



## Congo, Democratic Republic of the

### Country Reports on Human Rights Practices - [2004](#)

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The Democratic Republic of Congo (DRC) is nominally a highly centralized republic with extensive powers vested in President Joseph Kabila, head of a national Transitional Government, which was formed in June 2003 and is composed of former belligerent factions, including representatives from the former government, former rebel groups, civil society, and the political opposition. President Kabila came to power in 2001 after the assassination of his father, Laurent Desire Kabila. There have not been free elections since independence in 1960; however, the Transitional Constitution, which resulted from political negotiations that ended 4 years of war in the country, provides for national general elections in 2005. Elections may be delayed for two 6-month periods with Parliament's approval. Although the law provides for a unified, strong central government, in practice the Government remained divided and weak. The country remained effectively divided into territory under the control of the Government (areas that remained under the nominal control of the Kinshasa-based government throughout the conflict) and territory under marginal government control (areas controlled by various rebel groups during the conflict). The former belligerents made some progress integrating key institutions such as the army, police, and local administrations; however, different components of the Government often acted independently of, or contrary to, the interests of other components, which contributed to the Government's inability to control many government authorities, even in areas under its supposed control. The judiciary was ineffective and subject to corruption.

In areas under government control, security forces consisted of a national police force and an immigration service, both under the Ministry of Interior; the National Intelligence Agency (ANR) and the Special Presidential Security Guard (GSSP), both reporting directly to the President; and the Congolese Armed Forces (FARDC), which were integrated only at the regional headquarters level by year's end. The military's intelligence service, which reports to the President, continued to operate. The ANR was responsible for internal and external security. The FARDC was responsible for external security, but also had domestic security responsibilities. Civilian authorities did not maintain effective control of the security forces, and there were frequent instances in which elements of the security forces acted independently of government authority. In addition, different individuals of the same security service effectively had different chains of command and often responded to orders from different individuals, including former commanders and political leaders whom they had followed before the Government was established. Members of the security forces were poorly trained, poorly paid, and undisciplined, and they committed numerous serious human rights abuses with impunity.

The economy was dominated by subsistence agriculture, a large informal sector, and widespread barter; most sectors of the economy remained moribund. The population was estimated to be approximately 60 million. Although gross domestic product grew by an estimated 8 percent and inflation remained below 10 percent, the World Bank estimated that 80 percent of the population lived on less than a dollar a day. Infrastructure was in serious disrepair, financial institutions remained weak, and public education and health services continued to deteriorate. Widespread corruption had significant adverse effects on economic conditions. Although former rebel-controlled areas in the east remained largely autonomous and were not completely integrated economically with the west, increased cross-country commercial air traffic, national cellular phone service, and road and rail rehabilitation funded by the international community improved economic integration during the year. The prevalence of HIV/AIDS continued to place an increasing burden on the country's resources through rising healthcare expenditures, absenteeism from work, labor shortages resulting from morbidity and mortality, and training of replacement labor.

In areas under government control, the human rights record remained poor, and numerous serious abuses occurred. Citizens did not have the right to change their government peacefully. Government security forces committed unlawful killings, torture, beatings, acts of rape, extortion, and other abuses, such as lootings and interference with citizens' right to privacy. In general, security forces operated with impunity. Conditions in hundreds of prisons and detention facilities remained harsh and life threatening. Arbitrary arrest and prolonged pretrial detention remained problems. The Government restricted the freedom of assembly; it sometimes restricted the freedoms of speech, the press, association, and movement. Violence and discrimination against women were problems. Female genital mutilation (FGM) persisted among isolated populations in the north. Child labor and child prostitution remained serious problems. The Government continued to have child soldiers in its ranks--although it demobilized children during the year--and trafficking in persons remained a problem. Discrimination against indigenous Pygmies and certain Tutsis continued. The Government did not effectively protect some worker rights.

In areas under marginal government control, numerous armed groups, including some reportedly supported by the governments of Rwanda and Uganda, continued to function. With the exception of Ituri-based armed groups, which remained effectively outside the FARDC chain of command, former belligerents were nominally integrated into the FARDC at the national and regional headquarters level. Although the FARDC deployed an integrated brigade to Ituri, military integration at the field level had not begun by year's end. In particular, a large number of reportedly Rwandan-backed Congolese Rally for Democracy-Goma (RCD/G) and Mai Mai units did not regularly follow orders from their new Kinshasa-appointed commanders. Even in the case of troops who were supposedly integrated into the FARDC, many elements retained their former loyalties and took orders from the commanders who led them prior to the creation of the Government. There continued to be unconfirmed reports from multiple credible sources that Rwanda Defense Forces (RDF) soldiers were present in the Kivus, and that RDF military advisors remained integrated with former RCD/G and Union of Congolese Patriots (UPC) forces. However, the Rwandan Government publicly denied allegations that RDF troops were operating in the DRC.

In the Kivus, Maniema, Katanga, and southeastern Orientale, armed groups continued to severely harass civilians, and to fight the FARDC and each other. Local militia units known as Mai Mai, which operated in many rural areas, were generally allied to the FARDC, but FARDC commanders did not always maintain control of them. In North Kivu, Congolese Hutu and Tutsi local defense forces, some of which were under the control of Governor Eugene Serufuli, operated. During the first part of the year, there were reports of incursions by two Burundian Hutu rebel groups. Rwandan Hutu militia groups, including former Armed Forces of Rwanda, Interahamwe, and Democratic Forces for the Liberation of Rwanda (FDLR) elements continued to operate in the Kivus and northern Katanga. In addition, some ex-RCD/G officers in North and South Kivu, led by General Laurent Nkunda, Colonel Jules Mutebusi, and other former rebel commanders, attacked FARDC forces and briefly took control of Bukavu for several days in June; a U.N. panel of experts concluded that the Government of Rwanda supported this revolt. Also in June, the U.N. Observer Mission in Congo (MONUC), a U.N. peacekeeping force with 16,700 soldiers, deployed the Kivus Brigade.

In Ituri District of Orientale Province, numerous tribally-based armed groups continued to operate: The Lendu and Ngiti-dominated Front for the National Integration/Patriotic Force of Resistance in Ituri (FNI/FRPI), led by Floribert Njabu; the Hema-dominated UPC, led by Thomas Lubanga; the Hema-dominated Party for the Safeguarding of the Congo (PUSIC), led by Chief Kawa Mandra; the mixed People's Army of Congo (FAPC), led by Jerome Kakwavu; and the Alur and Lugbara-dominated Popular Force for Democracy in Congo, led by Thomas Unen Chen. In addition, there were numerous loosely affiliated Lendu militia groups. In May, representatives of seven armed militia groups from Ituri District signed an agreement with the Government to disarm and participate in the transitional process toward democracy; however, the signatories did not respect the agreement. Unlike previous years, the FAPC and Lendu and Hema groups appeared to work together to coordinate illegal economic activities and arms trafficking. MONUC's Ituri Brigade continued to operate during the year.

In areas under marginal government control, where there were many armed groups, those with weapons controlled the population and extorted money, goods, and services. Civilian authorities did not maintain effective control over armed groups, which received orders from many sources, including local warlords, former commanding officers, civilian authorities, and foreign governments. These groups often acted independently, were poorly trained, and undisciplined and committed numerous, serious human rights abuses with impunity.

The human rights record in areas under marginal government control remained extremely poor, and armed groups continued to commit numerous, serious abuses, particularly in North and South Kivu, Maniema, northern Katanga, and Ituri District in Orientale Province. Political freedom increased slightly during the year. Armed groups committed numerous, serious abuses with impunity against civilians, including deliberate large-scale killings, the burning of villages, kidnappings, torture, rape, cannibalism, mutilation, looting, and extortion. Prison conditions, particularly in underground prisons, were life threatening. Arbitrary arrest and detention continued to be problems. Armed groups severely restricted freedoms of speech, the press, assembly, and movement. Respect for religious freedom improved. Fighting in the Kivus and Ituri District of Orientale Province continued to result in large numbers of internally displaced persons (IDPs). Armed groups attacked local and international nongovernmental organizations (NGOs) and killed MONUC peacekeepers. Rape, violence against women and girls, and forced labor, including sexual slavery, were severe problems. Child labor, including the forced recruitment and use of child soldiers, was a serious problem. Trafficking remained a problem. Discrimination continued against indigenous Pygmies and Congolese Tutsis from South Kivu, known as Banyamulenge.

## **RESPECT FOR HUMAN RIGHTS**

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

#### a. Arbitrary or Unlawful Deprivation of Life

In areas under government control, there were unconfirmed reports of a politically motivated killing by a member of the security forces, and security forces committed other unlawful killings with impunity. There were unconfirmed reports that security forces killed individuals in their custody.

On October 29, a GSSP soldier in Lubumbashi shot and killed the driver of Rashidi Akida, the president of the League Against Corruption and Fraud. Local sources reported that the driver was killed because the soldier thought he was Akida.

There was one report that a person died as a result of torture by security forces. On June 29, a Congolese deserter belonging to the Banyamulenge ethnic group turned himself in to the FARDC military headquarters in Bukavu. He was reportedly tortured to

death during questioning. There were no actions taken against those reportedly responsible for the killing.

In late August, the Rapid Intervention Police in Buta, north of Kisangani in Orientale Province, severely beat a man while arresting him in connection with a marital dispute. He died the next day of his injuries. By year's end, there was no known action taken against the perpetrators.

The use of excessive force by security forces while dispersing demonstrations resulted in deaths (see Section 2.b.).

During the year, there were many reports that soldiers killed civilians while attempting to steal from them. For example, in April, 19 FARDC soldiers reportedly killed a woman in Kananga after breaking into her house and demanding money.

On October 5, the High Military Court convicted Col. Charles Alamba and several others of murder, mutilation, and extortion and sentenced them to death in connection with the September 2003 murder of Steve Nyembo, a senior official in the Department of Taxation. Alamba, former prosecutor of the disbanded Military Order Court (COM), was widely believed to be behind numerous political killings over the past several years. With the exception of the Nyembo case, there reportedly was no action taken against members of the security forces responsible for numerous killings in 2003 or 2002.

Local sources reported that on February 11, guards working for MIBA—PN, a parastatal mining company, killed six artisanal diamond miners and seriously injured two others in Eastern Kasai. By year's end, there were no reports that any action had been taken against those reportedly responsible for the killings. In addition, between October and the end of the year, at least 10 persons died from mine collapses after police and military personnel forced them to dig for diamonds in dangerous mining shafts near Tshikapa, Western Kasai.

No action was taken against local security guards who reportedly blocked miners from escaping from a collapsed mine in 2003.

During the first half of the year, unidentified armed men in uniform attacked vehicles traveling at night on the Kinshasa-Matadi road and killed and injured several persons. There were also reports that unidentified armed men in uniform attacked vehicles traveling at night in certain parts of Lubumbashi.

There were weekly reports of unidentified armed men in uniform forcibly entering personal residences in Kinshasa at night to harass civilians, loot personal belongings, and kill persons involved in personal feuds. There were no reports of any action taken against these men.

No action was taken against uniformed men who killed Reverend Don Kavenadiambuku in Kavuaya, Bas Congo, in 2003.

In late September, mobs killed at least 20 street children in Mbuji Mayi, with the complicity of security forces (see Section 5).

U.N. peacekeepers killed demonstrators during the year (see Section 2.b.).

In areas under marginal government control, there were credible reports that between July 2003 and March, the local head of the national police and the local UPC commander in Boga, Ituri District killed nine persons, some by summary execution and some by torture.

In January, authorities placed two civilians in front of freshly dug graves and bludgeoned them to death with hammers at a military prison in Beni, North Kivu. No additional information was available.

No action was taken against members of armed groups who executed persons in 2003.

Police that operated in RCD/G-controlled territory, as well as ex-RCD/G soldiers, used excessive force against demonstrators, which resulted in deaths (see Section 2.b.).

During the year, FARDC forces killed an unknown number of civilians in the east while fighting armed groups (see Section 1.g.).

