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## 2009 Human Rights Report: Democratic Republic of the Congo

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2009 Country Reports on Human Rights Practices](#)

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

Internal conflict in the eastern provinces of North and South Kivu, driven to a large degree by the illegal exploitation of natural resources, as well as a separate conflict in the Haut Uele and Bas Uele districts of Orientale Province, in the northeast, had an extremely negative effect on security and human rights during the year. An interethnic tribal conflict in Equateur Province increased both the refugee and internally displaced persons (IDP) populations and further highlighted the fragile security situation.

At year's end, government control over many regions remained weak, particularly in North and South Kivu provinces. Civilian authorities generally did not maintain effective control of the security forces. Military authorities sometimes did not maintain effective control of the security forces. In instances where elements of the security forces committed abuses, it was often difficult to determine whether they were following orders or acting independently, particularly in the east. There were extremely few reports of investigative, disciplinary, or legal action by military or civilian authorities following the commission of such abuses by security forces.

In all areas of the country, the government's human rights record remained poor, and security forces continued to act with impunity throughout the year, committing many serious abuses, including unlawful killings, disappearances, torture, and rape. Security forces also engaged in arbitrary arrests and detention. Severe and life-threatening conditions in prison and detention facilities, prolonged pretrial detention, lack of an independent and effective judiciary, and arbitrary interference with privacy, family, and home also remained serious problems. Security forces retained and recruited child soldiers and compelled forced labor by civilians. Members of the security forces also continued to abuse and threaten journalists, contributing to a decline in freedom of the press. Government corruption remained pervasive. Security forces at times beat or threatened local human rights advocates and obstructed or threatened UN human rights investigators. Discrimination

against women and ethnic minorities, trafficking in persons, child labor, and lack of protection of workers' rights continued to be pervasive throughout the country. Enslavement of Pygmies occurred.

Armed groups continued to commit numerous, serious abuses--some of which may have constituted war crimes--including unlawful killings, disappearances, and torture. They also recruited and retained child soldiers, compelled forced labor, and committed widespread crimes of sexual violence.

In January the governments of the DRC and Rwanda accelerated efforts to achieve a rapprochement, which they had initiated in late 2008. The two governments agreed to conduct joint military operations in North Kivu Province, in eastern DRC, to pursue, disarm, and decrease the capacity of the Democratic Forces for the Liberation of Rwanda (FDLR), elements of extremist Rwandan Hutus whose leaders were implicated in the 1994 Rwandan genocide. The military operations, which were called Umoja Wetu (Swahili for "Our Unity"), began on January 20. Days later, Rwandan authorities arrested General Laurent Nkunda, leader of the Tutsi-led Congolese rebel group, the National Congress for the Defense of the People (CNDP). Rwandan forces officially withdrew from the DRC on February 25. Concurrently, the CNDP signed a cessation of hostilities agreement with the government, agreeing to integrate its forces into the Congolese Armed Forces (FARDC). According to a December report by the international nongovernmental organization (NGO) Human Rights Watch (HRW), the joint DRC-Rwandan operation resulted in civilian deaths.

On March 23, the government signed separate peace agreements with the CNDP, the North Kivu armed groups, and the South Kivu armed groups. The rebel groups agreed to transform their movements from military to political in nature, while the government promised to work toward integrating rebel soldiers and officials into the FARDC, national police, and national and local political and administrative units. The FARDC, with support from the UN peacekeeping mission in the DRC (MONUC), offered ex-combatants the opportunity to undergo "accelerated integration" into the national army, allowing for an expeditious transitioning of rebel forces into the national army without training or other administrative controls. Among other commitments, both the government and the rebel groups agreed to facilitate the return of displaced persons and refugees to their places of origin. As part of the peace agreements, the parliament passed, and the president signed, an amnesty law that pardoned former members of armed groups for crimes committed in the east during the fighting, other than crimes of genocide, crimes against humanity, and war crimes.

The FARDC, with logistical support from MONUC, launched Operation Kimia II, a military operation against the FDLR in North and South Kivu, on March 2 and July 10, respectively. During the year Kimia II facilitated the disarmament and repatriation of 1,522 FDLR combatants and 2,187 FDLR dependents, the weakening of the FDLR military structure, and improved relations between Rwanda and the DRC. MONUC estimated that 1,114 FDLR members were killed during the operation, while there were 1,714 civilian casualties in the Kivus. The rapid integration process, from January to April, exacerbated the FARDC's problems concerning discipline, pay, and command and control. In the context of Kimia II, the FARDC and all armed groups continued to perpetrate human rights abuses, with civilians frequently targeted in attacks. The resulting humanitarian cost resulted in hundreds of thousands of newly displaced persons in the region, an increase in already rampant sexual violence, and a deteriorating human rights situation.

The joint DRC-Uganda military operations against the Lord's Resistance Army (LRA), which began in December 2008 in the Haut Uele and Bas Uele districts of Orientale, continued throughout the year. The operations succeeded in dislodging the LRA from its base camp, significantly weakening the group's command and control structure. Although LRA retribution against civilians increased in the early stages of the operation, the level and intensity of LRA exactions diminished during the course of the year, as the LRA scattered in smaller groups with many members fleeing to neighboring countries.

On December 23, the UN Security Council extended MONUC's mandate for five months, with the intention to further extend the mandate following a comprehensive strategic review of MONUC's operations, and underscored its commitment

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that the protection of civilians would continue to be MONUC's principle and primary focus. Kimia II operations officially ended on December 31.

## **RESPECT FOR HUMAN RIGHTS**

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

a. Arbitrary or Unlawful Deprivation of Life

Unlike in the previous year, there were no reports that the government or its agents committed politically motivated killings.

In the east security forces summarily executed civilians and killed civilians during clashes with illegal armed groups (see section 1.g.).

There were several occasions during the year when members of security forces arbitrarily and summarily killed civilians, sometimes during apprehension or while holding them in custody, sometimes during protests, and often for failing to surrender their possessions, submit to rape, or perform personal services. In the cases below, which do not comprise an exhaustive list of such killings during the year, authorities neither investigated nor prosecuted any of the perpetrators.

For example, according to the United Nations Joint Human Rights Office (UNJHRO) in the country, on January 1, a Congolese National Police (PNC) officer in Kolwezi, Katanga, shot and killed a young man in a crowd that was protesting the prohibition of fireworks on New Year's Day. In response, the angry crowd brought the body to the local police station, broke into the station, beat a local policeman to death, and looted neighboring shops.

According to the UNJHRO, on January 9, two Directorate General of Migration (DGM) agents and two PNC officers beat a Tanzanian man to death in Lubumbashi, Katanga, following his arrest for allegedly carrying false identity documents.

According to the UNJHRO, a woman in Njingala, North Kivu, died from injuries she sustained on April 10 during a gang rape by 10 FARDC soldiers who invaded her home.

FARDC intelligence officers tortured a man to death on April 29 in Kamandi Lac, North Kivu, according to the UNJHRO. The victim reportedly had refused to become involved in an illicit business activity.

Authorities took no further action on the January 2008 killing of a civilian in Bulukutu, Equateur, by a PNC officer, or the February 2008 killing of an artisanal miner in Katanga by a police officer attached to the Provincial Mining Office in Kalukalanga.

In October, at the invitation of the government, UN special rapporteur on extrajudicial, summary, or arbitrary executions (UNSRESAE) Philip Alston visited Bas-Congo Province, in the west, to investigate the deaths of at least 205 members of the Bundu Dia Kongo (BDK), a political-religious group seeking greater provincial autonomy during two demonstrations in February 2008 and 2007. Investigative reports by the UNJHRO in 2008 and 2007 concluded that police used excessive force in both incidents and that in 2008 police committed arbitrary executions and raped local residents. Although the government, rejecting these conclusions, committed in 2008 to conduct its own investigation, Alston found that authorities had not held to account any of the security force members responsible for the killings. During Alston's visit, the governor ordered the mayor of Kisantu to prevent him from interviewing witnesses or holding any meetings; upon Alston's departure, police arrested the person who had tried to arrange meetings for him, which required Alston to return to Kisantu to secure his release. Alston lodged a formal complaint with the government.

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

There were no reports authorities apprehended the police chief in Sota, Ituri District (Orientale), who escaped arrest in January 2007 after he and his assistant subjected a detainee to cruel and inhuman treatment, resulting in his death. Attempts to determine whether the assistant remained in detention or had been tried were unsuccessful.

Authorities took no action against a navy corporal for the 2007 killing of a university student in Goma, North Kivu.

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

Local human rights NGOs reported that a police officer in Mabikwa, Maniema Province, who beat a man to death in 2007 before going into hiding, had returned, but authorities took no action against him.

No action was taken against FARDC soldiers who tortured to death two suspects at Uvira Central Prison in South Kivu in 2007 or against Mobile Intervention Group (GMI) officers for the 2007 killing of an inmate at Buluwo Prison in Katanga. However, according to a local human rights NGO, Volunteer Office in the Service of Children and Health (BVES), local authorities announced an investigation in the Uvira case; no additional information was available.

