving anonymous telephone threats following his reporting on the alleged corruption. Mulunda was

released three weeks after his arrest. By year's end, no additional information was available regarding Saile.

On July 28, soldiers broke into Radio Moto-Oicha in Beni, North Kivu, and apprehended and beat a radio technician. There were no reports of authorities disciplining those responsible for the break-in and beating.

On December 17, ANR agents arrested Robert Shemahamba, director of Radio-Television Communautaire Mitumba, which broadcast in Uvira, South Kivu. ANR agents arrested him after he refused to be questioned without a lawyer, according to the Committee to Protect Journalists (CPJ). ANR agents held him without charge for 11 days. The agents arrested Shemahamba following the broadcast of a December 12 program in which three opposition politicians criticized Uvira municipal officials for alleged mismanagement. The country's communications minister told CPJ he had protested the arrest and called for the Ministry of Interior to resolve it. After protesting his confinement in a cell with no light, Shemahamba was eventually transferred on December 24 from Uvira to a detention center with slightly better conditions in Bukavu, where he was later released.

Also in late December, ANR agents sought journalist Dominique Kalonzo, who had participated in the same December 12 program. Kalonzo, a correspondent in Uvira for the privately owned *Radio Maendeleo*, based in Bukavu, went into hiding for a week, according to CPJ. On December 26, in Uvira, Kalonzo was reportedly injured in an altercation with ANR agents sent to arrest him; he was subsequently taken to a health centre in Uvira. According to domestic press freedom watchdog Journalist in Danger (JED), Kalonzo left the hospital in the company of two unidentified individuals who visited him. At year's end, his whereabouts were unknown, and no additional information was available.

In its annual report on press freedom, JED documented seven cases of assault against journalists during the year, which represented a decrease in the number of attacks on journalists compared with 2009. However, the number of cases of incarcerations of journalists rose from three in 2009 to 17 during the year.

There were no reports of authorities taking action in the following cases of press freedom abuse from 2009: the March arrest of journalist Coco Tanda (and representatives of local NGOs) in relation to a political protest; the March beating of Radio Okapi reporter Kathy Katayi by PNC officers in Kananga, Kasai Occidental; and the August assault of Radio Okapi reporter Paulin Munanga in Lubumbashi.

Authorities took no action against Kinshasa police officers who in 2008 arrested reporter Maurice Kayombo from *Big Stakes* magazine and detained him for 34 days for reporting "damaging allegations" against Christophe Kanionio, secretary-general of the Mining Ministry.

No action was taken against the ANR agents who arrested and questioned five journalists from the privately owned television station Raga TV in Kinshasa in 2008.

No action was taken against the ANR agents who in 2008 raided the privately owned television station Tele Kindu Maniema and arrested program host Mila Dipenge and a cameraman, both of whom were released the following day.

Authorities took no action against Mai-Mai militiamen who in 2008 kidnapped and robbed Belgian journalist Thomas Scheen, his interpreter Charles Ntiricya, and his driver Roger Bangué in Kiwanja, North Kivu, before eventually releasing them.

In November 2009 the UNJHRO released a report on a 2008 appeals trial that upheld a death sentence for three civilians convicted of the 2007 murder of Radio Okapi journalist Serge Maheshe in Bukavu, South Kivu. The report noted "numerous breaches of the fundamental guarantee of the right to a fair trial." The report also highlighted the court's refusal to investigate other credible leads and motives for the killing, its refusal to order further investigation, and its refusal to order an autopsy or a ballistics test. The appeals trial acquitted two of Maheshe's friends who were found guilty at the original trial; in 2007 the alleged gunmen recanted their accusations against Maheshe's friends, claiming the military court had bribed them to make the accusation.

The National Media Regulatory Commission, a quasi-governmental organization mandated by the earlier transitional constitution, continued to operate in the absence of a successor body.

President Kabila signed a law establishing the CSAC in December 2009; however, the Supreme Court ruled the law unconstitutional because it offered blanket protection from criminal prosecution to CSAC board members. At year's end parliament was revising the law.

During the year national and provincial governments continued to use criminal defamation and insult laws to intimidate and punish those critical of the government.

For example, during coverage of the controversy in March 2009 over National Assembly president Kamerhe, there was a temporary interruption of broadcasts by multiple channels as well as harassment of newspaper street vendors by police.

In August 2009 Bruno Koko Chirambiza, a journalist with Radio Star in Bukavu, was killed by bandits while on his way home from a wedding. His friend, who was present during the attack and escaped unharmed, was arrested. The trial began in December 2009. No additional information was available.

According to JED's annual report on press freedom, released in May, there was a 16 percent increase in press freedom abuses, such as murder, assault, arbitrary arrest and detention, threats, and illegal sanctions or censorship, during the year compared with 2009. JED underscored that following a series of killings of journalists since 2005, journalists have become afraid to address sensitive topics, such as the war in the east and corruption. JED emphasized that economic and political pressure restricted press freedom and expressed concern about the continuing trend of politicians and government officials hiring journalists as advisors.

During the year radio journalists, particularly those in Bukavu, South Kivu, continued to fear for their safety. Journalists often received anonymous death threats from callers, and many journalists continued to be concerned by the lack of serious investigation and judicial action by authorities against the perpetrators responsible for multiple journalist killings in the country since 2005.

### Internet Freedom

The government did not restrict access to the Internet or monitor e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. There were no known government attempts to collect, request, obtain, or disclose the personally identifiable information of a person in connection with that person's peaceful expression of political, religious, or ideological opinion or belief. Private entrepreneurs made Internet access available at moderate prices through Internet cafes in large cities throughout the country. According to the 2009 report of the International Telecommunication Union, 0.55 percent of the population used the Internet.

## Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

### b. Freedom of Peaceful Assembly and Association

#### Freedom of Assembly

The constitution provides for freedom of peaceful assembly; however, the government sometimes restricted this right.

The government required organizers of public events to register with local authorities in advance; to deny authorization, authorities must do so in writing within five days of being notified of the planned event. State security forces often acted against unregistered protests, marches, or meetings.

On occasion, permission to hold demonstrations was denied; for example, in June, domestic NGOs that had intended to hold a demonstration related to the killing of leading activist Floribert Chebeya were not allowed to do so.

State security forces occasionally arrested demonstrators. For example, on April 12, police arrested five members of the opposition party Union for Democracy and Social Progress (UDPS) who were protesting the anticipated constitutional revision. In addition, on April 24, police beat UDPS members who were gathered to celebrate the 20th anniversary of the government's decision to abolish the one-party system. Also, on September 26, in Kinshasa, police arrested 27 members and supporters of the UDPS, citing public disorder during an unauthorized political gathering. On September 30, all 27 were released.

#### Freedom of Association

The constitution provides for freedom of association; however, in practice the government sometimes restricted this right. During the year several domestic NGOs were denied authorization to operate (see section 5).

### c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf/rpt](http://www.state.gov/g/drl/rls/irf/rpt).



d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government sometimes restricted these rights.

State security forces established barriers and checkpoints on roads, at ports, airports, and markets, ostensibly for security reasons, and routinely harassed and extorted money from civilians for supposed violations, sometimes detaining them until they or a relative paid. The government forced travelers to pass through immigration procedures during domestic travel at airports, ports, and when entering and leaving towns and implemented a \$36 fee for passengers traveling internally on MONUSCO flights.

Local authorities continued to extort taxes and fees from boats traveling on many parts of the Congo River. There were also widespread reports of FARDC soldiers extorting fees from persons taking goods to market or traveling between towns.

During the year there were reports of attempts by DGM officials to fine foreigners not carrying passports, although the law does not require foreigners to do so.

Security services sometimes required travelers to present official travel orders from an employer or government official.

The significant risk of rape by soldiers and nongovernmental armed entities, coupled with government inability to secure eastern territories, effectively restricted freedom of movement by women in many rural areas, particularly in the east (see section 1.g.).