Government forces and armed groups targeted civilians on the basis of ethnicity for extra-judicial killings, rape, looting, and arrest. For example, during the seizure of Bukavu by ex-RCD/G combatants in late May and early June, the ex-RCD/G forces targeted non-Tutsis for attack, and the FARDC in turn targeted Congolese Tutsis when it reoccupied the city in June (see Section 1.g.).

During the year, the Government supported Mai Mai groups, who sometimes worked with Rwandan Hutu militia groups believed to be responsible for killing civilians (see Section 1.g.).

Armed groups committed numerous abuses, including summary executions, civilian massacres, acts of cannibalism, torture, looting and burning of houses, attacks on civilian areas, the forcible recruitment and use of child soldiers, and rape. Fighting

between armed groups displaced thousands of civilians and resulted in hundreds of civilian deaths (see Section 1.g.).

During October and November, unidentified gunmen killed at least 15 persons, including a senior military intelligence officer, in Goma.

In December, MONUC peacekeepers found a grave containing numerous bodies in Ndrele, 12 miles from the Ugandan border. The FAPC, a tribally based armed group, allegedly killed these individuals. Peacekeepers also found an underground jail in a Ndrele torture camp. According to the British Broadcasting Corporation, MONUC peacekeepers launched an attack to gain access to Ndrele after the FAPC denied them access. Although the FAPC denied it, a MONUC spokesperson said Ndrele FAPC members committed serious human rights abuses, including killings, during the year.

There were numerous high profile killings by unknown actors in Ituri District and Goma, North Kivu, and no known action was taken against those responsible. For example, in November, unidentified gunmen shot and killed the Lendu director of the national electric company in Bunia, Vincent Bemba. Bemba was the first name on a list of respected Lendus selected to be killed that started to circulate in Bunia the day after he was killed. Numerous Lendus left Bunia, and the prosecutor investigating the case received anonymous death threats. There were numerous credible reports that UPC militia members shot Bemba and circulated the list.

There were unconfirmed reports that civilians killed and beat men in uniform for committing serious human rights abuses in North and South Kivu, Orientale, and Equateur Provinces.

#### b. Disappearance

There were no confirmed reports of politically motivated disappearances; however, by year's end, the whereabouts of an unknown number of civilians and soldiers who were detained early in the year in connection with alleged coup plots remained unknown. Fourteen prisoners who disappeared from a military intelligence detention center in February 2003 were still unaccounted for.

In areas under marginal government control, there were numerous cases of disappearances and kidnappings (see Section 1.g.).

Various armed groups abducted women and children from the villages they raided to perform labor, military services, and sexual services (see Sections 1.g. and 6.c.). Many of the victims have since disappeared.

There were no developments in any of the numerous cases of disappearance in 2003 and 2002, and no action had been taken against the perpetrators.

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

The law prohibits torture; however, in areas under government control, security forces and prison officials often beat and tortured detainees and prisoners. There were also unconfirmed reports that members of the security services tortured or abused civilians to settle personal disputes for themselves or other government officials.

During the year, security officials at the Lubumbashi central prison tied detainees to train tracks and whipped them in order to secure confessions.

Unlike in the previous year, there were no confirmed reports that security forces beat journalists.

There was no known action taken against members of the security forces responsible for torture or abuse in 2003 and 2002.

Members of the security services employed cruel, inhuman, and degrading punishment. For example, on the night of August 3, security agents arrested seven church members in Dekese, Eastern Kasai. The men were taken from their homes with their hands tied tightly behind their backs, beaten, and paraded in the center of the village. At least one man was forced to discard his own waste while his hands were still tied. On August 4, the men were freed after family members borrowed money to pay for their release and goods confiscated by agents during the arrest.

During the year, security forces used excessive force to disperse demonstrations (see Section 2.b.).

Members of the security forces raped civilians (see Section 1.g.).

Soldiers and police harassed and killed street children in Kinshasa, and mobs killed street children in Mbuji Mayi (see Sections 1.a. and 5).

In areas under marginal government control, armed groups tortured, raped, and otherwise physically abused numerous persons

during the year; armed groups beat and abused journalists, community leaders, and human rights advocates while arresting or detaining them (see Sections 1.g., 2.a., and 4).

Armed groups kidnapped, raped, and tortured numerous women (see Sections 1.g. and 5).

Former RCD/G officers violently dispersed demonstrations (see Section 2.b.).

No known action was taken against members of the RCD/G responsible for torture, beatings, or cruel, inhumane, or degrading treatment or punishment in 2003 or 2002, or members of the RDF responsible for cases of torture, beatings, and rape in 2002.

Conditions in most large, central prisons were harsh and life threatening. The penal system continued to suffer from severe shortages of funds and trained personnel. Most prisons were in a poor state of repair, lacked sanitation facilities, or were not designed to detain persons. Makala remained overcrowded. Health care and medical attention remained inadequate, and infectious diseases, including tuberculosis, were a problem. In some cases, prison doctors were available; however, they lacked medicines and supplies. MONUC's April prison report found that "grave deficiencies in terms of food, hygiene, and medical care make certain prisons virtual deathtraps. It is not an exaggeration to say that in certain places, being condemned by a court for a minor infraction for 12 months to 5 years is almost a death sentence."

Government-provided food remained inadequate, malnutrition was widespread, and MONUC reported in a Special Report on Malnutrition in Prisons that from March to early December, 34 detainees starved to death at the Mbuji Mayi prison, including 11 in November. In several areas, the Government has not provided food for years, and prisoners continued to receive an estimated two meals a week from NGOs, religious groups, and families. In general, prisoners' family and friends were able to provide food and other necessities; however, local NGOs reported that authorities sometimes moved prisoners without telling the families where they were sent. Family members were often forced to pay bribes to bring food to prisoners.

Unlike in the previous year, there were no confirmed reports of hunger strikes.

Conditions in smaller legal and illegal detention facilities were harsher than in larger prisons, and an unknown number of persons died. These facilities were overcrowded and generally intended for short-term pretrial detentions; however, in practice they were often used for lengthy detentions. Authorities often arbitrarily beat or tortured detainees. There usually were no toilets, mattresses, or medical care, and inmates often received insufficient amounts of light, air, and water. Such detention centers generally operated without a budget and with minimal regulation or oversight. Local prison authorities or influential individuals frequently barred visitors or severely mistreated particular detainees. Prison guards frequently required bribes from family members and NGOs to visit or provide detainees with food and other necessities.

The security services, particularly the ANR, military intelligence, and the GSSP, continued to operate numerous illegal detention facilities. Conditions in these facilities were extremely harsh and life threatening. Detainees were regularly abused, beaten, and tortured. Facilities lacked adequate food and water, toilets, mattresses, and medical care, and authorities routinely denied access to family members, friends, and lawyers.

MONUC's April prison report cited the excessive use and abuse of preventive detention, the regular detention of military personnel in civilian facilities, disorganization (there were no prison registers), lack of detention centers, and unusually long sentences as major contributing factors to extreme overcrowding.

An unknown number of persons died in prison due to mistreatment and neglect during the year (see Section 1.a.).

Women and juveniles sometimes were detained separately from men in larger prisons but were not separated in other detention facilities. There were numerous credible reports that male prisoners raped other prisoners, including men, women and children. For example, the U.N. Special Rapporteur for Human Rights reported that two men raped a 14-year-old girl detained in the same cell in Bafwasende, Orientale. Pretrial detainees were not separated from convicted prisoners, and they were often treated the same. Prisoners detained for state security reasons were generally held by the security services or in special sections of prisons. Soldiers and civilians were both detained in civilian and military prisons and detention facilities. There continued to be sections of prisons and detention facilities where wealthy prisoners paid for special privileges and received better treatment.

The Government allowed the International Committee of the Red Cross (ICRC) and many NGOs access to all official detention facilities; however, the ICRC and other NGOs did not have access to illegal detention facilities maintained by security forces.

Prison conditions in areas under marginal government control were extremely harsh and life-threatening. Most detention facilities were not designed as jails. Detainees often were kept in overcrowded rooms with little or no light or ventilation and sometimes were detained in small pits dug by various armed groups. Detainees typically slept in small, overcrowded cells on cement or dirt floors without bedding and had no access to sanitation, potable water, toilets, or adequate medical care. Infectious diseases were widespread. Detainees were provided very little food, and guards demanded bribes to allow family members or friends to bring food to prisoners. Prisoners frequently were subjected to torture, beatings, and other abuse with no medical attention.

On December 7, a man who had been in preventive detention since March at the Goma central prison died after not receiving

food for 14 days.

Armed groups detained persons in underground prisons at military installations in Orientale (including Ituri), the Kivus, Maniema, and Equateur. MONUC's prison report stated that, in 2003, the worst prison conditions were found in prisons run by RCD/G soldiers (former members of the armed group National Army of Congo, or ANC), Mai Mai, UPC, Party for the Safeguarding of the Congo (PUSIC), and the Movement for the Liberation of Congo (MLC). There were reports that in 2003, several camps in North Kivu belonging to the Beni-Butembo-based Congolese Rally for Democracy (RCD/ML) operated illegal detention centers where prisoners were summarily executed and tortured.

In areas under marginal government control, there continued to be reports that armed groups and the FARDC detained persons in metal freight containers or in the private residences of military commanders. For example, in June, the FARDC detained Banyamulenge students in a freight container in Bukavu (see Section 1.g.).

MONUC human rights and child protection officers, accompanied by MONUC military escorts, sometimes were allowed access to prisons in areas under marginal government control.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, in areas under government control, security forces arbitrarily arrested and detained persons, including journalists (see Section 2.a.).

By year's end, the national police force remained only partially integrated into the national command structure. National police handled basic criminal cases and traffic patrol. The Rapid Intervention Police was generally responsible for crowd control. Although the Government worked with MONUC and members of the international community to train police, police forces generally remained ineffective and corrupt. During the year, members of the police, military, and security forces attacked, detained, robbed, and extorted money from civilians. For example, a police officer stole money and a cellular phone from a foreign journalist riding in a taxibus and then forced the journalist out of the vehicle several miles from his intended destination in Kinshasa. In October, soldiers forced a family in Kinshasa to pay them \$25 to release an 8-year-old girl who was detained for several hours for wearing pants with "illegal" military-style pockets that had been banned by authorities. Police failed to respond to domestic and societal violence, regularly detained street children, and in October detained and harassed women for wearing tight jeans (see Section 5). The Government prosecuted and disciplined some abusers; however, the vast majority acted with impunity.

Under the law, certain police officers and senior officers of the security forces are empowered to authorize arrests, and detainees must be brought within 48 hours before a magistrate. Warrants are required only for offenses punishable by less than 6 months' imprisonment. In practice, these provisions were violated routinely. For example, in April, the U.N. High Commission for Human Rights found that one-third of prisoners in detention centers were illegally detained, and that a large number of judicial police ignored detention procedures.

Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members. When authorities did press charges, the claims were rarely filed in a timely manner and were often contrived or overly vague. Security forces regularly held alleged suspects for varying periods of time before acknowledging that they were in custody or allowing the detainees to have contact with family or legal counsel.

Police arrested persons during the year for criticizing the Government (see Section 2.a.).

Security forces used the pretext of state security to arbitrarily arrest individuals. Individuals arrested and detained in the name of state security frequently were held without legal charge, presentation of evidence, access to a lawyer, or due process. For example, during the year, local NGOs reported that an unknown number of individuals were detained in connection with alleged coup plots.

In late October, government agents arrested and detained for 9 days Christian Mwando, chairman of a Katangan opposition political party, for "possible involvement" in the capture of Kilwa by unidentified rebel forces (see Section 1.g.).

On June 15, journalist Bamporiki Chamira and members of his family were released from prison after a 15-month detention for "direct or indirect involvement in a plot aimed at eliminating President Joseph Kabila."

Justin Nindaga, who was arrested in 2002, was released in 2003.

Pretrial detention was very frequently prolonged. Human rights NGOs reported that fewer than 20 percent of the inmates at the Kinshasa Penitentiary and Reeducation Center (CPRK) had been charged or sentenced. According to MONUC's April prison report, only approximately 20 percent of the country's total prison population had been brought to trial and convicted of committing a crime.