During the year the human rights NGO African Association for the Defense of Human Rights (ASADHO) stated that it did not attempt to conduct further field investigations of a 2004 massacre of 73 residents of Kilwa, Katanga, because Katangan government officials prevented the NGO, as well as the victims' foreign attorneys, from visiting Kilwa in 2008. There were no further legal developments regarding the 2007 acquittal by a military court of several FARDC soldiers and three Anvil Mining employees accused of involvement in the Kilwa massacre. In 2008 the Lubumbashi Military Court of Appeal rejected legal motions by victims' relatives challenging the acquittals.

There were no reports of authorities taking action in the 2007 killing of a police officer by civilians in Bukavu, South Kivu.

Illegal armed groups, including rebel groups and community militias, committed unlawful killings during the year (see section 1.g.).

#### b. Disappearance

There were reports of disappearances caused by government forces. Authorities often refused to acknowledge the detention of suspects, and in some cases they detained suspects in secret detention facilities (see sections 1.c. and 1.d.).

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

In February the UN Working Group on Enforced or Involuntary Disappearances (UNWGEID) reported to the UN Human Rights Council (UNHRC) that, as of November 2008, there were 43 unsettled cases of forced or involuntary disappearance that had been reported to the UNWGEID, although none of them originated during the year. Underlining that an enforced disappearance was "a continuing offense for as long as the fate or whereabouts of the victim remains unclarified," the UNWGEID stated that, as in 2008, the government did not respond to UN inquiries about the cases. There were no reports of government efforts to investigate disappearances and abductions, including those in which security force members were accused of involvement.

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

Armed groups operating outside government control kidnapped numerous persons, generally for forced labor, military service, or sexual services. Many of the victims disappeared (see section 1.g.).

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

The law does not specifically criminalize torture, and during the year there were many credible reports by informed sources that security services tortured civilians, particularly detainees and prisoners, and employed other types of cruel, inhuman, and degrading punishment. Most cases of torture were perpetrated by members of the police, the ANR, and the FARDC, according to credible sources. There were very few reports of government authorities taking action against members of security forces responsible for these acts.

The UNJHRO reported several cases of torture and cruel, inhuman, and degrading treatment. For example, on January 12, ANR agents in Kabimba, Katanga arrested a man accused of possession of stolen goods. The agents severely beat him and left him bound and exposed to the sun for five hours before transferring him to a detention cell and denying him food and water for 48 hours. Authorities had taken no action against the agents by year's end.

On February 14, several FARDC soldiers from the 2nd Integrated Brigade severely beat and used bayonets to stab two women in Butembo, North Kivu, during a break-in at the women's home. Authorities had taken no action by year's end.

On February 23, five PNC officers in Kaleba, Katanga, tied a man to a post, exposed him to the elements for two days, and then severely beat him to extort 180,000 Congolese francs (\$200). According to the victim, the local PNC commander routinely ordered the torture of civilians to extort money. Authorities had not taken any action against the police officers or their commander as of year's end.

According to the local NGO Voice of the Voiceless for Human Rights, three Republican Guard (GR) soldiers named Vandome, Jean-Paul, and Mapendo hung two civilians from a tree the night of May 17 in Kahungula, Bandundu, and severely beat them until the next morning while trying to find diamonds that the men had swallowed. They were released after one week. Authorities had not taken any action against the soldiers as of year's end.

On June 16, a detainee in Bena Mpiana, Kasai Oriental, died in her prison cell following severe beatings by PNC officers who accused her of "illegally wearing policeman shoes." Authorities had not taken any action against the officers as of year's end.

On June 26, the Military Tribunal of Lubumbashi sentenced the captain of the local GR contingent, Bebe Kibawa, a cousin of President Kabila, to five years in prison for multiple crimes, including arbitrary arrests, illegal detention, kidnapping followed by torture, rape, and sexual mutilation.

Authorities took no action against two FARDC soldiers in Kalemie, Katanga, who beat and robbed a civilian in January 2008.

Authorities ordered an investigation of five FARDC soldiers who severely beat a civilian in Mbuji-Mayi, Kasai Oriental, in January 2008 for resisting their efforts to steal his motorbike. As of year's end, no investigation had been opened.

According to the local human rights NGO Young Network in the World for Peace, other than reassigning them to different posts, authorities took no action against seven PNC officers in Bena-Leka, Kasai Occidental, under the command of Tshipamba Nzolo, who arrested a civilian and subjected him to cruel, inhuman, and degrading treatment in January 2008 because he had failed to install hygienic facilities in his home, as ordered by local authorities.

Authorities took no action against GMI officers in Mbuji-Mayi, Kasai Oriental, who arrested and tortured a police officer in March 2008.

Authorities took no action against ANR agents who arrested a theft suspect in Beni, North Kivu, in 2007 and, according to MONUC, beat the victim with sticks, including on his genitals.

Although a police commander arrested one of his subordinates and detained him for a week for the abuse in 2007 of a theft suspect in Mbuji-Mayi, Kasai Oriental, authorities took no further action against him.

Police took no action against members of security forces who, according to informed sources, committed the following acts of torture in 2007: the torture of a judicial investigator by authorities in Orientale (see section 1.d.); the daily whipping of a man for three months on the orders of a FARDC general in Kinshasa following a personal business dispute; and the torture of seven suspected gang members, one of whom died from his injuries, by the GMI in the Bakwa Bowa police station in Kasai Oriental.

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

There were continuing reports, including many from the UNJHRO, of rape of civilians by members of the security forces and at least one government official, both in the context of the conflict in the east (see section 1.g.) and elsewhere. For example, on March 20, the head of the office of the Ministry of Urban Planning and Housing in Bulungu, Bandundu, raped a 13-year-old girl in his office. The public prosecutor subsequently had the official arrested and transferred to a detention cell, pending the outcome of an investigation. No additional information was available.

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

In March 2008 a FARDC lieutenant in Gemena, Equateur, abducted a 14-year-old girl, took her to his house, and repeatedly raped her over four days. The Office of the Military Prosecutor subsequently arrested him. However, according to the Council of the Equateur Women's Collective (CCFE), the prosecutor released him without charge.

Authorities took no action against the police officers, who in May 2008 in Ngele, Equateur, raped 13 women and six girls, subjected male residents of the village to cruel, inhumane, and degrading treatment, and pillaged the entire village. According to the CCFE, the public prosecutor cited lack of funds for pursuing the case.

Authorities took no action during the year against two FARDC soldiers of the 6th Integrated Brigade who in 2007 looted several houses near Jiba, Ituri District, Orientale, raped four women, and forced 10 villagers to carry looted goods to their camp near Bule. Authorities arrested the two perpetrators in 2008 but subsequently released them.

Authorities took no known action against members of security forces responsible for the following rapes committed in 2007: the September rape of five women and three girls in Yanonge, Orientale, by PNC officers reportedly acting on orders from their commander; and the November gang rape of a woman in Bongondjo, Equateur, by five FARDC soldiers.

There was no additional information on the investigation by a mobile court, which continued at the end of 2008, of the 2006 rape of 60 women and girls in Belongo, Equateur, but had not reached a verdict at year's end.

Armed groups committed sexual violence and other types of abuses against civilians during the year (see section 1.g.).

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

### Prison and Detention Center Conditions

Conditions in most prisons remained severe and life-threatening. The UN high commissioner for human rights (UNHCHR), Navi Pillay, reported that, between March 2008 and March 2009, at least 65 prisoners died in prisons and concluded that confinement in a Congolese prison in itself often amounted to cruel, inhumane, or degrading treatment.

In June a detainee died in her prison cell as a result of severe beatings (see section 1.a.).

On June 20, during an attempted prison escape and subsequent riot at the Central Prison in Goma, North Kivu, 24 military detainees raped 23 women prisoners. PNC officers shot and killed one perpetrator. At year's end, the other 23 perpetrators were awaiting transfer to other prisons. UN secretary-general Ban Ki-moon condemned the incident, describing it as "a grim example of both the prison conditions and the level of sexual violence that plagues the DRC." Following the incident, MONUC officials asked the government to urgently improve prison conditions and enhance security in prisons, particularly to protect women inmates from sexual violence and "to avoid a repeat of the [Goma prison] tragedy."

In all prisons except the Kinshasa Penitentiary and Reeducation Center (CPRK), the government had not provided food for many years; prisoners' friends and families provided the only available food and necessities. Malnutrition was widespread. Some prisoners starved to death. Prison staff often forced family members of prisoners to pay bribes for the right to bring food to prisoners. According to ASADHO's April report, *Rule of Law Put to the Test*, medical equipment and medicines were absent in virtually all the prisons and detention centers. Deaths of detainees were common due to deplorable living conditions, malnutrition, and lack of medical care.

During the year many prisoners died due to neglect, often from malnutrition or illness. For example, the UNJHRO reported in March that over a two-month period several prisoners died from malnutrition or dysentery in the Bunia Central Prison. Health care and medical attention remained grossly inadequate, and infectious diseases rampant. In rare cases, prison doctors provided care; however, they often lacked medicines and supplies. According to a nurse at the prison, many prisoners were in desperate need of a transfer to the hospital for medical care but were often denied. A local NGO, Me Lonjiringa, reported in July that the physical and hygienic conditions of Bunia prison were so bad that being detained there was "a death sentence." The UNJHRO reported in July that prisoners were dying in Bunia prison, including from malnutrition and tuberculosis.