Passport issuance was irregular and often required payment of substantial bribes. The law requires a married woman to have her husband's permission to travel outside the country.

The law prohibits forced exile, but the government generally did not employ it.

Beginning in June, PAREC, a government-sponsored NGO, began a series of voluntary deportations of demilitarized Rwandan FDLR combatants from North

Kivu to Kisenge, Katanga Province, where the eventual 400 to 600 individuals were housed in an unused refugee camp. As a result of this relocation, the deportees were denied their freedom of movement to return to the east or indeed to leave the Kisenge camp at all. In July and August, several deportees fled to the nearby town of Kasaji, where PAREC and government authorities arrested them and deported them to Rwanda. By year's end the experiment in voluntary relocation proved a failure, and the Kisenge camp was closed with its internees transferred to UN-sponsored reintegration centers in North and South Kivu.

#### Internally Displaced Persons (IDPs)

As of November 30, there were 1.7 million IDPs in the country, including 589,000 in North Kivu, 676,000 in South Kivu, and 389,000 in Orientale (see section 1.g.). The remainder of the IDPs were in Equateur and Katanga provinces.

The government did not provide adequate protection or assistance to IDPs, who were forced to rely heavily on humanitarian organizations. The government generally allowed domestic and international humanitarian organizations to provide assistance to IDPs; however, lack of security and roads impeded their efforts. While the majority of IDPs in North Kivu stayed with relatives and friends, tens of thousands stayed in 31 "spontaneous" sites and camps managed by international NGOs and coordinated by the UNHCR. As of August 31, an estimated 120,000 IDPs lived in churches and schools. Displaced women and children were extremely vulnerable to abuses by armed entities, including rape and forced recruitment.

Operation Ruwenzori, which the FARDC launched in June without support from MONUSCO, continued to address the threat of the ADF/NALU in North Kivu. In July fighting between the FARDC and ADF/NALU created instability in the Beni territory of North Kivu. Humanitarian organizations estimated that between 20,000 and 70,000 persons were displaced during several weeks. In addition, the unstable security situation made providing humanitarian relief difficult, and on July 26, IDPs marched to protest the lack of food.

IDPs in North Kivu were victims of abuses by all factions engaged in fighting, including the FARDC, and by other civilians. Abuses in camps around Goma included killings and death threats, particularly by demobilized fighters, as well as abduction and rape. According to UNICEF, in 2009 one third of the more than 1,100 women and girls raped per month in the east were in North Kivu, the

majority of them IDPs. Some IDPs were also reportedly subjected to forced labor (see section 1.g.).

### Protection of Refugees

The country's laws provide for the granting of asylum or refugee status, and the government has established a rudimentary system for providing protection to refugees. In practice it granted refugee and asylum status to individuals and provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government provided temporary protection to an undetermined number of individuals who may not qualify as refugees under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers with welfare and safety needs. The government provided assistance in enabling the safe, voluntary return of refugees to their homes by allowing their entry into the country and facilitating their passage through the immigration system. However, government authorities did not provide adequate security to refugees.

From January to November 2009, Angola forcibly expelled 85,000 illegal Congolese immigrants to Bas-Congo, and the DRC retaliated by forcibly expelling 30,000 Angolans, including those with refugee status. However, during the year smaller expulsions along the entire border between the two countries continued. While most expulsions were conducted peacefully in 2009, abuses during expulsions by state security forces of both countries occurred during the year. According to the UNJHRO, between January 1 and February 23, 9,205 Congolese were allegedly expelled from Angola, including 1,943 women, of whom 304 were allegedly raped by Angolan security forces. Congolese security forces committed 23 documented and verified rapes of expelled Congolese women on Congolese soil. Authorities had arrested one lower-level FARDC officer for the rapes by year's end.

Section 3    Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through credible presidential, parliamentary, and provincial elections based on universal suffrage.

### Elections and Political Participation

Presidential and parliamentary elections in June 2006 and a presidential runoff in October 2006 were judged to be credible by the Carter Center and the EU Observer Mission. According to the UN secretary-general's December 2009 report to the UN Security Council, the Senate nominated two members to participate in an ad hoc committee to develop recommendations on constitutional reforms, including a review of presidential term limits, the decentralization process, and the judiciary. As of year's end, there was no further action.

During the year the voter registration process for planned elections resumed, starting in Bas Congo; however, the national voter registration process was slow and hampered by security problems and lack of resources.

In July President Kabila promulgated the law on the National Independent Electoral Commission (CENI), adopted under the National Assembly. Under the law, the National Assembly was to nominate seven members of the commission, four from the ruling party coalition, AMP, and three from the opposition. The legislation needed to finalize nominations had not been adopted by year's end.

In August the Independent Electoral Commission (CEI) published a new electoral calendar. According to the calendar local elections that had been repeatedly postponed were scheduled to take place in 2012-13; the next presidential and legislative elections were scheduled for November 2011.

As envisioned under the constitution, parliament passed the decentralization law in 2008, but other crucial pieces of legislation to support the decentralization process were pending, resulting in the constitutional deadline for decentralization passing without government action to institute it.

Uncertainty remained over the decentralization process. The constitution provides for the establishment of 26 provinces to replace the 11-province structure. Administrative powers and financial resources are to be transferred to the new provinces to allow them to assume their new responsibilities. The constitution, which defines a timetable for these steps, specifies that the new territorial boundaries were to come into force 36 months after the Senate took office, in May.

However, the boundaries had not come into force, and only four of the 13 decentralization laws, had been adopted and promulgated by year's end.

In July President Kabila promulgated the law on the CENI, the permanent electoral body that replaced the CEI. Civil society expressed disappointment with the law because it does not provide for civil society participation in the CENI.

Beginning in 2009 and continuing throughout the year, press reports indicated that the government exerted pressure on MONUC and the UN Security Council to begin withdrawing the peacekeeping force from the country. According to the UN secretary-general's December 2009 report to the UN Security Council, President Kabila requested the UN to submit a proposal, including a calendar, for the progressive drawdown of MONUC, based on the evolution of the security situation. The calendar and the modalities of the drawdown were to be agreed by the government and the UN. UN officials, foreign diplomats, and NGOs expressed numerous concerns over the prospect of a premature MONUC withdraw. Some of the concerns related to whether, during an ongoing and fragile peace process, peaceful and credible national elections could be held without the kind of logistical and security assistance that MONUC provided for the national elections of 2006, the country's first democratic elections in more than 40 years.

The law on the status and rights of the political opposition recognizes opposition parties represented in parliament as well as those outside it and provides for their right to participate in political activities without fear of retribution. During the year political parties were able to operate most of the time without restriction or outside interference; however, there were notable exceptions. Opposition members were sometimes harassed (see section 2.a.)

In 2008 police killed numerous BDK supporters during violent clashes in Bas-Congo and systematically destroyed BDK meeting places (see section 1.a.). The 2008 HRW report, *We Will Crush You: The Restriction of Political Space in the Democratic Republic of the Congo*, concluded that since the 2006 national elections, the government has used violence and intimidation to eliminate its political opponents and restrict democratic activity. The report drew from hundreds of interviews with government officials, diplomats, political detainees, and members of civil society.

Between 2005 and 2008 the proportion of seats held by women in parliament decreased from 12 percent to 8 percent. Women held 50 of 500 seats in the National Assembly and 43 of 690 seats in the provincial assemblies. Four of the

108 senators were women. Among the 45 government ministers and vice ministers, five were women.

Many ethnic groups, including Pygmies, were not represented in the Senate, the National Assembly, or provincial assemblies. The lack of political participation of some ethnic groups may have been a result of continuing societal discrimination. The enslavement and discrimination of Pygmies continued in some areas of the country (see section 5).