Prisoners were often held in detention after their sentences had expired; these extended detentions were due to disorganization,

judicial inefficiency, and corruption. In a few instances, when such cases were brought to the attention of the Government, prisoners were released.

There were some political detainees during the year.

In areas under marginal government control, armed groups were responsible for a regular pattern of arbitrary arrest and detention. Although armed groups frequently arrested, charged, detained, and tried persons, they operated outside of the Government's criminal justice system.

From October to December, government forces in South Kivu arbitrarily detained Congolese Tutsis attempting to return from Rwanda, where they had sought refuge in early June. They were released the next day.

There were no reported developments in any of the 2003 or 2002 cases of arbitrary arrest and detention by armed groups.

There reportedly were some political detainees; however, no reliable information was available.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, in practice, the judiciary continued to be ineffective, subject to government influence, and corrupt. The civilian judicial system, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, continued to be largely dysfunctional, and the rule of law was not generally respected. Although courts are required to file charges within 48 hours of arrest, they generally did not, and long delays occurred. Corruption remained pervasive, particularly among magistrates, who were paid very poorly and only intermittently and there were credible reports that judges regularly prolonged trials unduly as a form of blackmail and a means of soliciting bribes. The system remained hobbled by a strike by magistrates and judges that lasted several months, major shortages of personnel and supplies (including copies of the legal code), and poor infrastructure.

Civil and criminal codes are based on Belgian and customary law. The legal code provides for the right to a speedy public trial, the presumption of innocence, and legal counsel; however, these rights were not respected in practice. Defendants have the right to appeal in most cases; however, defendants do not have the right to appeal those cases involving national security, armed robbery, and smuggling, which generally are adjudicated by the Court of State Security, except those cases adjudicated by the special military tribunals, whose jurisdiction is ill-defined. The law provides for court-appointed counsel at state expense in capital cases in all proceedings before the Supreme Court, and in other cases when requested by the court. In practice, the Government did not respect these provisions.

Military courts, headed by a military judge, tried military and civilian defendants. The military courts have no appeal process. The Government permitted, and in some cases provided, legal counsel; however, lawyers sometimes were not granted free access to defendants. In practice, military courts had broad discretion in terms of sentencing. In many cases, trials were open to the public at the discretion of the military judge.

On April 20, 71 persons condemned by military courts were conditionally released from the CPRK.

There were no reports of political prisoners.

In areas under marginal government control, corruption remained rampant, and judges and other public servants were paid poorly and intermittently; however, the justice system in these areas improved from previous years. In January, the Government sent magistrates and judges to Bunia, and courts began to operate there for the first time since 1998.

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

The law prohibits such actions; however, in areas under government control, members of the security forces routinely ignored these provisions in practice. Members of security forces and deserters from the army and police continued to harass and rob citizens. Security forces routinely ignored legal requirements for search warrants and entered and searched homes or vehicles at will. During the year, soldiers regularly occupied civilians' residences. In general, those responsible for these acts remained unidentified and unpunished.

Police often looted the homes and vehicles of the persons they arrested; occupants frequently were beaten and abused.

ANR security agents monitored mail passing through private express delivery companies and the very limited state mail service. The Government was believed to monitor some telephone communications.

Throughout the country, there were credible reports that, when unable to locate a specific individual, authorities sometimes arrested or beat the closest family member. For example, in early January a man was arrested in Kindu, Maniema Province in the place of his brother, who was wanted for personal debts, to collect a "commission" on the recovered debt.

In areas under marginal government control, armed groups routinely subjected civilians to arbitrary interference with privacy, family, home, and correspondence (see Section 1.g.). In late May, dissident RCD/G soldiers in Bukavu conducted house-to-house searches of non-Tutsi residents and looted them, raped women, and beat those who resisted. All armed groups and government forces looted homes, seized livestock, and extorted money by charging irregular fees, such as bicycle transit taxes in North Kivu, river tolls in Orientale Province, and protection surcharges in South Kivu.

During the year, there were numerous credible reports, including one by the U.N. Group of Experts, that ex-RCD/G combatants from the DRC, with the aid of local Congolese and Rwandan officials recruited for military training, sometimes forcibly, demobilized Rwandan and DRC soldiers and refugees from the DRC (see Section 2.d.).

Armed groups continued to recruit children from the areas in which they operated (see Section 5).

#### g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts

The Transitional Government was officially established in July 2003, following political negotiations in 2002 that ended the 4-year civil war. By mid-2003, all foreign troops had formally withdrawn from the country. However, the Governments of Rwanda and Uganda reportedly continued to support armed groups operating in the country, and there continued to be unconfirmed reports from multiple credible sources that Rwandan soldiers and officers were at times present in the country.

In areas under government control, there was limited fighting between government forces and armed groups. There were a few reports that government forces violated humanitarian law in areas under government control. For example, in mid-October, the FARDC looted the town of Kilwa, near the country's Zambian border, and killed more than 70 civilians, of whom almost 30 may have been summarily executed. The FARDC killed an unknown number of civilians for allegedly collaborating with rebels who had seized the town days before. After the FARDC's reentry into Kilwa, dozens of persons were arrested. By year's end, 10 persons were still being detained without charge at the Kasapa prison in Lubumbashi. No action was taken against the soldiers responsible for the reported killings.

No known action was taken against government troops or government-supported Mai Mai troops who committed abuses against civilians in 2003 or 2002.

In areas under marginal government control, armed groups committed numerous abuses, including civilian massacres, the looting and burning of houses, the forcible recruitment of child soldiers, and the rape of women and girls (see Section 5). FARDC forces were also responsible for serious abuses. At times, verification of these reports was difficult, due to geographical remoteness, hazardous security conditions, and impediments imposed by local authorities (see Section 2.d.); however, MONUC's presence allowed observers to gather more information than would have otherwise been possible, and, according to local NGOs, helped decrease human rights violations by armed groups during the year.

There were numerous credible reports, including one by the U.N. Group of Experts, that the Government of Rwanda continued to provide material support, including weapons and military advisors, to ex-RCD/G combatants following former commanders such as General Nkunda and Colonel Mutebusi in the Kivus and UPC forces in Ituri. There were credible reports that the Government of Uganda provided material support to armed groups operating in Ituri.

There were numerous credible reports that armed groups burned and destroyed entire villages, frequently killing, abducting, torturing, or raping some of the inhabitants, especially in rural areas of North and South Kivu Provinces, Maniema Province, northern Katanga Province, and Ituri District of Orientale Province. Large numbers of civilians were displaced (see Section 2.d.). Disputes between FARDC, ex-RCD/G combatants following former commanders such as General Nkunda and Colonel Mutebusi, and various armed groups had dire consequences for civilian populations, who continued to be subject to abuse due to shifting alliances. They were regularly punished for allegedly supporting the other group, and they were killed, raped, displaced, looted, forced to pay "security premiums," and at risk of abduction. In Ituri, MONUC reported that other ethnic groups besides the Hema and Lendu were "forced to take sides and/or were attacked by both parties who accused them of sheltering the enemy."

There have been no known credible attempts by armed groups to investigate incidents that occurred since 2002 in which their troops allegedly committed numerous human rights violations, including killings, rapes, looting, and other abuses in areas under their control. However, between late August and year's end, courts tried 28 FARDC soldiers for serious human rights violations, including crimes against humanity in connection with the 2002 Ankoro massacre in northern Katanga. The accused were acquitted or lightly punished. However, the judge awarded significant damages to the victims.

In February, credible sources reported that FARDC elements executed three civilians in Kitenge for supporting Chinja Chinja's Mai Mai, who had reportedly killed and mutilated seven FARDC soldiers on February 7. In addition, in June, local sources reported that FARDC soldiers burned alive eight individuals accused of being Mai Mai supporters.

MONUC documented that between March and May, FARDC forces, Mai Mai, and the Popular Self-Defense Forces, a local defense force, killed approximately 80 persons and committed widespread rape, looting, and abduction in northwestern Katanga.



In late May and early June, ex-RCD/G combatants, led by former commanders such as General Nkunda and Colonel Mutebusi, and FARDC forces under South Kivu Military Commander General Mubeza Mabe committed numerous serious human rights violations in and around Bukavu. On May 26, fighting broke out between South Kivu Military Commander General Mabe and his suspended deputy commander, Mutebusi. Over the next 2 days, Mabe's troops targeted and killed Banyamulenge (Tutsis from South Kivu), in apparent reprisal for the killing of one of Mabe's soldiers. Ex-RCD/G forces under General Nkunda took control of Bukavu, ostensibly to prevent what Nkunda said was a genocide, although MONUC and numerous other national and international observers--in addition to Nkunda himself--acknowledged afterward that no genocide had taken place. More than 100 civilians were killed and many rapes were committed.

According to Human Rights Watch (HRW), between May 26 and May 28, FARDC soldiers under Mabe killed at least 15 civilians, mostly Banyamulenge in and around Bukavu. Although some witnesses reported that most of the victims were suspected soldiers, including several small groups of young men who were captured and executed; among the victims were also many women and children. On May 27, FARDC soldiers loyal to Mabe reportedly beat 6 Banyamulenge students to death and threw their bodies into a shallow grave, shot and killed 2 boys at a public intersection, and opened fire on 50 Banyamulenge who had been forced out of hiding and brought to the center of town allegedly for their safety. Mabe's soldiers also detained an unknown number of persons in a container located at a central intersection and raped an unknown number of women. There were reports that non-Banyamulenge civilians protected Banyamulenge. Almost 3,000 civilians, most of them Banyamulenge, fled to Rwanda. Some refugees were injured when they crossed into Rwanda, but there were conflicting reports as to the types of injuries.

Between late May and June 2, while en route from Goma to Bukavu, ex-RCD/G combatants led by former commanders such as General Nkunda and Colonel Mutebusi killed one unarmed MONUC military observer and injured another; displaced several thousand persons; attacked and looted villages; and killed and raped an unknown number of civilians. MONUC reported that Nkunda's and Mutebusi's troops deliberately killed at least nine civilians while they controlled Bukavu between June 2 and June 5. In Bukavu, ex-RCD/G combatants went from house to house and systematically raped non-Banyamulenge inhabitants and looted their homes (see Section 5). Nkunda's and Mutebusi's troops also burned down the central market, stole an unknown amount of money from the central bank, closed local radio stations, and threatened to kill local journalists (see Section 2.a.).

Local NGOs reported that in 2003 and during the early part of the year, Mai Mai groups led by Chinja Chinja "Throat Cutter" Gedeon, and Chief Makabe operating in Katanga killed large numbers of civilians, committed acts of cannibalism and dismemberment, burned villages, forcibly recruited child soldiers, and abducted women for use as sexual slaves.

In early February, Chinja Chinja's Mai Mai group killed at least 30 civilians in the area of Kitenge, Katanga, 435 miles north of Lubumbashi. These Mai Mai regularly took parts of victims' bodies--including genitalia, lungs, fingers, and tongues--to either eat or use as amulets to reinforce magical powers.

During the year, there were reports that the FNI and other Lendu groups in Ituri District used cannibalism, fetishes, and mutilation to intimidate their opponents and in accordance with a belief that they would improve their fighting capabilities. These groups were responsible for numerous abuses.

On January 15, the FNI attacked a convoy of 5 boats on Lake Albert and killed approximately 100 persons. The boats were diverted to Gobu, Djugu territory, where the attackers separated out the men and shot and killed all of them. They also raped at least two women and forced the women and children to carry the passengers' belongings into the forest for the attackers. The same group allegedly abducted civilians on two other occasions in January.

During the year, the FNI and FRPI abducted more than 100 civilians, mostly fishermen, in the area of Lake Albert and held them in forced labor camps. In June and July, credible sources reported that the FNI and FRPI killed 48 Hema/Gegere abductees in 6 separate incidents, often after mutilating them. During mid-year, the Bunia Prosecutor interviewed several persons in connection with the case.