The suffering of prisoners often led to desperate escape attempts. For example, the UNJHRO reported that in June there were three major escapes from Congolese prisons: on June 1, 39 prisoners escaped during a mutiny in Aru prison; on June 13, 11 prisoners escaped from the commander's prison cell in Mbandaka; and on June 14, 11 prisoners escaped from Bukavu prison. The UNJHRO reported that the prisoners recognized the fact that many of them would die in detention from starvation. In addition, on November 3-4, the Central Jail in Uvira, South Kivu, was set on fire by prisoners attempting to escape. Three prisoners were killed and five were injured by FARDC troops. On November 5, 90 inmates in Kindu, Maniema Province, escaped after burning all the prison files. Two were killed during the attempt, and those who remained in the prison cited starvation and lack of water for three days as the reasons for the escape.

Calling prison conditions one of the major human rights crises in the country, the UNJHRO recommended that the government create prison farms to ensure food supply for the inmates and generate revenue to procure basic medicines.

The penal system continued to suffer from severe underfunding, and most prisons suffered from overcrowding, poor maintenance, and a lack of sanitation facilities. Temporary holding cells in some prisons were extremely small for the number of prisoners they held. Many had no windows, lights, electricity, running water, or toilet facilities. During the year the UN secretary-general reported that prison populations exceeded capacity by 600 percent and expressed concern

about lack of food and health care, outdated prison laws and regulations, and severe shortcomings in infrastructure and training for prison guards.

According to UNHCHR Pillay, almost 80 percent of inmates were pretrial detainees. Prison records remained grossly inadequate, and authorities kept individuals in prison even after their sentences had been served. In October the UN special rapporteur on extrajudicial killings noted that the number of prisoners in the country remained unknown. In addition, he concluded that "in essence, the prison system seems to be a depository for the enemies of the state and for those too poor to buy their way out of the justice system. The abominable conditions, together with corruption and minimal state control, mean that escapes are common, thus adding further to impunity."

In their March report to the UNHRC, a group of seven UN special rapporteurs and representatives also underlined the link between impunity and the prison system, concluding the following: "The disastrous state of the prison system, perhaps the weakest link in the justice chain, facilitates escapes of suspects and convicts, including high profile offenders who sometimes 'escape' with the connivance of the authorities. For this reason, but also in light of the generally appalling prison conditions...penitentiary reform is an absolute necessity." The group recommended that the government and its technical assistance partners make it a priority to implement the new Strategic Plan on Prison Reform and Training, developed by the Ministry of Justice and MONUC. In 2007 the UNHRC's independent expert on human rights in the DRC recommended that the parliament adopt a law to reform the prison system. However, neither the government nor the parliament had responded.

Larger prisons sometimes had separate facilities for women and juveniles, but others generally did not. Male prisoners raped other prisoners, including men, women, and children. Citing the prison rape cases that it had registered during the year, ASADHO reported in June that "women are frequently raped" and that prison rapes "are sometimes organized in cahoots with prison authorities." ASADHO also noted that men, especially new inmates, were sodomized by prison gangs.

Prison officials held pretrial detainees together with convicted prisoners and treated both groups the same. They generally held individuals detained on state security grounds in special sections. Government security services often clandestinely transferred such prisoners to secret prisons. Civilian and military prisons and detention facilities held both soldiers and civilians.

The local NGO Christian Action for the Abolition of Torture (ACAT) reported in June that there were 57 children being detained in the Bukavu Central Prison. ACAT protested the inclusion of the children with the adults, citing the children's vulnerability and several cases of torture.

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

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

According to MONUC, fewer than 90 of the country's 230 prisons actually held prisoners; while there were no reports of the government officially closing prisons during the year, dozens of prisons that had not functioned for years remained closed. In some cases, security personnel who were detained or convicted of serious crimes were released from prison by military associates or by bribing unpaid guards. Most prisons were dilapidated or seriously neglected. Prisoners routinely escaped from prisons in all provinces.

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

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

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

Authorities took no action against two ANR agents in Bishile, Katanga Province, who in 2007 arbitrarily arrested, detained, and subjected a suspect to cruel, inhuman, and degrading treatment.

The law provides that minors may be detained only as a last resort; however, in part due to the absence of juvenile justice or education centers, authorities commonly detained minors. Many children endured pretrial detention without seeing a judge, lawyer, or social worker; for orphaned children, pretrial detention often continued for months or years. In February the UN Committee on the Rights of the Child (UNCRC) noted that the child protection code, promulgated in January, provides for juvenile courts to become operational by 2011. However, the UNCRC expressed concern over the way in which the justice system continued to handle juveniles, and it recommended that the government swiftly establish a juvenile justice system, support it with adequate resources, and ensure that all professionals working with children receive appropriate training in children's rights.

In general, the government allowed the International Committee of the Red Cross (ICRC), MONUC, and some NGOs access to all official detention facilities; however, it did not allow these organizations access to illegal government-run detention facilities, including illegal facilities run by the ANR and the GR.

In January the ANR denied access by UNJHRO officers to holding cells in South Kivu and Katanga, claiming that permission must first be granted by the authorities in Kinshasa. According to the UNJHRO, this type of denial commonly occurred, despite the fact that UN Security Council resolutions related to MONUC's mandate state that UN human rights officers are to be granted immediate and unhindered access to all holding cells and places of detention. According to the ICRC, its personnel were also routinely denied access to ANR holding cells.

Armed groups outside central government control sometimes detained civilians, often for ransom, but little information was available concerning the conditions of detention (see section 1.g.).

Authorities took no action during the year against the mwami (local chief), other traditional leaders, or FARDC soldiers involved in the arbitrary and inhumane detention and mistreatment of 57 civilians accused of witchcraft at the mwami's private residence in Luvungi, South Kivu, for four days in 2007.

#### d. Arbitrary Arrest or Detention

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

#### Role of the Police and Security Apparatus

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

Security forces generally remained undisciplined, lacked training, received little pay, and suffered from widespread corruption (see section 4). Members of the FARDC, police, and intelligence sectors continued to commit the majority of the country's human rights abuses.

Comprised of between 120,000 and 150,000 soldiers, about half of whom were deployed during the year in the conflict-affected east, the FARDC was ineffective, due in part to weak command and control, poor operational planning, low administrative and logistical capacity, and questionable loyalty on the part of some of its soldiers. Other serious obstacles to the formation of a coherent national army included lack of equipment and barracks.

In addition, in October UN special representative of the secretary-general Alan Doss, the head of MONUC, reported to the UN Security Council that, during the year, "the fast-track integration of up to 20,000 elements of former armed groups, some with very bad human rights records, into the FARDC has aggravated existing problems of indiscipline and crimes committed against the population." During the year independent UN experts and several international and domestic NGOs criticized the FARDC-led Kimia II counterinsurgency operation in the Kivu provinces for lack of effectiveness, lack of planning for the protection of civilians, and failure to respect human rights (see section 1.g.).

According to UNSRESAE Alston, "regular failures" by the government to provide soldiers their rations and pay, together with embezzlement by commanders, contributed to indiscipline as soldiers continued "to literally prey on the population." According to the UNJHRO, there was a direct correlation between salaries siphoned off by corrupt officers and the level of human rights abuses committed by the FARDC, the GR, the PNC, the DGM and the ANR. Abuses by FARDC soldiers were dramatically reduced in areas where they were paid and fed.

Impunity in the security forces remained a severe, widespread problem, and the weaknesses of the justice system continued to play a large role in the problem (see section 1.e.). The government prosecuted and disciplined few security forces personnel for abusing civilians. The military justice system, which has the responsibility of investigating misconduct or abuses by the security forces, had a total of 265 investigators, 232 prosecutors, and 125 judges in the military system in 2008, according to MONUC's Rule of Law Unit. However, they were poorly trained, had little or no resources for investigations, and limited, if any, access to legal codes.

According to a HRW July report, *Soldiers Who Rape, Commanders Who Condone*, the military justice system remained a weak institution. HRW underlined that "only a small fraction" of the total number of acts of sexual violence committed by

FARDC soldiers had been prosecuted. As an example, HRW reported that, during 2008, 27 soldiers were convicted of crimes of sexual violence in North and South Kivu. During the same year, the UN registered 7,703 new cases of sexual violence (by FARDC soldiers and other perpetrators) in North and South Kivu.

The Operational Military Court, which the government established during the year to address abuses committed by FARDC officers during Kimia II operations, made some progress in prosecuting a small number of low-ranking perpetrators. However, it lacked adequate staff, the ability to conduct its own independent investigations, and the power to undertake high-level prosecutions, and there remained concerns about the court's respect for due process (see section 1.e.).