In March 2009 seven UN special rapporteurs and representatives reported to the UNHRC that Kinyarwandan-speaking Congolese living in the eastern part of the country or as refugees in neighboring countries continued to experience difficulty in acquiring Congolese nationality, despite a 2004 nationality law that nominally granted nationality to members of this group. This situation, which made it difficult for them to obtain electoral cards, along with majority-voting systems and the particular tailoring of voting districts, continued to contribute to a disproportionately low number of minority candidates elected to office. In their March 2009 report to the UNHRC, the seven UN special rapporteurs and representatives recommended that the government launch a campaign in the east to provide national identification and electoral cards to anyone qualifying for nationality under the 2004 nationality law and that implementation be guided by a presumption that "those who currently live [in the DRC], or have lived in the DRC prior to the armed conflict are considered nationals of the DRC."

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. However, the authorities did not implement the law, and corruption remained endemic throughout the government and state security forces. The public perceived the government to be widely corrupt at all levels. According to the World Bank's Worldwide Governance Indicators, official corruption was a severe problem.

Corruption in the judicial and penal systems continued to be severe (see sections 1.c. and 4).

In rural areas, where there were often no courts within a 300-mile radius, justice was administered on an ad hoc basis by any available authority, creating extraordinary opportunities for corruption and abuse of power. During the year some observers asserted that members of both the executive and legislative branches were content to keep the judiciary weak and ineffective because it

protected their power and allowed them to engage in corruption and abuse of power without consequence.

Weak financial controls and lack of a functioning judicial system encouraged officials to engage in corruption with impunity. Many civil servants, police, and soldiers had not been paid in years, received irregular salaries, or did not earn enough to support their families, all of which fostered corruption. Embezzlement of soldiers' salaries by FARDC commanders was common and appeared to contribute to extortion, looting, and other abuses by soldiers against citizens (see section 1.d.).

Reports indicated that the mining sector continued to lose millions of dollars as a result of official corruption at all levels, including illegal exploitation of minerals by the FARDC and nongovernmental armed entities in the east (see section 1.g.).

In September 2009 the Senate estimated that more than \$1.2 billion dollars of gold--approximately 40 tons--was exported fraudulently from the country every year and that, in the east, 80 percent of the minerals extracted were being traded illegally. The UNGOE established that "the level of fraudulent mineral exports to neighboring states has escalated significantly since 2008 and particularly since the rapprochement between Kinshasa and Kigali [Rwanda] since January 2009."

In its November 2009 report to the UN Security Council, the UNGOE documented "fundamental irregularities" in the international gold trade between the DRC, Uganda, Burundi, and the United Arab Emirates, and gathered evidence of "inconsistent and incomplete customs declarations and procedures, as well as a lack of adequate control procedures by government customs and mining authorities." The UNGOE "received strong indications of high-level protection and in some cases complicity in the illicit gold trade by government officials." It made several recommendations concerning the government, international corporations, and the UN Security Council (see section 1.g.).

During 2009, the government continued its review of 61 mining contracts negotiated from 1997 to 2002. The review had been marred by numerous delays and a lack of transparency. In 2008 the government reached new agreements with all but six of the companies under review, and in November 2009 it formally announced the completion of the process. The government reached agreement on the one outstanding contract late in the year.

There continued to be an Ethics and Anticorruption Commission, but it had little effect during the year and lacked resources, independence, and credibility. It last convened in 2007 without any significant results or findings.

Government authorities and wealthy individuals at times used antidefamation laws that carry criminal punishments to discourage media investigation of government corruption (see section 2.a.).

The law requires the president and ministers to disclose their assets to a government committee. President Kabila and all ministers and vice-ministers did so during the year.

The law does not provide for public access to government-held information. In practice the government did not grant access to government documents for citizens or noncitizens, including foreign media.

In 2008 the country was accepted as a candidate in the Extractive Industries Transparency Initiative (EITI), an international voluntary initiative designed to increase transparency in transactions between governments and companies in the extractive industries. Although the government took some positive steps under EITI, including the establishment of a National EITI Committee, publication of the first report on EITI in the country, and the hiring of an independent auditor to carry out validation of the EITI process, the country did not meet its March 9 validation deadline. In December the EITI secretariat granted the country a six-month extension to complete validation.

In his press statement in October 2009 UNSRESAE Alston highlighted one of the factors he found to be contributing to corruption and the lack of financial accountability in the country, as well as other, broader human rights problems. According to Alston, "one of the most troubling overall issues in the DRC is the radical privatization of the state. The military is poorly paid and often not paid at all, but it is understood that soldiers will extract their own rewards from the community, through extortion and theft...Healthcare and education are outsourced to international agencies...The privatization phenomenon relieves most of the pressure for fiscal reform and accountability. The government needs only to find resources for itself. Until the problem is confronted robustly, the ability of the state to provide security, ensure justice, and respect human rights will continue to erode dramatically. And the billions of dollars provided by the international community will have yielded no sustainable institutional framework."



## Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights organizations investigated and published findings on human rights cases. However, state security forces continued to harass, beat, intimidate, and arbitrarily arrest and detain local human rights advocates and NGO workers, and government intimidation of domestic human rights defenders worsened. In addition prison officials consistently denied access by NGOs and UN officials to detainees in certain types of facilities. The government continued to allow international humanitarian agencies access to conflict zones, permit many UN human rights officers to investigate abuses, and invite UN special rapporteurs and representatives to visit the country during the year to assess the human rights situation and provide technical assistance. However, the government took no significant steps to implement their recommendations. In addition there was an increase in instances in which authorities, particularly state security forces, obstructed the work of UN human rights monitors and special rapporteurs, and--in some instances--FARDC units in North Kivu made death threats against UN personnel.

The main independent Kinshasa-based domestic human rights organizations included ASADHO, Voice of the Voiceless, Committee of Human Rights Observers, JED, and the Christian Network of Human Rights and Civic Education Organizations. Prominent independent organizations operating in areas outside Kinshasa included Heirs of Justice in Bukavu, Lotus Group in Kisangani, and Plus in Bunia, Ituri District.

Officials from the Ministry of Justice and Human Rights met with domestic NGOs and sometimes responded to their inquiries. On March 29, the minister announced the creation of a liaison organization for consultation between the government and human rights NGOs to monitor human rights and devise strategies to improve the situation. Scheduled to meet every two weeks, the first session was convened in September.

There were reports that local officials required domestic NGOs seeking to register to pay bribes. During the year several domestic NGOs were denied authorization to operate, and NGOs needed authorization to hold demonstrations, despite constitutional provisions providing for freedom of peaceful assembly (see section 2.b.).

Domestic human rights NGOs were particularly vulnerable to harassment, arbitrary arrest and detention, and other abuses by state security forces when reporting on-- or supporting victims of--abuses by the FARDC, ANR, or other state security forces and when spotlighting the illegal exploitation of natural resources in the east.

Between the evening of June 1 and the morning of June 2, one of the country's most prominent human rights activists, Floribert Chebeya Bahizire, was killed, after having been summoned on June 1 by Police Inspector General John Numbi, the head of the national police at police headquarters in Kinshasa. Chebeya's colleague Fidele Bazana Edadi, who reportedly drove Chebeya to the meeting with Numbi, went missing the same day and remained missing at year's end. Occurring just a few weeks before the country's 50th anniversary celebration, the killing, which some foreign diplomats deemed "an assassination," prompted widespread public condemnation by the UN Secretary-General, the country's foreign assistance donors, and international and Congolese civil society, accompanied by calls for a joint commission of inquiry. The UN special rapporteur for extrajudicial killings judged that Chebeya was "killed in circumstances that strongly suggest official responsibility." In early June a PNC member reportedly told the media that the death appeared to be a sex-induced heart attack linked to erectile dysfunction pills and used condoms found alongside Chebeya's body, inside his car. The Economist magazine judged that "it could be a cover-up," particularly since Chebeya, long a critic of arbitrary arrests and political repression, had received death threats and feared for his life shortly before his death. By June 6, the government had announced the suspension of Inspector General Numbi pending an investigation, although no charges were brought against him by year's end. In addition, authorities detained several policemen, including the deputy head of the intelligence services, Major Daniel Mukalay, at a Kinshasa prison in connection with the case. At least one policeman reportedly confessed to taking part in the killing; however, UN human rights monitors were not allowed access to the detainees, and the investigation was criticized for being flawed and a "political response."