During the year, MONUC reportedly dismantled UPC forced labor camps near the Lake Albert region of Ituri, freeing as many as 1500 persons. In addition, at the end of the year, MONUC closed a labor camp in Djugu territory. At year's end, no additional information was available.

On October 12, HRW reported that FAPC combatants arrested 30 civilians from Kaliko, Ituri in October, in connection with the death of 2 FAPC soldiers. The civilians were taken to Ariwara and detained in an underground prison where they were beaten with large wooden sticks. Two were executed, 4 died from injuries, and the others were released on October 14 after a local chief paid their ransom.

During the year, ex-ANC groups also committed serious abuses. In mid-March, ex-ANC combatants killed approximately 40 civilians, raped at least 2 women, and burned 150 houses in Lukweti, 80 miles north of Goma, North Kivu). Villagers reported they were attacked for allowing Rwandan Hutu militia members to cross the Lukweti bridge to attack villages under the ex-ANC's control.

On December 17, ex-ANC combatants killed at least 30 civilians, including women and children, in the town of Buramba, north of Goma. The combatants, who effectively mutinied against government authority and fought against FARDC forces loyal to the government, reportedly committed the killings as retribution against persons they perceived to be Mai Mai supporters. Earlier

that same day, FARDC soldiers formerly belonging to Mai Mai militias had killed three ex-ANC soldiers.

On December 18 and 19, ex-ANC combatants killed more than 50 civilians with machetes and bayonets in and around Nyabiondo, northeast of Goma.

During the year, MONUC and the Government arrested members of Ituri armed groups accused of committing grave human rights violations over the past several years. By October, more than 50 were in government custody awaiting trial. However, in November, Hema prison guards helped 31 prisoners (Hema UPC members) to escape.

Based on investigations conducted in 2003 by MONUC and other human rights organizations in Ituri, during 2002 and 2003, it was estimated that all armed groups based in Ituri and several non-Ituri-based groups, including the MLC, RCD, RCD-ML, and RCD-N, killed at least 8,000 civilians, sometimes deliberately and sometimes through the indiscriminate use of excessive force, and more than 600,000 civilians were forced to flee their homes. These abuses were carried out with total impunity.

In July, MONUC reported that various groups had committed several massacres in mid-2003. The FNI killed at least 136 civilians, mostly Hema, in Katoto, 15 miles north of Bunia. Ngiti combatants killed at least 96 civilians and abducted at least 34 in Kasenyi, on Lake Albert. One of the abductees reported that six abducted persons were executed by machete when they could not continue to walk. Lendu militias killed at least 55 civilians and abducted 60, mostly Alur, from Nioka in Mahagi territory in Ituri District. According to Floribert Ndjabu, the FNI leader at the time, an FNI combatant named Lego and 20 of his men attacked Nioka without the FNI's permission and were subsequently executed.

In early December, civilians in Luma, near Lake Albert in Ituri District, killed 2 FNI militia members attempting to rob a house. In retaliation, the FNI killed 3 civilians and abducted 7 women. By year's end, one 14-year-old girl was still being held as a sexual slave.

Unknown persons were also responsible for numerous abuses. For example, on September 19, at least 300 persons--including civilians from the Ngiti village of Medu--attacked the Bira village of Lengabo with machetes and submachine guns. They killed approximately 15 persons, mostly women and children, including a baby, and burned 90 houses. MONUC immediately sent 150 peacekeepers to secure the area and helped the national police arrest approximately 20 persons suspected of involvement. At year's end, none of the suspects had been tried.

During the year, there were credible reports that foreign rebels killed civilians. For example, in January, Burundian National Liberation Force (FNL) soldiers killed seven persons and injured nine when they attacked a truck near Uvira.

In January, there were reports that FDLR units killed 10 persons, including 2 pregnant women whose bellies were slashed open. The units also abducted an unknown number of persons in villages between Hombo and Bunyakiri. In early March, hard-line FDLR members known as "Rastas" killed 14 persons while raiding Mushwere in Walungu, south of Bukavu.

On August 13, the FNL, likely working with other unidentified elements, massacred at least 152 Congolese Tutsi refugees from South Kivu, known as Banyamulenge, and injured more than 100 at a UNCHR transit camp in Gatumba, Burundi. The refugees were targeted because of their ethnicity. According to preliminary findings of a U.N. investigation, evidence suggested that some of the attackers spoke Congolese languages and may have come from the DRC.

In late November, there were unconfirmed but persistent reports that RDF troops killed 13 civilians, destroyed 4 villages, and kidnapped 30 civilians in Walikale, North Kivu.

The use of mass rape and sexual violence as weapons of war continued, and armed groups and the FARDC raped women with impunity (see Section 5). In areas under government control, there were reports that security forces raped women during the year. In April, MONUC reported that in December 2003, MLC troops belonging to the FARDC battalion in Nsongo Mboyo and Bogandanga, central Equateur, gang-raped approximately 120 women and girls and looted every household in the 2 towns. In May, the Human Rights Ministry and a military prosecutor visited the towns. The prosecutor subsequently opened an inquiry and recorded 119 accusations of rape and 86 accusations of looting. At year's end, no further action had been taken.

According to Amnesty International (AI), over the course of the war "tens of thousands of girls have been victims of systematic rape and sexual assault committed by combatant forces. Women and girls have been attacked in their homes, in the fields, or as they go about their daily activities. Many have been raped more than once or have suffered gang rapes." Victims ranged in age from under 1 year, including a 4-month-old girl who was raped in Ituri during the first half of the year, to over 80. MONUC reported that in Ituri, the exact number of female victims of rape or sexual slavery was impossible to estimate.

Armed groups used rape to humiliate and punish victims, families, and communities. In Ituri, women were often targets of sexual violence because of their ethnicity. In June, ex-RCD/G elements, led by former commanders such as General Nkunda and Colonel Mutebusi, reportedly told women from the Bashi and other ethnic groups in Bukavu that they were being raped to avenge abuses committed against Tutsi civilians. Government forces reportedly targeted Tutsi women for rape when they retook the city. On June 3, six ex-RCD/G elements following former commanders such as General Nkunda and Colonel Mutebusi reportedly gang-raped a mother; another soldier raped her 3-year-old daughter in the presence of her husband and her other

children. There were also reports that non-Banyamulenge women were raped in reprisal for attacks against Banyamulenge.

Rapes were often extremely violent, were generally accompanied by threats and beatings, and sometimes involved props such as tree branches, rifles, sharpened sticks, glass, nails, stones, sand, or hot pepper. Sometimes women were shot during or after rape, sometimes in their genitals. There were also reports of anal rapes using sticks. These and other rapes sometimes resulted in vaginal fistula, a rupture of vaginal tissue that left women unable to control bodily functions and vulnerable to ostracism.

Violent gang rapes by members of armed groups were common, and they were often committed in front of victims' families. For example, on June 2, AI reported that up to 20 ex-RCD/G combatants, led by former commanders such as General Nkunda and Colonel Mutebusi, raped 3 sisters between the ages of 16 and 22 at their home in Bukavu. The soldiers forced family members to watch and stole everything from their house and shop.

In addition, armed groups forcibly abducted women and girls and used them as sex slaves (see Sections 5 and 6.c.). AI reported that FDLR soldiers held a woman from 2001 until this year and regularly beat and raped her, including the same day she gave birth to a baby. AI also reported that in September 2003, the FDLR stopped a minibus traveling in South Kivu and abducted six women for their commander. The commander chose one woman and gave the rest to the other officers. When the officers tired of them, they were given to the prison guards. One woman was released after 2 months when her family paid for her.

In some cases, sexual abuse was of a limited duration or was carried out in a sporadic manner, many times with different victimizers. There were numerous reports that girls as young as 14 were abducted. Other girls and women were subjected to repeated rape over longer periods with one victimizer. These girls and women were commonly referred to as "war wives," who often served both as fighting elements in active combat and sexual slaves for their commanders. Many traditional beliefs dictated that once a girl or woman was sexually "taken" by a man, she was his property, and they were seen to be married. Experts believed that most girls and women associated with armed groups would never be identified.

On May 27, unidentified soldiers entered the compound of an international NGO in Bukavu. One soldier raped a female aid worker and shot another before fleeing with money and phones.

During the year, there were numerous allegations of sexual abuse by MONUC civilian and military personnel. One MONUC civilian was sent home and arrested, and at least three other civilians were suspended and repatriated. At least two MONUC military personnel were sent home. At year's end, MONUC was conducting investigations into 150 allegations of sexual misconduct.

During the year, violations of humanitarian law were commonplace, and peacekeepers and humanitarian workers were threatened, harassed, and killed. Armed groups killed at least two unarmed U.N. military observers. On February 12, UPC militia members killed a Kenyan peacekeeper during an ambush on a MONUC convoy returning to Bunia after investigating alleged human rights violations. On June 6, unidentified men on the Goma-Rutshuru road shot at two South African peacekeepers, who died in an automobile accident following the shooting.

Ituri armed groups--particularly the UPC, FNI, and FAPC--became increasingly aggressive towards MONUC and civilians. For example, on January 16, the FNI attacked a MONUC helicopter attempting to investigate an FNI attack on a PUSIC camp outside Kasenyi. On February 4, unidentified gunmen operating in an area controlled by the UPC-Bosco attacked MONUC peacekeepers attempting to investigate the January 15 massacre of civilians at Gobu. On September 2, the UPC kidnapped a Moroccan peacekeeper just outside Bunia. He was released 5 days later. The Government condemned the kidnapping.

In May and June, fighting in and around Bukavu significantly impeded humanitarian access throughout the country. The U.N. Office for the Coordination of Humanitarian Affairs (OCHA) reported that 90 percent of the humanitarian organizations operating in most major cities were affected by either looting, suspension of activities, or lack of access to vulnerable groups.

In June, military authorities in Maniema, with the complicity of local authorities, severely harassed humanitarian organizations, disrupted humanitarian flights, threatened CARE and AirServ staff, attempted to force AirServ pilots to carry military personnel and goods, and commandeered CARE vehicles and equipment. On June 18, a police commander in Kasongo severely beat a local CARE employee and detained him for several hours.

On November 15, unidentified gunmen attacked four workers from Premiere Urgence, a French NGO, south of Bunia, in an area controlled by the FPRI Ngiti militia. During the year, there were reports that Ituri armed groups attacked other NGOs, threatened to kill local staff, and stole money, equipment, and telephones.

No known action was taken against UPC militiamen who looted the Bunia hospital and the World Health Organization depot in May 2003.

During the year, there were reports of deaths or injury from landmines. For example, in April, up to 123 persons were victims of antipersonnel landmine explosions in Virunga National Park, in the east, according to a U.N. news source.

Armed groups and the FARDC continued to harass, rape, arrest, loot, extort, and illegally tax civilians in areas they occupied.

For example, in certain parts of Bunia, UPC militiamen extorted money from civilians by threatening to either steal their belongings or kill them during the night. On June 9, a UPC/L member reportedly killed a local chief in Fataki, Ituri District because he had refused to collect illegal taxes from local civilians. In South Kivu, armed groups in a number of areas--including Kalehe, Walungu, and Kabare--committed numerous abuses, including extortion, theft, and the illegal occupation of civilian residences.

In September, Mai Mai waiting to be demobilized outside Beni caused civilians to flee the area. Locals reported that they committed rapes; widescale looting of food, livestock, and metal roof sheeting from houses; and charged tolls for women to work in the fields.

In October, there were clashes between Mai Mai and ex-ANC soldiers allied with youths who had recently been armed by local officials in Masisi territory, North Kivu. The youths, who were mostly from Rwandophone villages, reportedly burned 107 houses and looted livestock and household goods in predominantly Hunde and Tembo villages.

In many cases, armed groups did not make a distinction between military and civilian targets. For example, the MONUC Ituri report found that UPC forces shelled "Lendu villages without making any distinction between armed combatants and civilians."

Armed groups and the FARDC continued to have children in their ranks (see Section 5).

## 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 sometimes restricted these rights in practice. During the year, there were approximately 30 reported instances where government agents arrested, detained, threatened, or abused members of the media. During the year, journalists practiced self-censorship.