Most of the prosecutions undertaken by the military justice system continued to be lower-ranking officers or soldiers; rarely were mid-level or senior-level officers investigated for having committed acts of sexual violence, for example. When they were, sentences were rarely carried out. For example, in July a military court found a lieutenant colonel, Ndayambaje Kipanga, guilty of raping four girls in Rutshuru, North Kivu; as of year's end, he was the highest-ranking FARDC officer convicted. However, he was convicted in absentia after escaping custody two days after his arrest in May, due to lax detention procedures, and he remained at large at year's end. No general had yet been convicted, either for his own actions or for failing to control his troops. In December, in response to this trend, several members of the UNHRC's Working Group on the Universal Periodic Review (UPRWG) urged the government to investigate and prosecute senior army officials involved or complicit in rampant sexual crimes against women and girls as part of its efforts to combat sexual violence.

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

Several individuals who continued to be credibly accused of numerous serious abuses held senior positions in the FARDC. Of the "FARDC five," the five senior FARDC commanders whose impunity for alleged crimes of sexual violence was raised again with President Kabila by the UN Security Council in May, only colonels Safari and Mobuli had been arrested (and were awaiting trial) as of year's end, while General Kakwavu was placed under house arrest in Kinshasa. Colonel Mosala was requested to remain under house arrest but was not legally required to do so, and Major Pitchen was at large.

Following his assessment visit in October, UNSRESAE Alston characterized impunity within the security forces as "chronic." He said that "endemic corruption and political interference ensure that anyone with money or connections can escape investigation, prosecution, and judgment." Alston also stressed that both the government and MONUC must do more to combat widespread impunity, noting that, in response to his inquiries about a massacre in April, the government "was not prepared to take action against the commander responsible because [according to a government official] 'arrest would have had worse consequences than the crimes of which he is accused.'" In addition, Alston expressed concern that both government and MONUC officials had indicated they would not take steps to arrest General Bosco Ntaganda, a senior FARDC commander for whom the International Criminal Court (ICC) issued an arrest warrant in 2006 relating to the recruitment and use of child soldiers in Orientale. An ex-CNDP chief of staff, Ntaganda was integrated into the FARDC

during the year and, according to the UNGOE in the DRC, "given the post of deputy operational commander for Kimia II, although the FARDC has repeatedly denied his position in official circles." Alston, who noted that Ntaganda's whereabouts were well known, said that "both the Congolese government and MONUC must abandon their untenable 'peace first, justice later' approach."

In December several members of the UPRWG recommended that the government increase efforts to investigate and prosecute (as appropriate) members of security forces, regardless of rank, who had been identified as perpetrators of serious abuses, including the FARDC five. Several members specifically urged the government to immediately arrest General Ntaganda and transfer him to the ICC. They also noted problems resulting during the year from the rapid integration of the CNDP and other armed groups into the FARDC and recommended that the government increase efforts to support the process of security sector reform as well as the process of disarmament, demobilization, reintegration, repatriation, and reinsertion.

During the year the government took few significant steps to reform the security forces, although legislation to reform the armed forces and national police was submitted to the parliament. According to the UN secretary-general's December report to the UN Security Council, "lack of progress in this critical area remained a major concern." However, the FARDC continued to participate in various training and professionalization programs supported by the UN and international donor countries, which included components on respecting international human rights. The FARDC also cooperated with the EU Mission to Provide Advice on and Assistance with Security Sector Reform (EUSEC) in its chain of payments project, which aimed to separate the FARDC chain of command from the military's financial management. The EUSEC project involved the execution of a biometric census of the military to reliably identify all FARDC soldiers, improve the FARDC's salary distribution system, prevent fraud and embezzlement, and ensure payments reached soldiers. By December EUSEC had completed a census of 17,587 newly integrated armed group elements into the FARDC.

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

In July President Kabila announced that the government had adopted a policy of "zero tolerance" for human rights violations by the security forces following intense criticism by donor countries and international human rights groups. The FARDC disseminated instructions to all soldiers that protecting the population was their duty and warned that rape and other crimes against civilians would be punished. In December several members of the UPRWG commended the government for adopting the policy but expressed concern over severe deficiencies in its implementation.

Several members of the UPRWG urged the government to implement by June 2010 the short-term anti-impunity reforms that were recommended by UNSRESAE Alston, who said in October that FARDC soldiers faced "no risk of punishment" for abuses, partly due to their anonymity. Alston urged the government to require all FARDC soldiers to wear uniforms showing their names and unit affiliation and recommended that the UN Security Council make this step a precondition for any further UN assistance. He also urged the government to immediately indict key members of the military alleged to have committed war crimes, crimes against humanity, and other serious offenses, particularly General Ntaganda, Innocent

Zimulinda, Sultani Makenga, Bernard Byamungu, and Salumu Mulenda. Lastly, he underlined the importance of security sector reform and the critical need to ensure the full integration into the FARDC of ex-CNDP members, which he said had "the potential to become an uncontrollable and explosive obstacle" to free elections and stability.

During the year the UNGOE and several members of the UPRWG recommended that the government implement a vetting mechanism for members of the security forces aimed at suspending officers who had committed past human rights abuses. By year's end, the government had not undertaken any significant steps to institute such a system.

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

FARDC units throughout the country regularly engaged in illegal taxation and harassment of civilians. They set up checkpoints to collect "taxes," often arresting individuals who could not pay the demanded bribes, and stole whatever food and money they could from them.

During the year the government continued to nominally work with MONUC and international donors on police and military training programs.

#### Arrest Procedures and Treatment While in Detention

By law arrests for offenses punishable by more than six months' imprisonment require warrants. Detainees must appear before a magistrate within 48 hours. Authorities must inform those arrested of their rights and the reason for their arrest, and may not arrest a family member instead of the individual being sought. They may not arrest individuals for nonfelony offenses, such as debt and civil offenses. Authorities must allow arrested individuals to contact their families and consult with attorneys. In practice, security officials routinely violated all of these requirements.

Prolonged pretrial detention, often ranging from months to years, remained a problem, as pretrial detainees constituted 80 percent of the prison population, according to the UN. Trial delays were due to factors such as judicial inefficiency, corruption, financial constraints, and staff shortages. Prison officials often held individuals after their sentences had expired due to disorganization, judicial inefficiency, or corruption.

Government security forces sometimes used the pretext of state security to arbitrarily arrest individuals and frequently held those arrested on such grounds without charging them, without presenting them with evidence, without allowing them access to a lawyer, or following other aspects of due process.

Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members. Authorities rarely pressed charges in a timely manner and often created contrived or overly vague charges. No functioning bail system existed, and detainees had little access to legal counsel if unable to pay. Authorities often held suspects in incommunicado detention, including in illegal facilities run by the ANR and the GR, and refused to acknowledge their detention.

On January 26, the criminal court in Punia, Maniema, ordered the arrest of the chiefs of the local ANR, DGM, and PNC offices and tried and sentenced them to 12 to 18 months in prison for the arbitrary arrest of nine civilians. However, according to the UNJHRO, the police chief remained free and had not been imprisoned at year's end.

On February 11, ANR agents in Bukavu, South Kivu, arbitrarily arrested a civilian and detained him in a secret holding cell until he paid \$20. According to the UNJHRO, ANR agents rearrested him on February 24. The agents released him the next day after taking his belt, shoes, and \$70. Authorities took no action against the agents.

According to the UNJHRO, the ANR director of Kasai Oriental ordered the temporary closing of all ANR offices in Lusambo Territory on February 13 because of concern over the numerous human rights abuses, especially illegal detentions, committed by local ANR agents. It was not known whether the director undertook any investigations or took disciplinary action against subordinates.

The police chief of Panu Pay Pay, Bandundu Province, arbitrarily arrested two civilians and took two of their cattle during the week of April 4-10 in lieu of arresting their brother, who was wanted by the police. In response, the local population severely beat the police chief. Subsequently, local FARDC soldiers were deployed and pillaged the homes of the local population, arresting and beating anyone they could apprehend. Authorities took no action against the police chief or the FARDC soldiers.

Military authorities took no action against a FARDC soldier attached to the Office of the Military Prosecutor, who arbitrarily arrested a woman in January 2008 in Bandundu, Bandundu Province, in place of her son.

Authorities took no action against the military prosecutor of Kolwezi, Katanga, who arrested and detained a woman and her one-year-old baby in February 2008.

In March 2008 the commander of the Karawa Police Station in Equateur illegally detained a suspect in the commander's private residence for three months and mistreated him, resulting in the man's death in July 2008. According to CCFE, the military prosecutor subsequently granted the commander provisional freedom. However, a trial date had not been set as of year's end.

Of the 174 inmates determined in May 2008 by the vice-minister of human rights to be illegally detained in the CPRK, an additional 11 were released during the year, while seven remained in prison at year's end.

No action was taken against the police inspector of Buta, Orientale, for the 2007 arrest and torture of a judicial investigator and the arbitrary arrest of his wife.

Security personnel detained perceived opponents and critics of the government during the year (see sections 2.a. and 5).

#### Amnesty

The Goma peace accords envisioned a general amnesty for acts of war and insurrection committed in North and South Kivu by groups that signed the accords, covering the period from June 2003 to the date of the promulgation of the amnesty. President Kabila promulgated the amnesty bill passed by the parliament in May. The amnesty bill specifically excluded war crimes, crimes against humanity, and genocide.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary; in practice, judges, who were poorly compensated, remained subject to influence and coercion by officials and other influential individuals.