In June the government accepted a Dutch government offer to conduct an autopsy of Chebeya's body. On July 8, a joint Dutch-Congolese forensic team reported that the autopsy was inconclusive and it could not determine the cause of death. The autopsy report mentioned that a pre-existing heart condition may have contributed to his demise. While the results did not show conclusive evidence of murder, there were minor signs of violence and superficial cuts and some bleeding around the wrists, forearms, and legs caused by an external source, and indications that he

could have been handcuffed shortly prior to his death. Observers, including UN officials in the country and foreign diplomats, expressed concern over an investigation, run by the military prosecutor general, that appeared to lack independence and credibility. Aside from the Dutch autopsy assistance, the international community's offers to provide assistance to the investigation were declined.

In August almost 80 local and international NGOs called on the minister of justice to establish an independent international commission of inquiry into the killing, although no such commission had been formed by the end of the year. The NGOs also reported that despite Numbi's suspension, he continued to attend some official meetings and conduct work from his residence. On October 2, Minister of Justice Luzolo Bambi announced that the trial would commence shortly, with an arraignment hearing open to the public on November 23 and several hearings throughout the month of December. Numbi was not among those on trial, and while the proceedings were considered to be transparent, local and international NGOs continued to call for an international commission of inquiry at year's end due in part to what they viewed as the justice system's inability to try the main suspect. The trial proceedings were ongoing at year's end.

On June 8, in Kisengo, Katanga Province, a human rights defender was subjected to cruel, inhuman or degrading treatment by PNC agents after having denounced the mistreatment of persons that were detained at PNC facilities.

Also on June 8, in Maniema Province, police arbitrarily arrested a human rights defender and subjected the defender to cruel, inhuman or degrading treatment after the defender had denounced the unlawful arrest of civilians.

In July 2009 ANR agents in Katanga arbitrarily arrested and detained Golden Misabiko, president of the Katanga Province chapter of ASADHO, after ASADHO published a report implicating the provincial government in the illegal trade of uranium from the province's Shinkolobwe mine. Provincial authorities accused Misabiko of serious crimes, including defamation and threats against national security. Authorities detained Misabiko for two months in poor detention conditions despite appeals for release because of a preexisting heart condition. In September 2009 a criminal court in the Katangan capital of Lubumbashi found Misabiko guilty, based on limited evidence, of deliberately publishing false information and sentenced him to an eight-month suspended prison sentence followed by four months' confinement in the Kasapa central prison. Some observers expressed concerns about the fairness of the trial. Prior to the time of his

sentencing, Misabiko fled and remained outside the country at year's end. An appeal was filed on his behalf but its status was not clear at year's end.

During the night of June 29, unknown gunmen in military uniforms killed human rights activists Salvator Muhindo in Beni. Authorities had taken no action by year's end (see section 1.a.).

In August FARDC soldiers kidnapped and badly beat a civil society leader after he sent a letter to the president asking for justice (see section 1.c.).

No additional information was available regarding the trial of members of domestic NGO Friends of Nelson Mandela for the Defense of Human Rights, including its president, Robert Ilunga Numbi, on charges of rebellion, civil disobedience, and defamation. Authorities granted him provisional release in October 2009. Human rights organizations believed authorities arrested him because he criticized working conditions in a company owned by individuals with strong connections to the government.

Authorities took no known action against FARDC soldiers who in 2008 arbitrarily arrested, beat, and temporarily detained the president of the local human rights association in Mambassa, Orientale.

Authorities took no known action against the territorial administrator in Punia, Maniema, who, according to the UNJHRO, issued death threats in 2008 against human rights activists who had accused local authorities of complicity in the 2002 massacre by RCD combatants of 13 civilians.

Authorities took no known action against ANR agents, who in 2008 threatened a human rights activist in Tshimbulu, Kasai Occidental, when she sought information about a case of arbitrary arrest and detention.

In March gangs of young men issued threats against an international human rights organization in North Kivu, causing the organization to suspend their activities in the region.

In 2009 domestic human rights NGOs, including one that identified and liberated child soldiers from FARDC units and nonstate armed entities, received death threats from unidentified individuals. For example, in December 2009 seven members of local human rights NGOs and three members of the UNJHRO in Kalemie, Katanga, received anonymous telephoned death threats. MONUC offered

to help investigate and urged the government to take all necessary action to ensure the security of human rights NGOs and MONUC staff.

The government generally cooperated with international NGOs that published reports on human rights and humanitarian issues and permitted their investigators access to conflict areas; however, the government did not take adequate steps to protect international human rights NGOs from violence or harassment in the east. In January FARDC soldiers attacked a UN vehicle; however, no additional information was available.

On March 15, FARDC soldiers fired upon a missionary vehicle in Ituri District, Orientale injuring one person. No further details were known.

On April 9, Mai Mai Yakatumba members kidnapped eight members of an international human rights NGO before releasing them a week later.

In several reports submitted in September 2009 to the UPRWG, international human rights NGOs underscored concerns for the treatment of human rights NGOs in the country. The International Foundation for the Protection of Human Rights Defenders (Front Line) criticized the government for rarely conducting serious investigations of attacks against human rights defenders. Front Line also noted that a national plan for the protection and security of human rights defenders did not exist. Front Line and Amnesty International recommended that the government protect the right of human rights defenders and lawyers to conduct their work without hindrance, intimidation, or harassment; ensure that abuses of activists or journalists were fully and promptly investigated; and prosecute those found responsible.

The government cooperated with multilateral organizations in many instances. However, there were some notable problems. While authorities continued to permit international humanitarian agencies access to conflict areas, authorities denied the agencies access to certain prisons located in these areas (see section 1.g.). They also continued to consistently deny UNJHRO officers access to detainees in facilities run by the ANR and the GR in numerous areas.

In addition, there was an increase in cases of members of state security forces obstructing human rights work by MONUSCO and the UN human rights country team. During the year FARDC units in the east, comprised mainly of ex-CNDP members, consistently denied UNICEF child protection officers access to children in their ranks and sometimes threatened them (see section 1.g.).

Several senior UN officials visited the country during the year, including a technical assessment team sent by UN secretary-general Ban Ki-moon and led by Under Secretary-General for Peacekeeping Alain Le Roy during part of its trip, the special representative of the UN secretary-General on sexual violence in armed conflict, Margot Wallstrom, and others.

Released in October, the UNOHCHR's human rights mapping report identified options for addressing impunity in the country, including judicial mechanisms, truth-seeking, institutional reform and vetting, and reparations for victims. Deeming the report "detailed and credible," the government was mostly in favor of the report and initiated draft legislation in November on the creation of mixed chambers to prosecute these crimes.

UN officials freely criticized actions by the government during the year. In its March 2009 report to the UNHRC, a group of seven UN special rapporteurs and representatives made recommendations to the government regarding impunity, security sector reform, child soldiers, women's rights, illegal exploitation of natural resources, the rights of displaced persons in relation to land disputes and elections, health care for marginalized groups, and the protection of human rights defenders.

In June 2009, following an assessment visit at the invitation of the government, the UN special rapporteur on the situation of human rights defenders, Margaret Sekaggya, issued a press statement underlining that government authorities continued to subject human rights activists to intimidation and harassment, mistreatment, arbitrary arrest and detention, and "illegitimate restrictions of their right to core freedoms," including freedoms of movement, speech, and association. Sekaggya noted that government authorities and nonstate actors stigmatized human rights defenders as "enemies" or "opponents." She stated that defenders were particularly endangered when supporting victims of serious abuses, most notably sexual violence; fighting impunity, particularly by supporting the work of the ICC; and denouncing the illegal exploitation of natural resources. Sekaggya expressed specific concern over "the plight of women human rights defenders whose activities are often hindered by authorities and who may face discrimination from their male colleagues."