Individuals could privately criticize the Government, government officials, and private citizens without being subject to reprisal, and during the year, individuals often publicly criticized them in the media; however, security forces arrested, detained, and harassed opposition politicians and other highprofile figures for criticizing the Government. For example, on June 16, political opposition member Atundu Liongo was arrested after a speech for offending the Government, inciting persons to be disobedient, and attacking State security. He was released on October 1.

On June 30, Pastor Albert Lukusa gave a sermon in Lubumbashi criticizing President Kabila and the Government. On August 3, the ANR arrested and detained him. He was released on October 18.

The Government required each newspaper to pay a \$500 licensing fee and complete several administrative steps before it could publish legally. There was an active private press, and a large number of daily newspapers, mainly in urban areas, were licensed to publish. In general, journalists were poorly paid, lacked professional training, and were vulnerable to manipulation by wealthy individuals, government officials, and politicians who paid or provided other benefits to journalists to encourage them to write certain types of articles. However, many newspapers were highly critical of the Government. Although there was no official newspaper, the Government published the Daily Bulletin, which included decrees and official statements.

Due to limited literacy and the high cost of newspapers and television, radio remained the most important medium of public information. Numerous privately owned radio stations and privately owned television stations operated, as well as two state-owned radio stations and a state-owned television station. Major political parties represented in the Government were generally able to gain access to state radio and television, which covered activities of ex-rebels and opposition figures participating in the Government.

Foreign journalists were able to operate in the country. For example, Radio Okapi, an independent nationwide radio station closely affiliated with MONUC, continued to broadcast national and local news and provide information on MONUC's mandate, activities, and demobilization and disarmament programs.

During the year, government officials arrested, intimidated, harassed, and detained journalists, often without filing formal charges. For example, on April 1, military intelligence and ANR agents raided Radio Kilimandjaro in Tshikapa, West Kasai. According to a local press organization, they were looking for Radio Kilimandjaro journalist Sami Mbetu, who had allegedly reported that military intelligence officers had mistreated or humiliated DRC citizens expelled from Angola.

On July 19, local press freedom watchdog Journaliste en danger (JED) reported that ANR agents detained and questioned RTKM television director Lumbana Kapassa for 3 hours about an interview with a former security advisor to former President Mobutu.

On August 4, ANR agents shut down religious station Radio Hosanna in Lubumbashi, Katanga, and authorities arrested seven station employees for broadcasting a sermon by Pastor Albert Lukusa, who criticized the Government by noting the presence of "Rwandans and Senegalese" in the Government and accusing authorities of being "incapable of responding to the basic

needs of the population." On August 7, the seven employees were released without charge, and Radio Hosanna resumed broadcasting on October 28.

On December 18, police arrested, interrogated, and detained for 6 days Feu D'or Bonsange Ifonge, director general of the Kinshasa-based newspaper Tapis Rouge. Police reportedly wanted to obtain information on the author of a December 16 article alleging that the government taxation department had mismanaged and misappropriated public funds. Ifonge posted a bail of \$340.

No action was taken against security forces that beat and harassed journalists in 2003 or 2002.

Unlike in the previous year, there were no reports that police in Kinshasa seized newspapers.

In June, JED criticized what it considered repeated attempts to muzzle the press by then Minister of Press and Communication Vital Kamerhe. In late May, Kamerhe issued an order forbidding television and radio stations from broadcasting messages that he considered likely to aggravate the situation in Bukavu following its seizure by ex-RCD/G combatants operating under former commanders such as General Nkunda and Colonel Mutebusi (see Section 1.g.).

During the year, JED continued to call for the decriminalization of certain press offenses included in the out-of-date Press Law. The Committee to Protect Journalists (CPJ) reported that journalists were most frequently charged with defamation, or "attributing maliciously and publicly to a person a precise fact which is of a nature to damage the honor or standing of that person or expose him to public humiliation. [The law] does not specifically say the precise fact must be untrue." Defamation charges were used to suppress criticism of government officials and wealthy businessmen, especially in cases of corruption.

For example, on January 5, a court sentenced nine Radio-Television Nationale Congolaise (RTNC) reporters to 1 year in prison and ordered each of them to pay a \$2,500 fine for defamation. In a February 2003 open letter to the President, they had accused the former Minister of Press and Communication, Kikaya bin Karubi, of embezzlement and called for his resignation. By year's end, the journalists were not made to pay the fine and had not been imprisoned.

On March 19, authorities arrested and detained Jean-Louis Lompoto, director of the weekly publication Pili-Pili for defamation. Lompoto had published an article on March 3 alleging that the then-Minister of Mines Eugene Diomi, who was later suspended for corruption in November, had embezzled public funds. According to the CPJ, after the March issuance of a warrant for their arrest, two of Lompoto's Pili-Pili colleagues went into hiding. Lompoto was released on bail after 8 days in prison. At year's end, no trial date had been set.

The Ministry of Human Rights and the Ministry of Communication and Press continued to intervene on behalf of journalists facing prosecution and held occasional workshops.

Unlike in the previous year, there were no reports of perceived threat of government harassment or intimidation resulting in self-censorship or the modification of lectures by professors, and academic freedom improved.

In areas under marginal government control, armed groups and local authorities continued to severely restrict freedom of speech and of the press.

Armed groups continued to harass, intimidate, beat, and arrest local journalists. For example, on March 2, a court sentenced Nicaise Kibel'Bel Oka, director of Behind the Scenes, a Beni weekly newspaper, to 5 years prison and ordered him to pay \$2,000 in fines for defamation of a wealthy North Kivu businessman in a November 2003 article. The article alleged that the businessman had committed customs fraud. The sentence was appealed pending additional evidence.

In late May, ex-RCD/G combatants operating under former commanders such as General Nkunda and Colonel Mutebusi attacked, vandalized, looted, and closed three Bukavu radio stations and threatened to kill their directors. The three directors took refuge at the MONUC compound and were evacuated to Kinshasa. JED reported that on June 3, rebel forces seeking Joseph Nkinzo, director of the radio station Sauti ya Rehema (Voice of Mercy), killed the journalist's younger brother, Mukamba Mwanaume, believing him to be Nkinzo.

Armed groups' treatment of foreign and Radio Okapi journalists improved during the year. However, in North and South Kivu, armed groups detained a few international journalists and confiscated their equipment after the journalists photographed military installations without permits. For example, in October, an international journalist was detained in Beni for photographing a military installation.

Armed groups took no known credible action against those accused of beating or otherwise abusing journalists or persons critical of their groups in 2003 or 2002.

b. Freedom of Peaceful Assembly and Association

The Transitional Constitution provides for freedom of peaceful assembly; however, the Government restricted this right in practice. The Government considered the right to assemble to be subordinate to the maintenance of "public order," and continued to require all organizers to inform the local city government before holding a public event. According to the law, organizers automatically have authorization to hold an event unless the city government denies authorization in writing within 5 days of receiving the original notification. Some NGOs reported that in practice, local authorities sometimes denied authorization for an event, mostly on the grounds of preserving public order, after the 5-day period by backdating the correspondence. Government security services often dispersed unregistered protests, marches, or meetings.

On October 22, local authorities in Kinshasa denied the Union for Democracy and Social Progress (UDPS) permission to conduct a protest march. The reason for the denial was not known.

During the year, the Government occasionally harassed opposition parties during private meetings (see Section 1.d.).

During the year, police occasionally arrested peaceful demonstrators. For example, on January 14, police dispersed a UDPS demonstration in Kinshasa intended to mark the arrival of South African President Thabo Mbeki. Ten UDPS members were arrested and detained for several days.

On February 5, authorities in Bas Congo arrested and detained for several days four students who were protesting what they considered excessive school fees.

In June, security forces reportedly killed approximately nine rioters in Kinshasa while attempting to disperse a violent crowd.

Unlike in the previous year, there were no confirmed reports that security forces forcibly dispersed political party press conferences or rallies. The Government required political parties to apply for permits to hold press conferences; According to local NGOs, such permits sometimes were denied.

No action was taken against security forces responsible for using excessive force during demonstrations in 2003 or 2002.

In June, MONUC peacekeepers killed three rioters in Kinshasa while attempting to disperse a violent crowd.

The Transitional Constitution provides for freedom of association; however, in practice, the Government sometimes restricted this right. During the year, government authorities generally did not harass political parties, although there were some exceptions concerning the UDPS. For example, on March 18, the ANR arrested 12 UDPS members near Mbuji Mayi for holding public meetings; by year's end, they had been released.

In areas under marginal government control, armed groups continued to restrict severely freedom of assembly and association, and security services used excessive force against protesters in Goma. For example, on November 15, RCD/G police and soldiers killed at least two demonstrators when RCD/G police and soldiers opened fire on students while they were protesting the death of a student who was reportedly shot in the back. A police officer was also killed, although it was not clear who was responsible. At year's end, no action had been taken against those responsible for the killings.

No action was taken against RCD/G agents who, in May 2003, fired upon activists who had gathered to greet a government delegation.

### c. Freedom of Religion

The Transitional Constitution provides for freedom of religion, and the Government generally respected this right in practice, provided that worshipers did not disturb public order or contradict commonly held morals. Unlike in the previous year, there were no reports that government forces committed abuses against religious figures.

The law provides for the establishment and operation of religious institutions, and requirements for the establishment of a religious organization were simple and generally not subject to abuse. The law grants civil servants the power to establish and dissolve religious groups; however, during the year, there were no reports that the Government suspended or dissolved a religious group. The Bundu Dia Kongo, an ethnically based spiritual and political movement that called for the violent overthrow of the Government and the establishment of an "ethnically pure" kingdom for the Bakongo tribe, remained outlawed at year's end. Officially recognized religions were free to establish places of worship and to train clergy. In practice, religious groups that were not recognized also worshipped freely.

While the Government generally did not interfere with foreign missionaries, they were not exempt from general restrictions on freedom of movement imposed on all persons by security force members who erected and manned roadblocks, at which they often solicited bribes.

In areas under marginal government control, respect for religious freedom generally improved. During the year, there were fewer reports of attacks against priests, parishioners, churches, parish property, or schools. However, in November, unidentified men

broke into a Catholic parish in Kabare, west of Bukavu, and looted it.

No action was taken against RCD/G soldiers who targeted churches and religious leaders in 2003 or 2002, or against Lendu militia members who executed Hema civilians and priests who had taken refuge in a church compound in 2003.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for freedom of movement; however, the Government occasionally restricted this right in areas under its control. Freedom of movement between areas under government control and areas under marginal government control improved during the year. Movement between these areas continued to be hazardous; however, since the establishment of the Government, cross-country commercial air traffic has continued to increase, as has road and rail rehabilitation funded by the international community.

In Kinshasa, police and soldiers erected roadblocks for security checks and to protect government installations. In general, military and regular police were more aggressive than during the previous year, and there were many more instances in which drivers were harassed, forced to pay bribes, and forced to transport soldiers for free. In November, the main taxibus union organized a 1-day transportation strike in Kinshasa in response to such harassment. In addition, underpaid traffic police continued to routinely harass citizens and demand bribes in the course of pulling vehicles over for ostensible traffic violations. The Government closed certain national roads at night due to banditry.

The significant risk of rape perpetrated by uniformed men restricted freedom of movement at night for women in many areas.

Married women were required by law to have their husband's permission prior to traveling outside the country. Passport issuance was highly irregular and required the payment of significant bribes (up to \$500); however, there were no reports that certain groups were prevented from acquiring them.

The law prohibits forced exile, and there were no reports that the Government used forced exile.

According to the U.N. High Commission for Refugees (UNHCR), at year's end, approximately 370,000 Congolese refugees lived in several neighboring countries, including Tanzania (149,000), the Republic of the Congo (56,000), Zambia (54,000), Burundi (35,000), and Rwanda (33,000).

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a very basic system for providing protection to refugees. In practice, the Government granted refugee and asylum status and provided protection against refoulement, the return to a country where individuals feared persecution. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to an unknown number of individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

During the year, the Government accepted refugees from Burundi and Rwanda. According to the UNHCR, by November the country was hosting an estimated 196,000 refugees, including refugees from Angola, Sudan, and Burundi.