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

On July 15, President Kabila issued 14 presidential ordinances dismissing and forcibly retiring 114 magistrates and 43 prosecutors, including the president of the Supreme Court and the prosecutor general of the republic, ostensibly for corruption and other abuses of office. The ordinances followed Kabila's June 30 speech celebrating the country's independence, in which he warned he would take immediate action against corruption in the justice sector. When the

ordinances were issued, the High Council of Magistrates (CSM), the country's supreme judicial oversight body, which is charged with disciplining judges and prosecutors and protecting the judiciary from executive intimidation and manipulation, was not fully formed; although the president signed the law establishing the CSM in August 2008, the CSM disciplinary chambers authorized by law had not been created. At year's end, the CSM continued to employ interim bodies that substituted for the unformed disciplinary chambers provided for by law.

The dismissals and forced retirements generated significant controversy and concerns among some observers over the executive branch's apparent influence over the judiciary and failure to respect due process. Government officials said publicly that, in the absence of the CSM disciplinary chambers, the dismissals were issued following proper interim procedures. However, according to international judicial experts who specialized in the Congolese legal system and who examined the dismissals, the government did not follow the required disciplinary procedures before removing the jurists, including providing the accused an opportunity to appeal the decisions. These sources expressed concern that the ordinances likely would further reinforce the influence of the executive branch over the judiciary and that they represented what appeared to be an abuse of executive power.

The government cited corruption and other forms of professional misconduct as reasons for the removals and forced retirements. However, it was unclear if the action represented a new government effort to combat corruption or rather a new push by the executive branch to exert influence over the judiciary. The allegations of misconduct remained "questionable in most cases," according to some judicial experts and NGOs. Some NGOs, foreign diplomats, and international judicial experts expressed concerns that the ordinances could "paralyze justice in many more jurisdictions" by removing such a high number of experienced judges, equivalent to 7 percent of the country's judges.

The leader of one of the country's trade unions for judges issued a statement condemning the dismissals and forced retirements, and magistrates said they would challenge the ordinances on procedural grounds. Several of the jurists who were dismissed or forced to retire protested what they deemed a failure by the government to respect due process. In a memorandum, they requested the annulment of the presidential ordinances, referring to past precedent, and criticized some of the judges nominated for promotion, noting that one promoted judge had been convicted and sentenced to an eight-month prison term.

Similarly, in February 2008, while the laws to create new constitutionally mandated judicial institutions were under parliamentary consideration, the president began to reorganize the judiciary. President Kabila signed seven presidential decrees appointing 28 new magistrates, most notably a new chief justice of the Supreme Court and prosecutor general, and forced into retirement 89 other magistrates, despite a severe shortage of judges. The new magistrates were appointed to positions beyond their qualifications.

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

Judicial corruption remained pervasive, particularly among magistrates. The judicial system was funded with less than one percent of the national budget and was poorly staffed, with a very limited presence outside of Kinshasa. There were fewer than 1,500 magistrates (judges who serve in the lowest level courts) serving the entire population (one magistrate for every 45,000 citizens), and two-thirds of them were located in Kinshasa, Matadi (Bas-Congo), and Lubumbashi (Katanga). There were fewer than 200 courts, of which approximately 50 were functioning during the year. In rural areas, where there were often no courts within a 300-mile radius, justice was administered on an ad hoc basis by any available authority,

creating extraordinary opportunities for corruption and abuse of power. During the year some observers asserted that members of both the executive and legislative branches were content to keep the judiciary weak and ineffective because it protected their power and allowed them to engage in corruption and abuse of power without consequence.

According to the UNJHRO, despite some convictions of members of the FARDC during the year, law enforcement personnel and magistrates continued to treat rape and sexual violence in general with a marked lack of seriousness. Consequently, men accused of rape are often granted bail or given relatively light sentences, and out-of-court settlements of sexual violence cases remained widespread. However, during the year the government cooperated with the UN and donor nations to train civil and military judges in methods to effectively adjudicate rape cases.

The civilian judicial system, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, failed to dispense justice consistently and was widely disparaged by the international community and citizens as ineffective and corrupt.

The 2006 constitution provided for new judicial institutions and laid the foundation for an independent judiciary by removing previous presidential powers to appoint and remove magistrates. The constitution divided the Supreme Court's functions into a Constitutional Court, Appeals Court, the CSM, and Administrative Oversight Agency. However, by year's end, the CSM was not fully operational, and no legislation had been promulgated to establish the Constitutional Court, the Appeals Court, or the Administrative Oversight Agency. In the absence of the judicial institutions provided for by the 2006 constitution, the existing structures--including the Supreme Court, Appeals Court, Superior Court (Tribunal de Grande Instance), and the misdemeanor courts known as Tribunaux de Paix--continued operating.

While the new structures provided for in the 2006 constitution were designed in part to increase access to justice, the government still had not implemented structures that were introduced by laws promulgated decades ago. For example, the 1982 law establishing the Tribunaux de Paix, which handle cases involving crimes punishable by less than five years' imprisonment, provides for one tribunal in each town and rural zone. According to an August report by the International Bar Association's Human Rights Institute (IBAHRI) and International Legal Assistance Consortium (ILAC), if this law were carried out, there should be 180 of these tribunals; however, only 58 were in place, and only 45 were functioning.

Military courts, which had broad discretion in sentencing and provided no appeal to civilian courts, continued to try military as well as civilian defendants during the year. Some areas of the country, particularly the east, continued to be served only by military justice, due to the absence of any operational civilian justice component. Although the 2006 constitution limits jurisdiction of military courts to members of the FARDC and PNC, at year's end, the military judicial code and the military penal code of 2002 had not been harmonized with the constitution. As of August, the minister of justice had initiated a reform process that aimed in part to harmonize military justice with the constitution; however, the military code of justice, in place prior to the adoption of the present constitution, continued in force during the year. It prescribed trial by military courts of all cases involving state security, including offenses related to military personnel, and "weapons of war" (firearms), whether the defendants were members of the military or civilians. In 2007 the UN's resident expert on human rights recommended that the government establish a clearer separation between civilian and military jurisdictions; however, no action was taken by parliament during the year to address this.

In December the UN secretary-general reported to the UN Security Council about "extraordinary" military justice mechanisms established in the Kivus, including the Operational Military Court (see section 1.d.). He expressed concern that, "while contributing to discipline within the FARDC, there continued to be serious doubts regarding the legal basis of the mechanisms and their respect of fair trial standards, particularly since they do not contemplate a right of appeal." In addition, in its report to the UPRWG, a coalition of international NGOs criticized the newly created Operational Military Court for disrespecting basic due process rules.

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

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

- First, alliances between government forces and various rebel groups continued to foster loyalties that have prompted government officials to try to prevent the prosecution of some of the leaders and members of these armed groups. For example, according to IBAHRI and ILAC, in a letter from the minister of justice obtained by NGOs, the minister "ordered that no action be taken against members of [the CNDP], and that ongoing proceedings were to be discontinued." The date of the letter, February 9, was shortly before the March peace agreement in which the CNDP formally agreed to cease hostilities against--and integrate into--the FARDC and assist in operations against the FDLR.
- Second, military police and military prosecutors remained dependent on the military chain of command for logistical and administrative requirements, and military judges and prosecutors were sometimes beaten or even tortured for having acted against members of the FARDC without prior authorization from the commander. For example, despite investigations launched by authorities late in 2007, authorities took no action during the year against General Jean-Claude Kifwa, commander of the 9th Military Region and a cousin of President Kabila, and his security detail for arresting and severely beating two military magistrates in Kisangani, Orientale. They allegedly arrested the magistrates for objecting to two pending cases being tried in the military instead of the civilian court system.

According to the UNJHRO, high-ranking military officers continued to adjudicate cases in which their own soldiers were implicated. Their alleged interference resulted in several out-of-court settlements regarding rape cases.

In their March report to the UNHRC, seven UN special rapporteurs and representatives made several recommendations for the government regarding the fight against impunity and the need to strengthen the justice sectors. They recommended that the government increase the justice portion of the national budget "to an acceptable level comparable with other countries (2-6 percent)," and that it strengthen the civilian justice sector by passing legislation assigning criminal jurisdiction over perpetrators from among police or the civilian population to civilian prosecutors and courts. Emphasizing the importance of expanding the justice system in rural territories, the report recommended establishing more mobile courts with increased or "hardship" pay to induce qualified judicial personnel to serve in conflict posts and establishing a network of justices of the peace linked to traditional modes of dispute resolution.

Noting how difficult it was for victims to pursue reparations (see section 6, women), the report underlined the need to motivate victims to pursue justice and recommended establishing a compensation guarantee fund, managed jointly by the government, donor countries, and civil society, to pay reparations awarded by national courts or the ICC to victims of serious abuses. Highlighting the need for transitional justice and truth-seeking initiatives, the report also recommended establishing mixed courts comprising national and international judges and sitting in national courts.

While no mixed courts were established during the year, a UN human rights mapping initiative, which was endorsed by the government and was intended to catalogue abuses committed in the country between 1993 and 2003, finished its field research and was drafting its final report at year's end. In addition, although a National Truth and Reconciliation Commission (CVR) was established in 2003, it became defunct in 2006 and was criticized for its operational standards and perceived lack of independence and transparency. Several NGOs submitted reports to the UPRWG during the year recommending the CVR be reestablished with a well-defined mandate, greater independence, and sufficient resources to carry out its work.