Sekaggya urged the government to investigate and prosecute all abuses against human rights defenders and adopt national and provincial laws, in consultation with human rights NGOs, to protect human rights defenders. She added that the government should openly "give legitimacy to the work of human rights defenders,

including women defenders, and acknowledge it as human rights work." Other recommendations for the government included sensitization training for police and public condemnations of all attacks on rights workers. Sekagya also recommended that MONUC increase the staffing and financial capacity of its human rights offices, and said the international community should help the Human Rights Ministry's programs and assist it in reestablishing offices in the provinces.

On September 24, the UNJHRO released a preliminary report on the 303 Walikale rapes that took place between July 30 and August 2 (see section 1.g.). The UNJHRO found that, although MONUSCO maintained a company operating base in the Kibua region during the incident, there was no Congolese interpreter, and in spite of receiving reports of some attacks, peacekeepers on patrols were unable to confirm the reports. According to the report, 80 new troops had arrived on July 27 and 28 and had not yet received any training on civilian protection. The UNJHRO recommended that the government deploy its forces against the rebel groups in these insecure zones, and that MONUSCO implement a permanent training on the mandate of civilian protection and clarify the tasks of the company and temporary operating bases providing the necessary resources.

A November report by the UNGOE presented information on abuses committed by government security forces and RMGs in the east. The UNGOE highlighted that "the involvement of criminal networks within the FARDC in the illegal exploitation of natural resources has created a conflict of interest with the army's constitutional security mandate. This involvement has led to pervasive insubordination, competing chains of command, failure to actively pursue armed groups, amounting in certain cases to collusion, and neglect of civilian protection."

The government had not responded to several requests for information from various UN human rights monitoring bodies in the past. In addition, during the year the government replied to a small percentage of communications, including urgent appeals, from UN special procedures (rapporteurs and representatives), according to the UNOHCHR. However, several members of the UPRWG commended the government for its cooperation with the UNHRC in the Universal Periodic Review (UPR) process, including its submission of a report in September 2009 to the UNHRC following consultations with domestic NGOs.

On September 3 a coalition of 220 Congolese human rights organizations issued a news release endorsing the UNOHCHR mapping report and requesting that appropriate judicial mechanisms be put in place to hold the perpetrators to account and bring justice for the victims. According to one human rights activist, "[the

report] responds to the lobbying we have done for a long time to re-establish moral equilibrium in Congolese society based on the noble ideas of justice, equality, peace, fraternity and national solidarity as defined by our constitution."

During the UNHRC's UPR process, numerous domestic human rights NGOs and the government underscored the need to establish a national human rights commission, founded in law, distinct and separate from the legislature and judiciary, with a broad mandate to protect and promote human rights.

In January 2009 parliament created a human rights body, composed of members from both legislative chambers, to investigate abuses by state security forces. It was not clear how active, effective, or independent the body was.

During the year the government cooperated in some aspects with the ICC, which continued investigations into war crimes and crimes against humanity committed in the country since 2003. However, despite the ICC indictment of General Ntaganda, the government did not arrest and transfer Ntaganda to the ICC during the year.

The UNJHRO reported that in 2008 authorities arrested Mathieu Ngudjolo, a former senior FNI commander, and transferred him to the ICC in The Hague. His war crimes and crimes against humanity charges included murder, sexual slavery, and using child soldiers in hostilities. During an ICC trial that opened in November 2009, Mathieu Ngudjolo and Germain Katanga both pleaded not guilty to charges that they directed an attack in 2003 on a village where 200 civilians were killed. The trial continued at year's end.

Former Ituri militia leader Thomas Lubanga, whom the government surrendered to the ICC in 2006, pleaded not guilty to various charges when the ICC began his trial in January 2009 for enlisting and conscripting child soldiers. The prosecution ended its case in 2009, and the trial was ongoing at year's end.

The government continued to cooperate with the International Criminal Tribunal for Rwanda (ICTR), which operated freely in areas under government control, seeking several individuals indicted for involvement in the 1994 Rwandan genocide, who they believed might be in the DRC. In September 2009 the government transferred Gregoire Ndahimana, who had surrendered to authorities in August 2009, to the ICTR in Arusha, Tanzania.



The constitution prohibits discrimination based on ethnicity, gender, or religion; however, the government did not enforce these prohibitions effectively, in part because it lacked appropriate institutions.

### Women

The law criminalizes rape, but the government did not effectively enforce this law, and rape was common throughout the country and especially pervasive in conflict areas in the east. Between January and December 2009, the UNFPA reported 12,838 cases of sexual violence against both adults and minors in North and South Kivu and Province Orientale, with a total of 17,507 cases across the entire country. According to the UN secretary-general's 27th report to the UN Security Council, more than 1,100 women and girls were raped each month in the east alone (see section 1.g.). The law on sexual violence, enacted in 2006, broadened the definition of rape to include male victims, sexual slavery, sexual harassment, forced pregnancy, and other sexual crimes not previously covered by law. It also increased penalties for sexual violence, prohibits compromise fines and forced marriage, allows victims of sexual violence to waive appearance in court, and permits closed hearings to protect confidentiality. It raised the age of sexual consent to 18 years old, although the family code establishes that girls can marry at the age of 14. The minimum penalty prescribed for rape is a prison sentence of five years.

Government security forces, nongovernmental armed entities, and civilians perpetrated widespread and sometimes mass rape against women and girls (see section 1.g.). In March 2009 the UN secretary-general reported to the UN Security Council that members of nonstate armed entities, the FARDC, and the police were responsible for 81 percent of all reported cases of sexual violence in conflict zones and 24 percent in nonconflict areas. The majority of cases were reported in North and South Kivu. The report cited a "disturbing increase of police personnel involved as perpetrators, especially against women in detention." The UNFPA, the agency coordinating efforts against sexual violence in the country, estimated that 200,000 Congolese women and girls had become victims of sexual violence since 1998. The number of rapes committed during the year increased, according to UN officials, foreign diplomats, and NGOs (see section 1.g.).

Statistical information on rape, often based on information from the judiciary and agencies providing services to victims, remained fragmented and incomplete. According to UN officials and NGOs such as HRW, most statistics on sexual

violence represented a small percentage of the actual number and excluded victims who were unable, afraid, or ashamed to seek assistance. On August 4, the Journal of the American Medical Association published a study on sexual violence in Eastern Congo covering the last 15 years of conflict in North and South Kivu and Ituri, Orientale. According to the study, nearly 75 percent of individuals in these regions experienced sexual violence, and 35 percent of these cases were conflict-related, with nearly 40 percent of women in the conflict-related cases being the perpetrators, and more than 20 percent of victims being men. The study found that only 2 percent of the perpetrators of gender-based violence in the last 15 years were FARDC members and that overwhelming numbers of civilians in the conflict zone were suffering from symptoms associated with mental illness, ranging from post-traumatic stress disorder to depression.

Prosecutions for rape and other types of sexual violence remained rare. According to HRW, between January and August 2009 the military justice system convicted 17 FARDC soldiers of crimes of sexual violence in North Kivu Province. HRW and several other human rights groups continued to criticize the government for failing to investigate and prosecute members of the state security forces, particularly high-ranking officers, who were responsible for rape (see section 1.d.). Of the 14,200 rape cases that were registered in South Kivu between 2005 and 2007, only 287, or 2 percent of the cases, were taken to court. Both victims and the UNHRC's special rapporteur on violence against women cited widespread impunity as the main reason for sexual violence. Most victims did not have sufficient confidence in the justice system to pursue formal legal action or feared subjecting themselves to further humiliation and possible reprisal.