There were numerous reports, including one prepared by an independent panel of experts for the U.N. Security Council, that former RCD/G agents entered refugee camps in Rwanda, with the aid of local Congolese and Rwandan authorities, to recruit young men, including children, to join their militia in the eastern DRC; however, some parents of refugees who left the camps said they sent their children to the DRC for schooling--not for use as soldiers--and the U.N. report, which relied heavily on statements by humanitarian aid workers, did not refute this claim.

In areas under marginal government control, freedom of movement was severely restricted during the year, partially as a result of fighting between armed groups and government forces, which frequently prevented travel and harassed travelers. Several towns were cut off from the surrounding countryside by government soldiers and armed groups, who controlled road and river access into and out of the towns. Soldiers established road, river, airport, market, and lake checkpoints and routinely harassed and demanded bribes from civilians, sometimes detaining those who could not pay extortion fees in underground prisons until the toll was paid by a family member. For example, in early February, the FNI held a man in 2 underground prisons and a commander's home until his family paid \$80 for his release a week later. Such travel restrictions contributed to widespread hunger and economic hardship.

Local authorities in the Kivus routinely required Congolese citizens to show official travel orders from an employer or government official authorizing travel. Foreigners were forced to go through immigration proceedings at airports, lake ports, and when entering and leaving towns.

Armed groups and local authorities frequently imposed travel restrictions on NGOs. In May and June, many NGOs evacuated their personnel following fighting in Bukavu, leaving millions without humanitarian aid. Throughout the year, banditry and poor

security hampered NGO activities in large parts of Ituri (see Section 1.g.).

Unlike in the previous year, there were no reports that armed groups expelled persons from the country.

During May and June, a significant number of Banyamulenge refugees fled to Rwanda and Burundi because they reportedly feared reprisal attacks from the FARDC and others after ex-RCD/G elements took control of Bukavu (see Section 1.g.). By year's end, several hundred had returned, in large part due to the efforts of certain members of the Government. However, certain local officials in South Kivu attempted to prevent the refugees' return. For example, in October, the FARDC detained 38 refugees who were attempting to return from Burundi; the FARDC detained them in Bukavu and Uvira for several days without charge.

As of November, OCHA estimated that there were almost 2.2 million IDPs in the country, the majority of whom were reportedly in the eastern portion of the country, mostly concentrated in North Kivu, Orientale, and Katanga. In November, OCHA reported that there were an estimated 180,000 IDPs in the Ituri region, an estimated 785,000 IDPs in North Kivu, and 280,000 IDPs in South Kivu. Many of the IDPs received no assistance because of ongoing fighting and the denial of access to NGOs, and many were forced to relocate numerous times to escape fighting (see Section 1.g.). In December, fighting between FARDC forces and RCD/G soldiers who were not integrated into the national army displaced over 100,000 persons in central North Kivu.

Unlike the previous year, there were no reports that militias attacked and fired upon IDPs attempting to flee.

On several occasions, armed groups denied access to humanitarian organizations or obstructed their ability to deliver humanitarian relief supplies. For example, during the first part of the year, Mai Mai groups in South Kivu harassed NGOs, imposed illegal taxes, and refused to let humanitarian workers transit their zones of control. During the year, armed groups, government troops, and civilians participated in widescale looting of humanitarian facilities, including the World Food Program warehouses in Bukavu and Kalemie. In Ituri, armed groups regularly attacked vehicles, including those of humanitarian workers, traveling from Bunia to Lake Albert (see Section 1.g.).

No known action was taken against soldiers who erected illegal checkpoints, attacked fleeing IDPs, or restricted U.N. or humanitarian access in 2003.

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

Citizens did not have the right to change their Government peacefully and have not been able to change their Government through free elections since independence in 1960. Joseph Kabila continued to be President of the country under the Transitional Government. There are four vice presidents: two from the main former rebel groups, one from the political opposition, and one from Kabila's own political "family." The bicameral Parliament, as established under the Transitional Constitution, includes members from these groups, civil society and smaller, former rebel movements. There are also five "citizens' institutions" that began operating in 2003: An Observatory for Human Rights, a Truth and Reconciliation Commission, a High Authority for Media, an Ethics and Anti-Corruption Commission, and the Independent Electoral Commission. In mid-year, the Government installed provincial governors throughout the country, and by year's end, former rebel-held areas were under marginal government control. The Transitional Constitution calls for elections to be held by June 30, 2005. This period may be extended for two additional 6-month periods, with the approval of Parliament.

The law allows legally registered political parties to operate freely; however, authorities continued to arrest political activists and to block some activities, including marches and demonstrations (see Section 2.b.). Authorities in Katanga and other areas outside the national capital tended to impose more limits on civil and political liberties.

Corruption remained endemic at all levels. Many civil servants, police, and soldiers have not been paid in years, received irregular salaries, or did not earn enough to support their families, all of which encouraged petty corruption. For example, local authorities and remnants of rebel groups continued to extort "taxes" and "fees" from all boats traveling on the Congo River. In addition, government authorities and wealthy individuals sometimes restricted the freedom of press and speech on occasions when there were accusations of corruption (see Section 2.a.). As noted in a Transparency International report released during the year, most Congolese said they believed official corruption was rampant in their country. The Ethics and Anti-Corruption Commission had little impact by year's end.

During the year, the Government took a few steps to combat corruption. In November, following a parliamentary investigation, the Government suspended six ministers for high-level corruption.

The law does not provide for public access to government information, and the Government was unable to provide information upon request.

Five of 36 cabinet ministers and 3 of 24 vice ministers were women, and women held 48 of the 614 seats in Parliament, including 5 in the 120-seat Senate.

Pygmies were not represented in the political process.



In areas under marginal government control, citizens did not have the right to change their government peacefully. Although the Government appointed provincial governors in May, most local-level officials appointed during the war by rebel authorities remained in place. Ituri District was an exception: In July, the Government appointed district commissioners in Ituri. By year's end, the Government had not provided newly appointed officials with adequate resources. Political freedom improved slightly, in part because MONUC deployed troops to more areas and because the Government's influence expanded.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

In areas under government control, a wide variety of domestic and international human rights NGOs continued to investigate and publish their findings on human rights cases. The Human Rights Ministry and the Observatory for Human Rights worked with NGOs during the year and were responsive to their requests and recommendations. However, during the year, many prison officials regularly obstructed NGO access to detainees, and security service personnel harassed and arrested domestic human rights workers.

The main domestic human rights organizations operating in the country included VSV; Groupe Jeremie; the Committee of Human Rights Observers (CODHO); The Christian Network of Human Rights and Civic Education Organizations (RODHECIC); and the African Association for the Defense of Human Rights (ASADHO). On April 10, ANR agents in Lubumbashi detained for 2 hours the executive director of the Center for Human Rights, Bin Masudi Kingombe.

On July 6, unidentified armed men dressed in civilian clothes harassed Floribert Chebeya, the president of VSV in Kinshasa.

During the year, domestic human rights activists self-censored reports about corruption and human rights abuses committed by certain government officials because they feared arrest.

The Government cooperated with international governmental organizations and NGOs and permitted international humanitarian and human rights NGOs access to conflict areas. A number of U.N. representatives and international NGOs visited the country during the year. During the year, international NGOs, including AI and HRW, and international organizations such as the U.N. published several reports on the human rights and humanitarian situation.

In March, U.N. Special Rapporteur for Human Rights Iulia Motoc presented her final report to the U.N. Commission on Human Rights. She reported that the "civilian population is subject to violence by the military and police...Since bribery is ubiquitous, the guilty parties can buy off the justice system and the police, and justice officials often help victims and perpetrators to make deals in exchange for part of the compensation paid."

In July, MONUC presented a "Special Report on the Events in Ituri, January 2002-2003," (MONUC Ituri Report) to the U.N. Security Council. It found that Ituri District, located in Orientale Province, "has one of the world's worst record for a long time largely ignored human rights records" (see Sections 1.g. and 5).

In October, the U.N. Operations in Burundi, the U.N. High Commissioner for Human Rights, and MONUC presented a joint report on the August 13 Gatumba massacre of over 150 Banyamulenge to the U.N. Security Council. Although the team was able to establish the facts of the massacre and determined that the refugees appeared to be targeted because of their ethnicity, it was unable to determine who planned, supported, or carried out the killings. A Burundian rebel group, the National Liberation Force (FNL), claimed responsibility for the attack (see Section 1.g.).

On October 28, Frederic Pacere Titinga, the U.N.'s Independent Expert for the Commission on Human Rights in the DRC, reported to the U.N. General Assembly that grave human rights violations continued throughout the country, especially in the east, and that the justice system was incapable of responding to the situation.

The Government continued to cooperate with the International Criminal Tribunal for Rwanda (ICTR) and took the lead in capturing, arresting, and transferring suspected genocidaire Yusuf John Muniyaka to the ICTR. ICTR investigators operated freely in areas under government control, seeking a number of genocide indictees they believed might be living in the country.

On October 6, the Government and the International Criminal Court (ICC) signed an accord allowing the ICC to begin investigations into war crimes and crimes against humanity committed in the country since July 2002. By year's end, the ICC had established a basic field presence and had started preliminary investigations into events in Ituri.

The Transitional Constitution provides for an independent Human Rights Observatory and a Truth and Reconciliation Commission. During the year, the Observatory published reports, made field visits, and brought human rights NGOs from around the country together to identify national human rights concerns. Members of the Truth and Reconciliation Commission made field visits to provincial capitals but lacked sufficient staff and resources to be truly effective.

In areas under marginal government control, domestic human rights NGOs and civil society members were subjected to frequent harassment and abuse, particularly in Ituri. Domestic human rights organizations operating in areas under marginal government control included Heirs of Justice, and Solidarity Exchange for Integral Development (SEDI) in South Kivu; Lotus Group, Friends

of Nelson Mandela, and Justice and Liberation in Kisangani; and Justice Plus, in Bunia.

Armed groups frequently committed abuses, including killings and rapes, against humanitarian workers or peacekeepers (see Section 1.g.). In addition, in Ituri, according to the MONUC Ituri Report, there were "several cases of harassment of humanitarian workers and church members, with the aim of halting the delivery of humanitarian assistance to members of 'rival' ethnic groups." Ituri armed groups also "executed, abducted, arrested, or forced to flee persons they thought to be political opponents, as well as judges, intellectuals of enemy ethnic groups, journalists, and members of NGOs."

The U.N. Special Rapporteur for Human Rights reported that government agents arrested the president of a local civil society organization, and agents subsequently intimidated NGO members after the Rapporteur met with NGOs in Walikale, North Kivu.

In April, security service agents in Bukavu harassed human rights workers at Heirs of Justice (Heritiers de la Justice).

On November 20, a local human rights activist who had strongly criticized recent insecurity in Goma was detained for several hours.

David Aliana, a member of the NGO Friends of Nelson Mandela, was released from prison in 2003.

Maitre Honore Musoko, president of Bunia-based Justice Plus, remained outside the country at year's end after he was harassed in February 2003.

Armed groups frequently imposed travel restrictions on persons who provided humanitarian aid, human rights NGOs, and journalists (see Sections 1.g. and 2.d.).

International NGOs active in areas under marginal government control included the ICRC, Global Rights, HRW, and various humanitarian organizations. Although most armed groups permitted international humanitarian and human rights NGOs access to conflict areas, certain groups in Ituri and South Kivu regularly harassed persons who provided humanitarian aid and levied illegal taxes at ports and roadblocks (see Section 1.g.). Armed groups generally allowed international NGOs such as AI and HRW to conduct investigations and publish reports; however, there were some exceptions. For example, in mid-November, armed men attacked four humanitarian workers in Bukiringi, 62 miles south of Bunia, in an area controlled by ethnic Ngiti militiamen, who were under the control of the FRPI; one sustained a bullet wound.