Trial Procedures

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

#### Political Prisoners and Detainees

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

#### Civil Judicial Procedures and Remedies

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

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

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

For example, on April 9, soldiers from the FARDC 18th Brigade broke into and looted several homes in Rubare, North Kivu, according to the UNJHRO. By year's end, authorities had taken no action against the soldiers.

On April 4, soldiers from the FARDC 15th Brigade broke into and looted several homes and businesses in Shabungu, South Kivu. By year's end, authorities had taken no action against the soldiers.

Authorities took no action against two police officers who, in July 2008, reportedly broke into the home of and severely beat a man in Mbuji-Mayi, Kasai Oriental, in connection with a debt.

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

Armed groups operating outside government control in the east routinely subjected civilians to arbitrary interference with privacy, family, home, and correspondence (see section 1.g.).

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

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

Despite the integration of former CNDP rebels into the FARDC during the year, the FDLR, LRA, and some Mai Mai groups continued to battle government forces and attack civilian populations. Military preparations during the year, and the fighting itself, led to further depredations against civilians by members of security forces and armed groups. This continuation of fighting in the east, which impeded humanitarian aid in some areas, internally displaced at least 700,000 persons between January 1 and December 31, exacerbating an already severe humanitarian crisis.

At the end of the year, more than 20,000 MONUC peacekeepers, military observers, and police--including 6,785 in North Kivu and 3,853 in South Kivu--continued efforts to provide protection to several million civilians and logistical support and training to the FARDC.

Despite the presence of MONUC, security forces and armed groups continued to kill, abduct, torture, and rape civilians and burn and destroy villages. Between January--the beginning of FARDC-led military operations against the FDLR--and December, more than 1,714 civilians were killed in North and South Kivu, according to MONUC. In addition, during military operations by the FARDC and the Ugandan military against the LRA in Haut and Bas Uele districts of Orientale, the LRA had killed hundreds of civilians since January 1 during retaliation attacks.

According to an October report by a coalition of NGOs, *Civilian Cost of Military Operation Is Unacceptable*, between January and October, FARDC military operations against the FDLR in North and South Kivu resulted in 6,000 homes burned to the ground and hundreds of civilians forced into temporary labor by armed groups.

All parties continued to use mass rape and sexual violence with impunity, often as weapons of war, and to humiliate and punish individuals, victims, families, and communities. Between January and June, the UN Population Fund (UNFPA) reported 2,075 cases of sexual violence in North Kivu, 834 in South Kivu, and 885 cases in Orientale. According to HRW, by September the total number of sexual violence cases registered at health centers in North and South Kivu exceeded 7,500, which was nearly double the total for the same period in 2008. During the year the International Rescue Committee registered approximately 1,200 cases of rape in South Kivu and it found that up to 80 percent of survivors identified their assailants as members of either the FARDC or armed groups. While the actual number of cases was likely much higher, lack of data, social stigma, lack of confidence in the judiciary, and fear of reprisals prevented many rape survivors from coming forward.

HRW reported in August that, in nine conflict zones it had visited since January, rape cases had doubled or tripled compared with 2008. In over half of the cases HRW recorded, the victims were gang-raped by two or more assailants. The youngest victim was 2 years old, and 65 percent of the cases in North Kivu were perpetrated by FARDC soldiers.

In September International Cooperation (COOPI), an international development assistance NGO, expressed concern after observing, between February and July, a 300 percent increase in the number of survivors of sexual violence it assisted in Maniema and Katanga, which the NGO attributed to a "spill-over effect" caused by Kimia II in neighboring conflict-affected provinces (North and South Kivu).

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

During the year the number of men raped appeared to increase sharply due to retribution attacks by armed groups in the east following counterinsurgency operations against the FDLR that began in January. The number of male rape cases may have numbered in the hundreds during the year, but statistics for male rape were even more difficult to compile than those for female rape, as social stigma prevented many male victims from coming forward. According to the American Bar Association, which ran a legal aid clinic in North Kivu for victims of sexual violence, 10 percent of its cases during June were men. NGOs and medical workers reported that the humiliation was often so severe that male rape victims came forward only if they had urgent health problems, and according to HRW, two men whose penises were cinched with rope died a few days later because they were too embarrassed to seek help.

The recruitment and use of children by all armed groups active in North and South Kivu and Orientale continued. In March the UN special representative for children and armed conflict and six other UN special rapporteurs and representatives collectively reported to the UNHRC on an "explosion of child recruitment by nonstate armed groups" in the country between September 2008 and March 2009 as a result of outbreaks of hostilities during that period. According to a UN Children's Fund (UNICEF) estimate in late March, there were 8,000 children in the ranks of all armed groups and in several units of government security forces in the east, with the majority of them found in armed groups, serving as combatants, porters, spies, and sex slaves. The estimate represented an increase of 4,500 children, compared with the UNICEF estimate for 2008. In October BVES estimated that there were 5,000 child soldiers in the country, noted that many of them were girls, and emphasized the extreme difficulty of securing the release of girl soldiers from armed groups, whose commanders often saw them as sexual possessions.

During the year MONUC facilitated the release more than 2,000 children from armed groups (see section 6).

Fighting between the FARDC and armed groups continued to displace populations and limit humanitarian access to conflict areas. According to HRW, between January and October there were 84 attacks on humanitarian agencies working in the country, which represented a significant increase, compared with the 36 attacks during the same period in 2008.

In North and South Kivu, the illegal exploitation by some FARDC units, armed groups such as the FDLR, and PARECO of natural resources--including cassiterite (a tin oxide) and columbite-tantalite (or coltan), both of which were used in the global electronics industry---continued to prolong the conflict, facilitate the purchase of small arms to commit abuses, and reduce government revenues needed for increasing security and rebuilding the country. FARDC and FDLR forces in both Kivu provinces forced civilians to work for them or relinquish their mineral production and extorted illegal "taxes."

In November the UNGOE further identified linkages between the illegal exploitation of natural resources in the east, the conflict, corruption, and human rights abuses, such as rape, committed by all parties to the conflict. It collected credible evidence of the large-scale smuggling of minerals, such as gold (see section 4). The UNGOE recommended that the government reduce the presence of--and eventually remove--military units at mining sites, in part by replacing the FARDC with the relevant government authorities such as the Mining and Hydrocarbons Police. The UNGOE further recommended that the government create a national tribunal to prosecute the abuse of military and police powers in connection with the illicit exploitation of natural resources. Regarding transparency and mineral traceability initiatives, the UNGOE recommended that the government establish an independent monitoring team, with the support of the international community, to conduct spot checks of minerals shipments and determine sanctions for illegal mineral trading activity.

The UNGOE also urged the government to suspend the trading licenses of all noncompliant national companies and take legal action against the directors of those companies that violate the UN arms embargo by trading in mineral resources

from nongovernmental armed groups. In addition, the UNGOE recommended that the UN Security Council ask UN member states to take necessary measures to define the supply chain-related due diligence obligations of companies under their respective jurisdictions that operate in the mineral trading sector, and that companies adopt codes of conduct detailing the procedures they have adopted to prevent any indirect support to nongovernmental armed groups through exploitation of natural resources.

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

During the year independent UN experts and several international and domestic NGOs criticized the FARDC-led Kimia II counterinsurgency operation. In its November report to the UN Security Council, the UNGOE concluded that "military operations against the FDLR have failed to dismantle the organization's political and military structures on the ground in eastern DRC." UNSRESAE Alston said the operation, during which MONUC provided logistical support to the FARDC, "has been so poorly carried out that the FDLR has easily been able to reenter villages abandoned by the Congolese and UN forces and commit brutal retaliation massacres of civilians." Underlining that it was the FARDC themselves who posed the greatest direct risk to civilians in many areas of the Kivus, Alston said the lack of vetting, training, and planning of the integration of former armed group members, especially the ex-CNDP, into the FARDC in the Kivus "has escalated abuses committed by the army against civilians, and failed to break down parallel ex-CNDP command structures within the army."

In October a coalition of more than 80 human rights and humanitarian NGOs emphasized that Kimia II had resulted in an unacceptable cost for the civilian population, calculating that, for every FDLR combatant who was disarmed during Kimia II, there were seven civilians raped, one killed, and 900 forced to flee. The coalition, which included HRW, Oxfam, and the Enough Project, urged diplomats and UN officials to immediately increase efforts to protect civilians from abuses and strongly recommended that MONUC condition its logistical support for FARDC units involved in Kimia II on respect for human rights. By year's end, MONUC had invoked a more strenuous interpretation of conditionality, cutting off assistance to a FARDC brigade (see subsection below) that was involved in civilian killings, as documented by the UNJHRO.