In December 2009 several members of the UPRWG commended the government for adopting the 2006 law on sexual violence but expressed concern over the failure to implement the law and recommended increased efforts to train judicial and law enforcement officials in its application. Several members urged authorities to make greater efforts to investigate and prosecute individuals, including high-ranking members of the state security forces, who were responsible for rape.

In a report submitted in April 2009 to the UPRWG, the Women's Synergy for Victims of Sexual Violence (SFVS) and nine other North Kivu-based NGOs urged the government to modify an existing law that continued to make it extremely difficult for them to seek reparations for sexual violence. The law requires victims of sexual violence to pay the public treasury 15 percent of the amount of damages sought in advance of any judgment. According to SFVS, in the rare instances in which reparations were awarded, defendants bribed judges, resulting in "lost" case

files, effectively preventing the payment of reparations to victims. A group of special rapporteurs and representatives, including the UN special rapporteur on violence against women reported in March 2009 that the government had been ordered by multiple courts in the country to pay compensation to a number of women raped by state security agents; however, none of the rape survivors had received compensation.

In 2009 the UN special rapporteur on violence against women and the special representative of the UN secretary-general on children and armed conflict concluded that, while many perpetrators of sexual violence were armed actors (including members of the FARDC, police, and nonstate armed entities), a significant and increasing number were civilians, not only in conflict zones but also in other regions. High-level UN officials deemed this development a consequence of the climate of impunity, absence of rule of law, and the normalization of violence against women.

It was common for family members to pressure a rape victim to remain silent, even to health care professionals, to safeguard the reputations of the victim and her family.

Victims of gender-based violence faced an enormous social stigma. After a sexual assault, many young women and girls were often labeled as unsuitable for marriage, and married women were frequently abandoned by their husbands.

Some families forced rape victims to marry the men who raped them or to forego prosecution in exchange for money or goods from the rapist.

Domestic violence against women occurred throughout the country. For example, credible sources found that 86 percent of women in Equateur Province were victims of domestic abuse; however, there were few if any additional statistics available regarding the extent of domestic abuse. Although the law considers assault a crime, it does not specifically address spousal abuse, and police rarely intervened in domestic disputes. There were no reports of judicial authorities taking action in cases of domestic or spousal abuse.

Sexual harassment occurred throughout the country; however, no statistics existed regarding its prevalence. The 2006 sexual violence law prohibits sexual harassment, and the minimum penalty prescribed by law is a prison sentence of one to 20 years; however, there was no effective enforcement.

The government respected the right of couples to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. However, women's access to contraception remained extremely low, with only 6.7 percent of women using modern contraceptive methods. According to the World Health Organization, the maternal mortality rate for 2008 was 670 deaths per 100,000 live births.

Women's access to treatment of sexually transmitted diseases, such as HIV, was not known. Recent studies did not disaggregate by gender, and the data was highly variable across geographic regions, reflecting variations in cultural norms and access to health-care services. The percentage of women seeking skilled medical assistance during childbirth was 74 percent.

According to a demographic and health survey issued by the government in 2007, the average rate of pregnant women who received prenatal care, predominantly from nurses and midwives, rose from 68 percent in 2001 to 85 percent in 2007. Medical assistance during childbirth was not as prevalent as prenatal care, but access did increase between 2001 and 2007. Education, socioeconomic status, place of delivery (hospital or home), and geographic location had a significant impact on who received postpartum care. Cultural barriers were nonexistent except for the minority of women who belonged to Bunda dia Mayala (formerly known as Bunda Dia Congo), a political and religious movement in which adherents were sometimes prevented from receiving vaccinations.

Women did not possess the same rights as men under the law or in practice. The law requires a married woman to obtain her husband's consent before engaging in legal transactions, including selling or renting real estate, opening a bank account, or applying for a passport. According to UNICEF, 69 percent of widows had been dispossessed of their property. Under the law, women found guilty of adultery may be sentenced to up to one year in prison; adultery by men is subject to legal penalty only if judged to have "an injurious quality."

In their March 2009 report to the UNHRC, seven UN special rapporteurs and representatives expressed concern that, while the family code recognizes equality between spouses, it "effectively renders a married woman a minor under the guardianship of her husband," by stating that the wife must obey her husband; women remained underrepresented in the democratic institutions.

Women experienced economic discrimination. The law forbids a woman from working at night or accepting employment without her husband's consent. According to the International Labor Organization (ILO), women often received less pay in the private sector than men doing the same job and rarely occupied positions of authority or high responsibility.

### Children

According to 2007 UNICEF data, 31 percent of children were registered at birth. However, following the government's adoption of a National Plan of Action on Birth Registration in March 2009, child birth registration increased in Kinshasa from 37 percent to 50 percent by June 2009. Birth registration was lowest among ethnic minorities such as Pygmies. The lack of registration did not affect access to government services.

In practice primary school education was not compulsory, free, or universal, and few functioning government-funded schools existed. Fighting that resumed in 2008 in North Kivu between government and rebel forces resulted in the closure of approximately 85 percent of all schools in the area, according to UNICEF. Public and private schools generally expected parents to contribute to teachers' salaries, and parents typically funded 80 to 90 percent of school expenses. These expenses, plus the potential loss of income or labor while their children attended class, left many parents unable to enroll their children. In September President Kabila ordered that fees required by the government for primary school children would no longer be required; however, at year's end, parents were still paying fees.

Primary and secondary school attendance rates for girls were lower because many parents preferred to send their sons to school, either for financial or cultural reasons.

The majority of schools in conflict zones were dilapidated and had been closed due to insecurity. Parents in such areas often prevented their children from attending the few functioning schools due to fear that armed entities would forcibly recruit their children, according to reports received by the UN during the year.

In a report released in February 2009, the UNCRC welcomed the government's adoption in January 2009 of the child protection code, which provides for the establishment of 180 juvenile tribunals. However, the UNCRC expressed concern over the capacity of the government to implement the code's provisions, particularly in the absence of an awareness raising campaign. The UNCRC urged

the government to expedite implementation of child protection laws, increase investment in law enforcement training on child protection, adopt a comprehensive child protection action plan, establish a 24-hour child helpline as a tool for children to seek assistance and lodge complaints, establish a data base and coherent national programs for refugee and internally displaced children, and swiftly improve juvenile justice standards.

The law prohibits all forms of child abuse, but it was common. There was no information about authorities arresting individuals for child abandonment and abuse during the year.

The constitution prohibits parental abandonment of children for alleged sorcery; however, such allegations resulted in abandonment and abuse. The 2009 Child Protection Law provides for a sentence of imprisonment for parents and other adults who accuse children of witchcraft; however, authorities did not implement the law effectively.

Child abuse was an especially serious problem in the eastern conflict regions. A 2008 report of the UN secretary-general on children and armed conflict in the country concluded that children continued to be the primary victims of the continuing conflict in the east.

In March 2009 a group of seven UN special rapporteurs and representatives mandated by the UNHRC to assess human rights in the country deemed it "alarming" that a significant percentage of the victims of sexual violence committed throughout the country were girls, and in some cases also boys. According to the UNFPA, of 17,507 new cases of sexual violence registered in 2009 throughout the country, 48 percent of survivors were children. The report also underscored the role of civilians in child rape, including in conflict zones where a climate of near total impunity persisted. For example, of the 2,893 cases of child rape reported in conflict-affected Ituri District, Orientale, between June 2007 and June 2008, UNICEF found that 42 percent of perpetrators were members of the state security forces or nonstate armed entities and 58 percent were civilians. During the same period, of the almost 2,000 cases of child rape reported in North Kivu, 70 percent of the perpetrators were members of the state security forces or nonstate armed entities and 30 percent were civilians.