During the year, government authorities cooperated with Dutch officials during an investigation into allegations of torture against Sebastien Nzapali, a former officer in the army of former President Mobutu Sese Seko. Nzapali had requested asylum in the Netherlands, but Dutch officials refused the request and began an investigation based on claims by persons claiming to be Nzapali's victims. On April 7, a court in the Netherlands convicted Nzapali of committing torture in the DRC in 1995 and 1996.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Transitional Constitution prohibits discrimination based on ethnicity, sex, or religious affiliation; however, the Government was unable to enforce these prohibitions effectively. Nongovernmental actors incited violence against street children. Societal discrimination remained an obstacle to the advancement of certain groups, particularly women and indigenous Pygmies (Batwa).

#### Women

Domestic violence against women, including rape, was common throughout the country; however, there were no known statistics on the extent of this violence. Assault and rape are crimes, but police rarely intervened in domestic disputes and rapists were very rarely prosecuted. There were no laws prohibiting spousal abuse or assault. It was commonplace for family members to instruct a rape victim to keep quiet about the incident, even to health care professionals, to save the reputation of the victim and her family. The press rarely reported incidents of violence against women or children; press reports of rape generally appeared only if it occurred in conjunction with another crime, or if NGOs reported on the subject.

Armed groups used rape as a weapon of war (see Section 1.g.). Girls and women who had been raped often found it difficult to get married, and married women who were raped were often abandoned by their husbands. For example, AI reported that after a 50-year-old woman in South Kivu was gang-raped by Burundian combatants in 2003, her husband abandoned her and her children.

Victims and experts cited widespread impunity as the main reason sexual violence continued. A small number of sexual violence cases have been brought to court. For example, in early March, a man who raped a 23-month-old baby girl in Isiro, Orientale Province was sentenced to 5 years in prison. A local organization in South Kivu also won 57 of 60 rape cases it brought to court. In general, however, most victims did not have sufficient confidence in the justice system to be willing to subject themselves to further humiliation and possible reprisals by pursuing formal legal action. For example, in March, there were reports that a woman in North Kivu publicly denounced local thugs who raped her and killed her husband as he tried to defend his family. The group returned shortly afterwards and cut off both of her lips as a warning to others not to speak out against sexual violence and other crimes.

The law did not prohibit the practice of FGM, and although FGM was not widespread, it was practiced on young girls among isolated groups in the north. The National Committee to Fight Harmful Traditional Practices/Female Genital Mutilation developed a network of community leaders, women representatives, and health professionals dedicated to the prevention and treatment of FGM; however, the Committee lacked adequate resources for prevention and treatment.

The law does not prohibit prostitution except in cases involving children under the age of 14; prostitution, including child prostitution, was a problem mainly due to poor economic conditions. There continued to be reports of women and girls pressured or forced to engage in prostitution by their families out of economic necessity. There was no information available on the extent of prostitution in the country. Security forces encouraged prostitution and were customers. There were unconfirmed reports that security forces harassed and raped prostitutes.

There were reports that women were trafficked (see Section 5, Trafficking).

There were no laws preventing sexual harassment; the extent of the problem was unknown. On October 25, security forces in Kinshasa attacked women for wearing tight pants. Ten soldiers and two policemen were arrested for beating and tearing clothes off women in Kinshasa. At year's end, it was unknown if any action had been taken against them.

Women were relegated to a secondary role in society. They constituted the majority of primary agricultural laborers and small-scale traders, and they almost exclusively were responsible for child rearing. In the formal sector, women commonly received less pay for comparable work. Only rarely did they occupy positions of authority or high responsibility.

Married women were required by law to obtain their husband's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or applying for a passport. The law permits a woman to inherit her husband's property, to control her own property, and to receive a property settlement in the event of divorce; however, in practice, women often were denied these rights, which in some cases was consistent with traditional law. Widows commonly were stripped of all possessions--as well as their dependent children--by the deceased husband's family. Human rights groups and church organizations worked to combat this custom, but there was little government intervention or legal recourse available. In addition, women often did not realize that they could improve their legal inheritance claims by obtaining official documents that proved their marital status. Women also were denied custody of their children in divorce cases, but they retained the right to visit them. Polygyny was practiced, although it was illegal. Father-child relationships resulting from polygynous unions were recognized legally, but only the first wife was recognized legally as a spouse.

There were a number of active and effective women's groups throughout the country.

#### Children

Government spending on programs for children's welfare was almost nonexistent. Primary school education was not compulsory, free, or universal. In public schools, parents formally were required to pay a small fee, and informally expected to pay teachers' salaries. Many children were not able to attend school because their parents could not afford to send them. According to UNICEF, net primary school attendance was 51 percent. Attendance rates for girls were much lower because parents with meager financial resources preferred to send their sons to school.

FGM was not widespread but was performed on girls among isolated groups (see Section 5, Women).

Trafficking was a problem (see Section 5, Trafficking).

Child prostitution was a serious problem (see Section 5, Women).

The FARDC and other armed groups continued to have child soldiers in their ranks. During the year, the Government demobilized an estimated 3,080 children, and there were no reports that the Government actively recruited children; however, there were numerous reports that it provided support to Mai Mai groups, which continued to recruit and use child soldiers. The Government continued to collaborate with UNICEF and other partners to demobilize child soldiers, participated in an international program to demobilize child soldiers, and finalized the national demobilization and disarmament committee's plan for children associated with armed groups.

Child labor was a problem (see Section 6.d.).

According to a November 2003 report by a U.N. Special Rapporteur, between 25,000 and 50,000 child refugees, war orphans, and children accused of witchcraft or sorcery lived on the streets throughout the country, although some of those who were not orphans returned to their families at day's end. So-called child sorcerers were accused of having mystical powers and their families often abandoned them, most often because of socio-economic difficulties.

There was widespread discrimination and violence by average citizens against these children, who were widely perceived to be street thugs who engaged in petty crime, begging, and prostitution. There were numerous reports of collusion between police and street children, including street children who paid police officers for the right to sleep in abandoned buildings, and children

who paid police a percentage of goods they stole in large markets. In addition, there were reports that different groups and individuals regularly rented groups of these children to disrupt public order.

The Government was ill-equipped to deal with large numbers of street children. On September 22, 12 children between the ages of 12 and 17 were arrested and convicted of being "vagabonds," destruction of property, and illegal occupation of state buildings in Kisangani. The children were originally sentenced to prison until age 21, but MONUC negotiated their release contingent on a family or organization agreeing to take care of them. The judge told journalists that he knew the sentence was harsh, but the state did not have structures in place to deal with delinquent minors.

Violence against street children increased during the year. Soldiers and police subjected street children to harassment (see Section 1.a.). There were unconfirmed reports that security forces in Kinshasa rounded up street children and transferred them outside the city. In late September, street children attacked civilians and local artisanal miners in Mbuji Mayi. In retaliation, the next week, miners and mobs of civilians killed at least 20 street children. Some were burned alive and others were beheaded. There were reports that civilians burned alive a policeman and soldier for complicity with the street children. In November, Parliament conducted an inquiry into the killings and recommended that some local government officials, including the governor, be dismissed. At year's end, there was no known action taken against those who committed the killings.

No action had been taken against those responsible for killing alleged child sorcerers in 2003 by year's end.

There were several active and effective local and international NGO groups working with MONUC and UNICEF to promote children's rights throughout the country, and with the Government's national committee on disarmament, demobilization, and reintegration.

In areas under marginal government control, children committed and were victims of serious crimes. Credible estimates of the total number of children associated with armed groups varied widely from 15,000 to 30,000, many of whom were very young, including a 7-year-old boy who served with PUSIC. Armed groups continued to abduct and forcibly recruit children to serve as forced laborers, porters, combatants, "war wives," and sex slaves (see Sections 5, Women and Trafficking, and 6.c.).

The MONUC Ituri report found that all Ituri armed groups had "recruited and trained children to turn them into combatants." According to some estimates, during the year, 40 percent of each Ituri militia force may have been composed of children under 18, and estimates suggested that 6,000 children belonged to armed groups, with several thousand others possibly involved in local defense groups. The MONUC Ituri report indicated that children have been used as combatants, laborers in the illegal exploitation of natural resources, domestic labor, and sexual slaves. The report also noted that there have been several allegations that Uganda and Rwanda have aided and abetted Ituri armed groups to recruit and train children. The Coalition to Stop the Use of Child Soldiers reported that armed groups continued to use approximately 2,000 Rwandan children as soldiers in Ituri District.

During the year, children were voluntarily and forcibly recruited into armed groups; however, no reliable data was available on the number of children recruited willingly versus forcibly. Many children joined an armed group based on their ethnic origins and their places in shifting military alliances; however, most made calculated decisions about their best chances for survival and aligned with whichever group looked most likely to support them.

In anticipation of promised salaries for those soldiers who integrated in the national army, some commanders of armed groups reportedly recruited child soldiers during the first part of the year and regularly diverted the salaries of child soldiers for their own gain.

During the year, armed groups pursued several recruitment targets and engaged in forced recruitment and recruitment of previously demobilized child soldiers. Credible sources reported that in May and June, former Mundundu-40 commanders allied with ex-RCD/G combatants recruited previously demobilized children in and around Bukavu.

In May, the FARDC arrested former Mundundu-40 Commander Biyoyo for unauthorized recruitment of soldiers, including minors. However, Biyoyo was given a provisional release and was said to have fled the country. Biyoyo's former Operations Chief, Antunov, threatened minors who testified against Biyoyo and aggressively targeted them for recruitment in mid-June. Although some children returned to their homes or went to child demobilization centers, some reported for duty out of fear.

In June, ex-RCD/G elements led by former commanders such as General Nkunda and Colonel Mutebusi recruited children in North and South Kivu, notably in Minova, Kalehe, and Masisi, to serve as soldiers. In September, ex-ANC forces in Ngungu kidnapped and forcibly recruited a 12-year-old boy, who, after a week of military training in Masisi, was sent to Walikale to serve as a soldier. A U.N. expert panel on resource exploitation reported that, in mid-year, Rwandan officials attempted to recruit demobilized Rwandan and Congolese soldiers and Congolese refugees in support of ex-RCD/G combatants; however, the Rwandan Government denied these claims. In addition to offering enrollment incentives, Rwandan officials, Nkunda, and other Congolese officials reportedly pursued recruitment aims through the use of intimidation tactics. For example, in late June, local sources reported that Nkunda forcibly recruited soldiers, including children in Kalehe, by threatening to shoot those who did not volunteer. In addition, credible sources reported that an unknown number of children were recruited out of refugee camps in Rwanda. There were also unconfirmed reports that some children recruited by ex-RCD/G elements following former commanders such as General Nkunda and Colonel Mutebusi were sent to Rwanda for training; however, these reports had not

been independently confirmed by year's end.

Children were often treated brutally if they failed to obey orders. Child soldiers recruited by Mai Mai in Maniema Province told the U.N. Special Rapporteur that they were subjected to severe punishment by their superiors and had been initiated into war using fetishist rituals involving cannibalism. Some children were beaten or placed in detention for falling asleep while on guard duty, wasting ammunition, failure to obey orders, or desertion. In detention, they were often tortured and otherwise ill-treated. For example, in May, AI reported that approximately 20 former RCD/G child soldiers were being held in overcrowded conditions with poor sanitation and food in Goma. Some were held for military offenses. In one case, according to the MONUC Ituri report, a child was executed.

Girls associated with armed groups were often assaulted, raped, and infected with HIV/AIDS. In Ituri, girls have been utilized as foot soldiers, domestics, and sex slaves. The MONUC Ituri report found that all Ituri armed groups recruited girls, often forcibly, into their ranks. Once released, denial, shame, and fear prevented many of them from seeking assistance (see Section 5, Women).

During the year, armed groups demobilized 3,080 child soldiers with assistance from MONUC, UNICEF, and NGOs.

#### Trafficking in Persons

There were no specific laws prohibiting trafficking in persons, and trafficking occurred. There are laws that prohibit slavery, rape, and child prostitution that could be used to prosecute traffickers; however, the laws were rarely enforced. The Government has not prosecuted any cases against traffickers; however, during the year, judicial authorities in South Kivu initiated legal proceedings against an individual suspected of recruiting child soldiers.