While there was inadequate civilian protection and a well-documented and significant humanitarian cost due to the military operations in the Kivus and Orientale, the government and MONUC, as well as some NGOs and foreign diplomats, argued some of the military objectives of the operations, particularly in Orientale against the LRA, were accomplished. Some NGOs expressed concern that the FARDC's military objectives in the Kivus were not well defined; however, there were some successes. For example, in the Kivus, FDLR elements were pushed away from most major cities and towns and further into the bush. The FDLR was also denied access to some of its most profitable mining areas. Finally, MONUC estimated that more than 1,114 FDLR were killed during Kimia II and that, between January and December, a total of 1,522 FDLR combatants and 2,187 of their dependents were repatriated to Rwanda.

#### Abuses by Government Security Forces

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

From January through late February, the FARDC conducted Umoja Wetu, a joint military operation with the Rwanda Defense Forces (RDF) against the FDLR in North Kivu. After the official withdrawal of the RDF in late February, the March 23 accords facilitated the rapid integration of the CDNP, which had previously fought the FDLR, and 23 other armed

groups into the FARDC. In March the FARDC launched Kimia II, which lasted until the end of the year. According to the government, this operation, which received logistical support from MONUC, was also designed to induce FDLR elements to surrender and repatriate. It focused on the wider area of both North and South Kivu provinces. During both operations, there were numerous credible reports that FARDC soldiers committed abuses against civilians, including those suspected of collaborating with the FDLR. According to a December report by HRW, the joint DRC-Rwandan operation resulted in civilian deaths.

GR troops, who initially made up the bulk of the force deployed against the LRA in Rudi II military operations in Haut and Bas Uele, Orientale, were relatively well paid and disciplined. When these battalions were replaced by newly integrated FARDC forces in September, credible reports of FARDC abuses became more frequent. As of year's end, UN and FARDC officials stated that the newly integrated FARDC units in Orientale, composed of approximately 6,000 soldiers, had become a major security threat.

In its comprehensive December report, *You Will Be Punished*, HRW detailed widespread attacks on civilians during Umoja Wetu and Kimia II in the Kivus. HRW documented the deliberate killing of at least 732 civilians, including 143 Rwandan Hutu refugees, by FARDC soldiers, often former CNDP members, engaged in anti-FDLR operations between January and September. The FDLR also killed numerous civilians during these operations (see subsection further below on FDLR abuses).

According to reports from HRW, the joint DRC-Rwanda operation resulted in 201 civilian deaths and other abuses. For example, according to the HRW report, in late February soldiers gathered residents of Ndorumo, North Kivu, by calling a meeting at a local school and subsequently shot and killed approximately 90 villagers, including women and children, reportedly for collaborating with the FDLR. In a similar operation, approximately 40 persons were killed during a February attack on residents of Byarenga, North Kivu, and there were smaller numbers of civilians killed in other incidents during these two months.

According to HRW, several of the victims and witnesses they interviewed "found it difficult, if not impossible, to distinguish Rwandan army soldiers from former CNDP combatants recently integrated into the FARDC, who played an important role in the operation." The HRW report, citing a 2008 UNGOE report, noted that "soldiers of both armies often wore identical camouflage uniforms and that Rwandan army soldiers had Rwandan flags on their uniform sleeves. In some cases former CNDP combatants had the same army uniforms, although they usually removed the Rwandan flag."

The Rwandan government denied that RDF soldiers had participated in any killing of civilians in the DRC. Neither Congolese nor Rwandan authorities had taken any steps to investigate or prosecute any soldiers allegedly involved in either incident by year's end.

During the year there were several reports of attacks against Rwandan Hutu refugees. The most severe attack occurred in the Masisi Territory town of Shalio, North Kivu. According to the UNJHRO and UNSRESAE Alston, in and around Shalio, FARDC soldiers shot and beat to death at least 50 Rwandan refugees between April 27 and April 29 while conducting an operation against the FDLR. (HRW reported that the soldiers killed 129 refugees.) On April 27, FARDC soldiers, many of whom were reportedly ex-CNDP members, attacked a makeshift camp of Rwandan Hutu refugees in Shalio. According to interviews by HRW with survivors and soldiers who were present during the attack, the soldiers, who were under the command of Lieutenant Colonel Innocent Zimurinda, surrounded the camp and shot, mutilated, and clubbed to death at least 50 refugees, mostly women and children, and then burned the camp to the ground. Women and girls, some of whom were later killed, were raped during the attack.

The FARDC soldiers then abducted approximately 40 women from the camp and took them to nearby Busurungi, where they were kept as sex slaves. The FDLR retaliated with an attack on Busurungi, where they killed 96 persons (see

subsection further below on FDLR abuses). According to UNSRESAE Alston, 10 of the women who escaped the FARDC attack described being gang-raped and had severe injuries; some had chunks of their breasts hacked off. (It was not known what happened to the other 30 women.) According to HRW, in the days that followed, the FARDC soldiers also attacked the nearby towns of Biriko, where they beat 46 refugees to death with wooden clubs and shot three men who tried to flee; Bunyarwanda, where they killed at least 15 refugees; and Marok, where they killed at least 15 civilians.

Neither Congolese authorities nor MONUC had undertaken an investigation into the Shalio killings by year's end, according to HRW. However, according to interviews with soldiers by HRW, Zimurinda, who was responsible for the FARDC's 231st Integrated Brigade, directly ordered the soldiers to kill all individuals taken by their forces, including refugees. Zimurinda reportedly ordered an intelligence officer, Captain Jules Hareremana of Battalion 2312, to lead the attack on the refugee camps after a major with the same battalion was unwilling to carry it out. The UNGOE and UNSRESAE Alston also indicated there was evidence that Zimurinda bore responsibility.

In early August, FARDC soldiers, mainly ex-CNDP members, reportedly attacked five hamlets around Mashango hill in the Nyabiondo-Pinga area, killing at least 81 civilians. According to witnesses interviewed by HRW, only one of the hamlets housed APCLS combatants, while the others housed only civilians. However, the attacking FARDC soldiers "made no distinction between the two," killing civilians by decapitating them, chopping some victims with a machete, clubbing others to death, or shooting them as they tried to flee, according to HRW. The victims included 30 women, 12 children, and five elderly men.

HRW also reported that FARDC soldiers "randomly but repeatedly killed civilians" as they encountered them on roads and footpaths or while passing through villages or towns on their way to or from military operations against the FDLR and the APCLS militia in the Nyabiondo-Pinga area of North Kivu. HRW received credible information from local authorities and eyewitnesses about 139 civilians killed in such incidents between March and September. HRW concluded that the widespread nature of the killings over many months indicated that FARDC soldiers "perceived the local population of this area as collaborators of the FDLR and APCLS militia and sought to punish them." In addition, a former CNDP officer integrated into the FARDC told HRW that the operations in the Nyabiondo-Pinga area were intended to "kill civilians and terrorize the Hunde and Hutu population" so that the land would be cleared for the return of Congolese Tutsi coming back from Rwanda to resettle in the DRC.

In November MONUC announced that it would suspend logistical support for the FARDC's 213th Brigade after a MONUC investigation found that it was implicated in the killing of at least 62 civilians between May and September, during its participation in Kimia II, in the Lukweti area near Nyabiondo, North Kivu. Investigations by human rights organizations indicated as many as 270 may have been killed during this period. MONUC ceased all support for this brigade and was monitoring disciplinary action against the accused perpetrators that was reportedly underway within the FARDC; no additional information was available.

On July 15, men in FARDC uniforms reportedly killed an employee of Secours Catholique-Caritasa, an international human rights and humanitarian organization, in Musezero, North Kivu. According to the NGO, villagers reported seeing two men in FARDC uniforms stop the employee before shooting him. While Caritas demanded that military authorities investigate the killing, there were no reports of an investigation as of year's end.

Between December 17 and 28, fighting between FARDC soldiers resulted in the deaths of at least 19 civilians in villages in Masisi Territory, North Kivu. At the beginning of December, more than 150 ex-CNDP rebels, led by Colonel Emmanuel Sengiyumva, deserted from the ranks of the FARDC. On December 17-18, 15 civilians, including women and children, were killed while FARDC soldiers chased ex-CNDP deserters.

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

Following the November 2008 arrest of 24 FARDC soldiers by the military prosecutor in Goma, there were no further developments regarding the serious abuses they allegedly committed against the local populations in October 2008, including the killing of nine civilians, the rape of three girls, and the pillaging of numerous homes, stores, and restaurants.

There was no reported action taken against the FARDC gunman or any of the soldiers accused of involvement in the 2007 shooting death of a Senegalese peacekeeper.

There were no reports of authorities taking any action against two FARDC corporals of the 24th Integrated Battalion, who the Office of the Military Prosecutor determined were responsible for the 2007 arbitrary execution of two civilians in Beni, North Kivu.

Authorities took no action in the case of a FARDC soldier of the 7th Integrated Brigade who allegedly shot and killed a civilian in Kabaya, North Kivu, following an argument in 2007.

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

FARDC soldiers engaged in anti-FDLR operations often arbitrarily arrested civilians whom they suspected of being collaborators or sympathizers of the FDLR and detained them without charge for days or weeks, often beating them and demanding payment for their release. HRW documented more than 160 such cases between January and September in the Kivus.