All parties to the conflict in the east were involved in the use of child soldiers (see section 1.g.). During the year the UNCRC expressed concern that children

continued to be tried in military courts for crimes allegedly committed while they were enrolled as child soldiers in nongovernmental armed entities.

The law does not prohibit female genital mutilation (FGM). According to the World Health Organization, isolated groups in the north practiced FGM, and approximately 5 percent of women and girls were victims.

The law prohibits marriage of girls under the age of 14 and boys under the age of 18; however, marriages of girls as young as 13 years old took place. Dowry payments greatly contributed to underage marriage. In some cases parents married off a daughter against her will to collect a dowry or to finance a dowry for a son. The sexual violence law criminalizes forced marriage. It subjects parents to up to 12 years' hard labor and a fine of 92,500 Congolese francs (approximately \$103) for forcing a child to marry. The penalty doubles when the child is under the age of 15. There were no reports of prosecutions for forced marriage; no additional information was available.

The minimum age of consensual sex is 14 years old for women and 18 years old for men, and the 2006 law on sexual violence prohibits and defines penalties for prostitution of minors; however, child prostitution occurred throughout the country. There were no statistics available regarding its prevalence. Many children engaged in prostitution without third-party involvement, although some were forced to do so. In the mining areas of Katanga, UNICEF reported that madams forced girls between the ages of eight and 10 years old, known as *canetons* (ducklings in French), into prostitution. According to HRW and a local NGO, police in Kinshasa extorted sexual services from child prostitutes.

In 2009, there were an estimated 8.4 million orphans and vulnerable children in the country; 91 percent received no external support of any kind, and only 3 percent received medical support. The country's estimated 50,000 street children included many accused of witchcraft, child refugees, and war orphans, as well as children with homes and families. During the year, according to UNICEF, there were more than 20,000 street children in Kinshasa, of whom 26 percent were girls. Many churches in Kinshasa conducted exorcisms of children accused of witchcraft involving isolation, beating and whipping, starvation, and forced ingestion of purgatives. According to UNICEF, there was a practice of branding as witches children with disabilities or even speech impediments and learning disabilities; this practice sometimes resulted in parents abandoning their children. According to UNICEF, as many as 70 percent of the street children they assisted claimed to have been accused of witchcraft.

The government was ill equipped to deal with large numbers of homeless children. Citizens generally regarded street children as delinquents engaged in petty crime, begging, and prostitution and approved of actions taken against them. State security forces abused and arbitrarily arrested street children (see sections 1.c. and 1.d.).

There were numerous reports that street children had to pay police officers to be allowed to sleep in vacant buildings and had to share with police a percentage of goods stolen from markets.

In February 2009 the UNCRC underscored its concern over the frequency of sexual assaults committed against street children, as well as state security forces' regular harassment, beating, and arrest of street children. In addition the UNCRC expressed concern that "violence against children accused of witchcraft is increasing, and that children are being kept as prisoners in religious buildings where they were exposed to torture and mistreatment, or even killed under the pretext of exorcism." The UNCRC recommended that the government take effective measures to prevent children from being accused of witchcraft, including by continuing and strengthening public awareness-raising activities, particularly directed at parents and religious leaders and by addressing root causes such as poverty. The UNCRC further urged the government to criminalize accusing children of witchcraft, bring to justice persons responsible for violence against children accused of sorcery, and take steps to recover and reintegrate children accused of witchcraft.

Several NGOs worked effectively with MONUSCO and UNICEF to promote children's rights throughout the country.

At year's end the country was not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.htm](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.htm) 1.)

### Anti-Semitism

The country has a very small Jewish population, and there were no reports of anti-Semitic acts.



### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

### Persons with Disabilities

The law prohibits discrimination against persons with disabilities; however, the government did not effectively enforce this provision, and persons with disabilities often found it difficult to obtain employment, education, or government services.

The law does not mandate access to buildings or government services for persons with disabilities. Some schools for persons with disabilities, including persons with visual disabilities, received private funds and limited public funds to provide education and vocational training.

During the year children with disabilities were accused of witchcraft and subjected to abuse and abandonment (see section 6).

### National/Racial/Ethnic Minorities

Members of the country's more than 400 ethnic groups practiced ethnic discrimination, and discrimination was evident in hiring patterns in some cities. The government took no reported actions to address this problem.

State security forces in Kinshasa sometimes harassed, arbitrarily arrested, or threatened members of ethnic groups from Equateur, according to the UNJHRO. State security forces in North and South Kivu sometimes harassed, arbitrarily arrested, or threatened members of many different ethnic groups.

Discrimination against persons with albinism was widespread and limited their ability to obtain employment, health care, and education, or to marry. Persons with albinism were frequently ostracized by their families and communities. According to a 2007 survey conducted in Kisangani by the UN Development Program, 83 percent of parents of albinos stated that their children were successful in school, but 47 percent said they felt humiliated by having albino children.

Between October and November 2009, in the South Ubangi District of Equateur, ethnic violence between the Banzaya and Enyele clans (both of the Lobala ethnic

group) erupted over farming and fishing rights, triggering a humanitarian crisis. After the district government recognized a member of the Banzaya clan as interim tribal chief in the village of Dongo in June 2009, members of the Enyele clan forced the government-recognized tribal chief to flee. When the chief returned several months later with an armed police escort, Enyele clan members reportedly killed approximately 45 police officers, which led to a deployment of FARDC soldiers to address the Enyele insurgency and stabilize the area. By year's end the clashes had resulted in several civilian deaths, numerous internally displaced persons, and more than 140,000 refugees, many of whom fled to the neighboring Republic of the Congo and to the CAR.

### Indigenous People

The country had a population of between 200,000 and 500,000 Pygmies (Twa, Mbuti, Aka, and others), believed to be the country's original inhabitants; the government did not effectively protect their civil and political rights, and societal discrimination against them continued. Most Pygmies took no part in the political process and continued to live in remote areas. During the year fighting in the east between nonstate armed entities and government security forces caused displacement of some Pygmy populations. Since 2003 many Pygmies who had lived in IDP camps in the east were forced outside the camps by other IDPs, removing their access to humanitarian relief provided to camp residents.

In some areas traditional leaders (mwami) and wealthy persons captured Pygmies and forced them into slavery. For 2009-2010, the World Peasants/Indigenous Organization reported 644 new cases of enslavement of Pygmies. Those captured were known as "badja" and were considered the property of their masters. During 2008 the World Peasants/Indigenous Organization conducted a three-month campaign to free such individuals. In 2008, 96 Pygmy slaves were released; 46 of the group belonged to families that had been enslaved for generations.

### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There are no known laws specifically prohibiting homosexuality or homosexual acts; however, individuals engaging in public displays of homosexuality were subject to prosecution under public decency provisions in the penal code and articles in the 2006 law on sexual violence. On October 22, a law was proposed in the national assembly that would impose significant fines and jail terms on individuals engaging in homosexuality or groups promoting or protecting

homosexual behavior. No action had been taken on the draft legislation by the end of the year. Homosexuality remained a cultural taboo, and while harassment by state security forces continued, there were no reports during the year of police harassing gays and lesbians or perpetrating or condoning violence against them.

On September 6, in Kabare, South Kivu, authorities prevented a mob from lynching a 21-year old woman accused of homosexual relations with another villager.

#### Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination based on HIV/AIDS status.

In 2008 President Kabila promulgated a law passed by parliament that prohibits discrimination against persons with HIV/AIDS.

#### Section 7 Worker Rights

##### a. The Right of Association

The constitution provides all workers, except government officials and members of the state security forces, the right to form and join trade unions without prior authorization or excessive requirements. The extent to which the government protected this right in practice was limited. According to NGO reporting, of an estimated 24 million adults of working age, 128,000 employees in the private sector (0.5 percent) belonged to unions. No information was available regarding the number of union members in the public sector. The informal sector, including subsistence agriculture, constituted at least 90 percent of the economy. The law provides for the right of unions to conduct activities without interference and to bargain collectively; however, the government did not always protect these rights.