The country was a source for women and children trafficked for the purposes of sexual exploitation and forced labor. Internal trafficking for forced labor and forced sexual exploitation occurred. In addition, child prostitution was common. The forcible recruitment and use of children associated with armed groups contributed to trafficking (see Section 5, Children).

Unlike in the previous year, there were no confirmed reports that government officials participated in or facilitated trafficking in humans; however, there were unconfirmed reports that local government officials facilitated the trafficking of children from Rwandan refugee camps for use as soldiers in the DRC.

The Government had few programs in place to prevent trafficking. The Ministry of Women's and Family Affairs and Labor implemented an action plan against sexual exploitation in conjunction with an international organization. In addition, the Government coordinated with other countries on trafficking issues and attended some regional meetings on trafficking in persons; however, government efforts to combat trafficking were limited by a lack of resources and information, and because much of the country's trafficking problem was related to the use of children associated with armed groups in areas under marginal government control. The Government had few resources for training; however, it permitted training of officials by foreign governments and NGOs. The Government had no funding available for protection services. Victims were not prosecuted.

In areas under marginal government control, there continued to be reports that armed groups kidnapped men, women, and children and forced them to provide menial labor and sexual services for members of armed groups (see Sections 1.g. and 6.c.). In addition, armed groups abducted children to serve as combatants in areas under their control (see Section 5, Children).

The Government repeatedly criticized the abduction of women and children by armed groups.

#### Persons with Disabilities

Persons with disabilities were subjected to discrimination in employment, education, and the provision of other government services. Persons with disabilities were exempt from some civil laws, such as paying some taxes, or in some cases, paying customs duties.

The law does not mandate accessibility to buildings or government services for persons with disabilities. There were some special private schools that used private funds and limited public support to provide education and vocational training to students who were blind or had physical disabilities.

#### National/Racial/Ethnic Minorities

There were at least 200 separate ethnic groups, which generally were concentrated regionally and spoke distinct primary languages. There was no majority ethnic group; some of the largest ethnic groups were the Luba, Kongo, and Anamongo. Four indigenous languages--Kiswahili, Lingala, Kikongo, and Tshiluba--had official status. French was the language of government, commerce, and education. Societal discrimination on the basis of ethnicity was practiced widely by members of virtually all ethnic groups and was evident in private hiring patterns in some cities; however, intermarriage across major ethnic and regional divides was common in large cities.

President Kabila's cabinet and office staff were geographically and ethnically diverse. However, a significant amount of political influence remained in the hands of individuals from Katanga. Katangans in the FARDC were more likely both to be promoted and to be paid than persons from other regions. The leadership of former rebel groups also was geographically and ethnically diverse. However, a significant amount of influence in the MLC continued to be held by members from the Equateur Province, and, in the RCD/G leadership, by Tutsis. A significant number of ethnic groups were represented in the Government.

Birth on national territory did not necessarily confer citizenship. The Government did not recognize the citizenship claims of some longtime residents whose ancestors immigrated to the country, including certain Congolese Tutsis from South Kivu, known as Banyamulenge, who fled to the country from Rwanda. The Transitional Constitution provides for a more inclusive approach to the Banyamulenge, and by year's end, Parliament had adopted a new nationality law, which for the first time recognized a person's right to acquire citizenship if the person was born in the country or had one Congolese parent; however, the Government had not yet promulgated the law.

After ex-RCD/G combatants following former commanders such as General Nkunda and Colonel Mutebusi took control of Bukavu in late May, anti-Tutsi sentiment increased. Tutsis were harassed and received threats, and some reported being afraid of abuse for appearing Rwandan. On October 6, a MONUC vehicle with peacekeepers and their Congolese interpreter broke down in central Bukavu. A few hundred persons surrounded the vehicle, accused the interpreter of being a Rwandan, and threatened to burn the vehicle and kill him. The ANR and the FARDC detained the interpreter, a Mushi from north of Bukavu, for several hours and interrogated him on the suspicion that he was a Rwandan infiltrator. The street incident broke up when the FARDC fired shots into the air. According to MONUC, over the course of the incident, 9 persons were hurt, 15 MONUC vehicles were damaged, the RCD/G office was destroyed, and 29 shops were looted. Government officials, including a vice governor and the local head of the ANR, encouraged the crowd.

During the second half of the year, FARDC soldiers in South Kivu and northern Katanga harassed, arbitrarily arrested, and threatened Banyamulenge. For example, there were reports that dozens of men attempting to return to South Kivu were arrested on their return by Congolese officials at the border, where they were held on suspicion of being spies or military infiltrators.

During the year, in Ituri District of Orientale Province, fighting between members of the Lendu and Hema ethnic groups (and other smaller tribes allied with either the Lendu or the Hema) resulted in numerous deaths.

There were reports that Ituri armed groups forced members of other ethnic groups to work in labor camps (see Sections 1.g. and 6.c.).

#### Indigenous People

The country had a population of fewer than 10,000 Pygmies (Batwa), who were believed to have been the country's original inhabitants; during the year, societal discrimination against them continued. Although they were citizens, most Pygmies continued to live in remote areas and took no part in the political process. Unlike in the previous year, there were no confirmed reports that Pygmies were targeted for cannibalism.

Unlike in the previous year, there were no confirmed reports that some tribes used Pygmies as slaves or as part of burial ceremonies; however, there were a few unconfirmed reports during the year.

#### Incitement to Acts of Discrimination

Anti-Tutsi sentiments--including appeals to force Tutsis into exile and practice discrimination toward Tutsis in regard to citizenship rights--were expressed in private and government-affiliated media. In addition to inflammatory articles and editorials in the major government-affiliated newspaper, *L'Avenir*, government-affiliated television talk shows featured guests with extreme, anti-Tutsi views.

During the year, there were credible reports that certain members of the Government directly and indirectly encouraged hate speech that advocated forcing Tutsis into exile. For example, there were unconfirmed reports that some hard-line government officials provided funding for Pastor Theodore Ngoy to buy television airtime to incite hatred against Congolese Tutsis by claiming they were Rwandans who were in the country to infiltrate society. Such programs were aired periodically through the first half of the year.

#### Section 6 Worker Rights

##### a. The Right of Association

The law permits all workers, except magistrates and military personnel, to form without prior authorization and to join trade unions; workers formed unions in practice. Since the vast majority of the country's economy was in the informal sector, only a small percentage of the country's workers were organized.

The Labor Code prohibits discrimination against unions, although this regulation was not enforced effectively. The law also

requires employers to reinstate workers fired for union activities.

In areas under marginal government control, there were no reports of functioning labor unions.

#### b. The Right to Organize and Bargain Collectively

The law provides for the right of unions to conduct activities without interference and the right to bargain collectively; however, in practice, the Government did not protect these rights, due in part to a lack of resources, and collective bargaining was not used in practice. In the public sector, the Government set wages by decree, and the unions could only act in an advisory capacity. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice. The law requires unions to have prior consent and adhere to lengthy mandatory arbitration and appeal procedures. During the year, there was increased labor union activity, and public sector unions organized several legal strikes to call for increased wages and back pay. The law prohibits employers or the Government from retaliating against strikers, but this prohibition was not enforced.

By year's end, most civil servants' salaries were not current, and most arrears had not been addressed. Some arrears were paid to certain workers with particularly effective unions or critical jobs. For example, striking air traffic controllers received some back pay, but striking customs officials did not.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

There were unconfirmed reports that some tribes used Pygmies as slaves.

Soldiers used forced labor during the year (see Sections 1.g., 5 and 6.d.).

In areas under marginal government control, there were numerous reports that armed groups used forced labor. Armed groups routinely forced civilians to carry heavy loads, including looted household items and livestock, for long distances without pay, and abducted men, women, and children and forced them to work in rural areas.

Armed groups and, to a lesser extent, government forces, abducted women and children and forced them to provide household labor or sexual services for periods ranging from several days to several months (see Section 5). Specific information was difficult to obtain due to limited NGO access and victims' reluctance to discuss their experiences because of possible reprisal from the perpetrators and the social stigma attached.

In April, there were reports that FARDC soldiers in Kabare territory, South Kivu forced civilians to construct their camp, including cutting down trees, digging holes, and building houses. There were reports of armed groups in Ituri and Maniema forcing civilians, including children, to dig for minerals (see Section 6.d.).

Certain ex-RCD/G combatants, led by former commanders such as General Nkunda and Colonel Mutebusi, forcibly conscripted adults and children, often forcing those they had arbitrarily arrested to train and serve with them (see Section 5).

There were credible reports that the FNI and FRPI abducted and detained civilians in up to 16 labor camps near Lake Albert, and that MONUC dismantled a UPC labor camp near Lake Albert (see Section 1.g.).

Unlike in the previous year, there were no reports that CNDD/FDD soldiers forced villagers to perform labor.

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

There are laws to protect children from exploitation in the workplace; however, the Government did not effectively implement these laws during the year, and child labor was a problem throughout the country. The employment of children of all ages was common in the informal sector and in subsistence agriculture, which were the dominant portions of the economy. Such employment often was the only way a child or family could obtain money for food. The Government established a national committee on child labor in 2002, but it was unclear if it was operating by year's end. The legal minimum age for full-time employment without parental consent is 18 years. Employers legally may hire minors between the ages of 15 and 18 with the consent of a parent or guardian, but those under age 16 may work a maximum of 4 hours per day. Larger enterprises reportedly did not exploit child labor. Neither the Ministry of Labor, which was responsible for enforcement, nor labor unions effectively enforced child labor laws.

There continued to be reports that forced child labor occurred (see Sections 5 and 6.c.). Some parents forced their children to

leave school and beg in the streets, hunt or fish, or engage in prostitution to earn money for their families.

In areas under marginal government control, there were numerous credible reports that armed groups used forced child labor, including the recruitment of children--reportedly with the aid of local Congolese officials--for use in armed conflict, and the use of girls as sex slaves and prostitutes (see Sections 2.d., 5, and 6.c.).

Children, including child soldiers, were involved in the illegal exploitation of natural resources in Ituri District to the benefit of their militia commanders. In December 2003, MONUC visited gold mines in UPC-controlled Iga Barriere and FNI-controlled Kilo-Etat. At Iga Barriere (the former headquarters of the Kilo Moto Mining Company), MONUC found that three quarters of the mine pit team were under the age of 18, most between 11 and 15. Reportedly, the children were all active or former child soldiers who worked on behalf of their UPC commanders. An FNI commander admitted he had 12 children, including an 11-year-old, in his armed group, and there were many child soldiers at a nearby mine. There were continued reports that re-recruitment of former child soldiers took place to secure mine labor for armed groups. There continued to be reports that, often because of economic necessity, children worked in mines extracting colombo-tantalite ore, or coltan, used to make mobile telephones.

#### e. Acceptable Conditions of Work

Most citizens were engaged in subsistence agriculture or commerce outside the formal wage sector. The average wage did not provide a decent standard of living for a worker and family, and most workers relied on extended family and informal economic activity to survive. Minimum wage laws continued to be suspended at year's end. Civil servant salaries remained very low, ranging between \$4 and \$20 per month, and salary arrears continued to be a problem (see Section 6.b.). However, depending on their position, civil servants, including police and soldiers, frequently supplemented their incomes through extracting bribes and various other practices of corruption.

The maximum legal workweek (excluding voluntary overtime) was 48 hours. One 24-hour rest period was required every 7 days.

The Labor Code specifies health and safety standards; however, the Ministry of Labor did not effectively enforce these standards. No provisions in the Labor Code permit workers to remove themselves from dangerous work situations without jeopardizing their continued employment.

In areas under marginal government control, most citizens relied on informal economic activity, humanitarian aid, and scavenging in the forest to survive. Due to extended pillaging, extortion by armed groups, and instability forcing families to flee their homes and crops, poverty and economic hardship generally were more severe in the Kivus, Maniema, Northern Katanga, and Ituri than in areas under government control. Salary arrears for police, soldiers, and other public officials encouraged extortion and theft from the population.