In August an assessment of the country's trade union and worker freedoms by international NGO Freedom House found significant restrictions on labor rights and that the labor rights environment was "repressive."

Private companies often registered bogus unions to create confusion among workers and discourage real ones from organizing. According to NGO reporting, many of the nearly 400 unions in the private sector had no membership and had been established by management, particularly in the natural resources sector.

The constitution provides for the right to strike, and workers sometimes exercised it. In small and medium-sized businesses, workers could not exercise this right effectively in practice. With an enormous unemployed labor pool, companies and shops could immediately replace any workers attempting to unionize, collectively bargain, or strike. The law requires unions to have prior consent from the Ministry of Labor and to adhere to lengthy mandatory arbitration and appeal procedures before striking. The law prohibits employers and the government from retaliating against strikers; however, the government did not enforce this law in practice.

b. The Right to Organize and Bargain Collectively

While a 2002 law provides for the right to organize and for collective bargaining, collective bargaining was ineffective in practice. The government set public sector wages by decree, and unions were permitted to act only in an advisory capacity. Most unions in the private sector collected dues from workers but did not succeed in engaging in collective bargaining on their behalf.

The law prohibits discrimination against union employees, although authorities did not enforce this regulation effectively, and antiunion discrimination occurred in practice. The law also requires employers to reinstate workers fired for union activities.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children; however, although no statistics were available, both were practiced throughout the country. The government did not effectively enforce laws prohibiting forced or compulsory labor.

Men, women, and children were coerced into forced labor and sexual exploitation. Children were prostituted in brothels or by loosely organized networks. An estimated tens of thousands of children worked in the mining sector, most often in extremely dangerous conditions as artisanal miners. In the east, FARDC elements and RMGs continued to abduct and forcibly recruit men, women, and children to serve as laborers (including in mines), porters, domestics, combatants, and sex slaves (see section 1.g.).

Some police officers in the east reportedly arrested individuals arbitrarily in order to extort money from them; those who could not pay were forced to work until they had "earned" their freedom.

Government security forces continued to force men, women, and children, including IDPs and prisoners, to serve as porters, mine workers, and domestic laborers (see sections 1.c., 1.g., 6, and 7.d.). In addition, according to the UNGOE report of November, in Mushake, Masisi, ex-CNDP FARDC soldiers "enforce salongo, whereby civilians are required to build houses, clean camps, and transport merchandise for the military."

The military took no action against FARDC soldiers who used forced labor and abducted civilians for forced labor during the year, in 2009 or in 2008.

In the mining sector, middlemen and dealers acquired raw ore from unlicensed miners in exchange for tools, food, and other products. Miners who failed to provide sufficient ore became debt slaves, forced to continue working to pay off arrears. The government did not attempt to regulate this practice.

Armed entities operating outside central government control subjected civilians, including children, to forced labor, including sexual slavery (see section 1.g.). Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### d. Prohibition of Child Labor and Minimum Age for Employment

There were laws to protect children from exploitation in the workplace; however, government agencies did not effectively enforce child labor laws. Child labor remained a problem throughout the country, including forced child labor. Although there was at least one report of a large enterprise using child labor during the year, it was much more common in the informal sector, particularly in mining and subsistence agriculture. For economic survival, families often encouraged children to work in order to earn money. According to the Ministry of Labor, children continued to work in mines and stone quarries, and as child soldiers, water sellers, domestic servants, and entertainers in bars and restaurants.

Although the minimum age for full-time employment without parental consent is 18 years old, employers may legally hire minors between the ages of 15 and 18 with the consent of a parent or guardian. Those under the age of 16 may work a

maximum of four hours per day. All minors are restricted from transporting heavy items.

According to data collected by UNICEF in surveys between 1999 and 2007, approximately 32 percent of children between the ages of five and 14 were involved in child labor. UNICEF considered children to be involved in labor if, during the week preceding the survey, a child who was five to 11 years old performed at least one hour of economic activity or at least 28 hours of domestic work or a child who was 12 to 14 years old performed at least 14 hours of economic activity or at least 28 hours of domestic work.

Criminal courts continued to hear child labor complaints. State security forces and nonstate armed entities in conflict-affected areas in the east used children, including child soldiers, for forced labor in mines (see section 1.g.). However, the use of forced child labor by state security forces was not limited to conflict zones. For example, in October 2009 UNICEF reported that soldiers in Katanga forced children and adults to mine and transport heavy loads for them.

Children made up as much as 30 percent of the work force in the informal ("artisanal") mining sector. In mining regions of the provinces of Katanga, Kasai Occidental, Orientale, and North and South Kivu, children performed dangerous mine work, often underground. In many areas of the country, children who were five to 12 years old broke rocks to make gravel for a small wage. In October 2009 a foreign diplomat observed children breaking stones and carrying heavy loads in a stone quarry on the compound of the government-owned Gecamines mining company in Kipushi, Katanga. According to the Solidarity Center, during the year there was an increase in the number of children working in the Kolwezi mines in southern Katanga. Catholic Relief Services in Katanga reported that the local population, including children, were drawn to mining work, largely due to the lack of alternative sources of income and the higher salaries offered in the mining sector.

Child prostitution, including forced prostitution, was practiced throughout the country (see section 6). Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

In addition children were used to extract copper, cobalt, and gold. In the east, armed entities forced children to mine coltan, tungsten ore, and cassiterite.

Parents often used children for dangerous and difficult agricultural labor. Children sent to relatives by parents who could not support them sometimes effectively became the property of those families, who subjected them to physical and sexual abuse.

The Ministry of Labor has responsibility for investigating child labor abuses but had no dedicated child labor inspection service. The Ministry of Labor had yet to develop a national action plan to comprehensively address child labor. Other government agencies responsible for combating child labor included the Ministry of Gender, Family and Children, the Ministry of Social Affairs, and the National Committee to Combat Worst Forms of Child Labor. These agencies had no budgets for inspections and conducted no investigations during the year.

In 2009, government officials participated in a tripartite dialogue on child labor in Katanga with unions, enterprises, and the ILO. The effort was part of an ILO program, conducted in cooperation with government officials, designed to withdraw children from industrial and artisanal mining, improve working conditions for diggers, and eradicate child labor. Due to a lack of funding, the ILO closed its office in Lubumbashi shortly after the tripartite talks.

In November 2009 the ILO recommended that the government focus on creating employment opportunities, strengthening the skills of women, enrolling children in school, and reducing the country's reliance on imports in order to bolster the fight against child labor. There was no further progress on these recommendations; some children who had been removed from the mines through an anti-child labor project returned to the mines due to lack of support.

e. Acceptable Conditions of Work

Employers in the informal sector often did not respect the legally required minimum wage of 1,680 Congolese francs (approximately \$1.86) per day. The average monthly wage did not provide a decent standard of living for a worker and family. Government salaries remained low, ranging from 45,000 to 75,000 Congolese francs (approximately \$50 to \$82) per month, and salary arrears were common in both the civil service and public enterprises (parastatals). More than 90 percent of laborers worked in subsistence agriculture, informal commerce or mining, or other informal pursuits.

The law defines different standard workweeks, ranging from 45 to 72 hours, for various jobs. The law also prescribes rest periods and premium pay for overtime,

but employers often did not respect these provisions in practice. The law establishes no monitoring or enforcement mechanism, and businesses often ignored these standards in practice.

The law specifies health and safety standards; however, government agencies did not effectively enforce them. The law does not provide workers the right to remove themselves from dangerous work situations without jeopardizing their employment.

According to the NGO Pact, an estimated 10 million miners worked in the informal sector nationwide and up to 16 percent of the population may have indirectly relied on so-called artisanal, or small-scale, mining. Many suffered violence from guards and state security forces for illegally entering mining concessions.