According to HRW, it received reports of civilians who alleged that, during the Umoja Wetu operation, they were arrested arbitrarily in the DRC by security personnel, some of whom then changed into Rwandan army uniforms before taking them across the border to Rwanda. All reported being returned to the DRC after being held for a period of up to 17 days. There was no other independent confirmation of these reports. Neither Congolese nor Rwandan authorities had taken any steps to investigate or prosecute any soldiers allegedly involved in such incidents as of year's end.

On May 15, FARDC soldiers deployed to Kanyola, South Kivu, allegedly forced civilians from Walungu village, South Kivu, to carry their belongings on the road from Nkokwe to Hombo. The soldiers beat the men each time they tried to rest. Two civilians died of exhaustion and mistreatment.

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

Despite receiving a formal complaint from victims, the Office of the Military Prosecutor in Kalemie, Katanga, took no action against 25 FARDC soldiers of the 67th Integrated Brigade, who subjected 92 civilians in the village of Kahese, Katanga, to cruel, inhuman, and degrading treatment as well as extortion in 2007.

Authorities took no action against the ANR for arbitrarily arresting four individuals in 2007 in Goma, North Kivu, for allegedly collaborating with the CNDP.

Rape by members of security forces remained a serious problem, and perpetrators enjoyed almost total impunity. According to a December report by HRW, in North Kivu, in 349 of the 639 sexual violence cases documented by HRW, the victim or other witnesses clearly identified the perpetrators as government soldiers.

According to HRW, in January newly integrated ex-CNDP FARDC soldiers violently raped and beat a rape counselor in South Kivu after accusing her of denouncing them and reporting on the rapes.

On March 11, a FARDC soldier from the 17th Integrated Brigade raped a 10-year-old boy in Walungu, South Kivu. The soldier's commander subsequently arrested him and transferred him to the military prosecutor's office in Bukavu, where he remained in detention pending the outcome of an investigation. No additional information was available.

On June 13, several FARDC soldiers in Nyamilima, North Kivu, allegedly raped eight women and five minors during a riot protesting a delay in the payment of their salary, according to the UNJHRO.

Authorities took no action against a FARDC soldier of the 14th Integrated Brigade, who in July 2008 arrested and raped a woman suspected of collaborating with the FDLR, according to the UNJHRO. The commanding officer of the perpetrator offered the victim 5,000 Congolese francs (approximately \$5.60) in 2008 to settle the matter.

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

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

Authorities took no action against FARDC soldiers of the 2nd Integrated Brigade of Vuyinga, North Kivu, who committed a series of rapes in 2007.

The use and treatment of child soldiers by FARDC elements remained problems. There were several reports of child recruitment during the year by not only nonintegrated FARDC brigades but also recently integrated brigades composed mainly of ex-CNDP members, as well as previously integrated FARDC brigades. The UNGOE reported in November to the UN Security Council that, from November 2008 to October 2009, it documented 623 cases of child recruitment attributable to the FARDC or to ex-CNDP elements of the FARDC. The UNGOE expressed concern that ex-CNDP officers in FARDC units in the east "repeatedly and deliberately obstructed MONUC from repatriating foreign fighters from their ranks." Sometimes the obstruction involved death threats. Identifying the instances as potential violations of a UN sanctions regime, the group reported that the acts of obstruction occurred most often under the command of colonels and lieutenant colonels, including Baudouin Ngaruye, Innocent Zimurinda, Antoine Manzi, a lieutenant colonel Bisamaza, and Salumu Mulenda. For example, Lieutenant Colonel Zimurinda threatened MONUC personnel who were attempting to conduct activities related to disarmament, demobilization, reintegration, repatriation, and reinsertion in the North Kivu town of Ngungu and ordered his soldiers to raise their weapons against MONUC staff. In Walikale, North Kivu, Lieutenant Colonel Manzi threatened to use force against MONUC.

The group said it had received several reports of continued attempts by CNDP-related networks to recruit individuals into FARDC units controlled by ex-CNDP officers. It also noted that it had received information of recruitment in Rwanda of combatants through the Bwindi border area between Uganda and the DRC.

MONUC Child Protection expressed concern about frequent reports of the prolonged detention of children at detention centers following their separation from armed groups. The group noted that this practice often involved the interrogation of children and inhumane treatment.

Government security forces in the east continued to force men, women, and children, including IDPs, to serve as porters, mine workers, and domestic laborers.

According to the UNGOE, FARDC units composed of mainly ex-CNDP members forcibly displaced large numbers of civilians from land in the Mushake zone of Masisi Territory, North Kivu, in order to find grazing areas for cattle being brought in from Rwanda. During the period of Kimia II operations, several thousand persons, either refugees from camps in Rwanda, economic migrants from Rwanda, or IDPs from other areas in the DRC, trickled back to reoccupy contested land in the Kivus, exacerbating ethnic and land-based tensions among local communities.

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

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

Armed groups maintained and recruited child soldiers, including by force, sometimes from schools and churches, and sometimes killed, threatened, and harassed humanitarian workers. In March seven UN special rapporteurs and representatives collectively reported that Mai-Mai groups held the highest number of children in their ranks, followed by the CNDP, the latter of which was integrated into the FARDC at the beginning of the year. According to the December 2008 report by the UNGOE, the most active commanders responsible for recruitment of child soldiers belonged to the CNDP (Innocent Kabundi, Sultani Makenga, Nkunda, and Ntaganda) and PARECO (its North Kivu commander, Mugabo).

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

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

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

In May 2008 Belgian authorities arrested former vice president Bemba, who was transferred in July 2008 to the ICC in The Hague to face four counts of war crimes and two counts of crimes against humanity for alleged actions in the Central African Republic in 2002-03. He remained in pretrial custody at year's end.

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

In January Rwandan officials arrested General Laurent Nkunda, who remained in Rwandan custody at year's end, and CNDP chief of staff General Bosco Ntaganda became the leader of the CNDP. On January 16, the government and the CNDP announced an alliance, and Ntaganda agreed to rapidly integrate the CNDP into the FARDC. In addition the CNDP agreed to transform itself into a political movement. Integration of the CNDP into the FARDC was uneven, with large numbers of the CNDP continuing to operate within their old command and control structures. This ambiguous and incomplete integration contributed to impunity within the CNDP.

No action was taken against CNDP combatants for any of the following alleged human rights abuses, all of which were committed prior to the CNDP's integration into the FARDC in 2009: arbitrary execution in January 2008 by CNDP elements of at least 30 civilians in the vicinity of Kalonge, North Kivu; abduction of 15 civilians from Kitchanga, North Kivu, and related abuses by 15 CNDP combatants in January 2008; the arbitrary arrest, illegal detention, and beating of four civilians in Karuba, North Kivu, by CNDP elements in April 2008; the summary execution of three children by CNDP colonel Sultani Makenga during August and September 2008; the killing of an Italian aid worker in December 2008 by an

unidentified armed group in CNDP-held territory in Rutshuru, North Kivu; or the December 2008 cases of aggressive and forcible recruitment of children by the CNDP for use as combatants, bodyguards, and porters.

In September the UNJHRO released an investigative report on the deaths of civilians during and following the November 2008 fighting in the North Kivu town of Kiwanja between CNDP and local Mai-Mai combatants. The UNJHRO concluded that, after the intense fighting between Mai-Mai combatants and the CNDP had ended and the Mai-Mai had retreated from Kiwanja, CNDP elements conducted targeted reprisal killings of the villagers, mainly young men whom they suspected of belonging to or supporting the Mai-Mai. The UNJHRO confirmed 67 arbitrary executions perpetrated by the CNDP. However, unconfirmed allegations received by UNJHRO human rights officers suggested that the number of victims could be much higher. (Other human rights groups reported in 2008 that as many as 200 civilians may have been killed during and after the fighting between CNDP and Mai-Mai combatants.) In addition the UNJHRO received testimonies alleging that the CNDP burned homes and a police station, raped a woman, arbitrarily arrested and detained civilians, abducted 23 men and boys to forcibly recruit them as combatants, and dismantled camps for IDPs in and around Kiwanja after the CNDP took over local administration. The UNJHRO also received allegations of abuses by other armed groups in Kiwanja (see subsections further below on abuses by the Mai-Mai and FDLR) and offered conclusions and recommendations regarding MONUC military personnel stationed in Kiwanja during the events (see section 5).

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

The FDLR continued to be led by individuals responsible for fomenting and implementing the Rwandan genocide. Between 6,000 and 8,000 FDLR fighters remained in the provinces of North and South Kivu. According to MONUC, 1,522 FDLR combatants opted to voluntarily demobilize and return to Rwanda during the year.

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

While being pursued by the RDF and FARDC on January 25-27, FDLR forces in Masisi Territory (North Kivu) blocked village roads and killed those who tried to flee. FDLR combatants also abducted scores of civilians as hostages, seemingly for use as "human shields" against the impending attack; however, when the hostages tried to escape as Umoja Wetu forces began attacking the FDLR's Kibua headquarters on January 27, FDLR combatants shot and hacked to death many of them.

During the year the FDLR committed a number of mass killings. For example, on April 12, the FDLR attacked the Mianga village in the Waloaluanda area. According to HRW, FDLR attackers decapitated the local chief and killed three other local authorities whom they accused of collaborating with the FARDC. Over the days that followed, the FDLR deliberately killed a further 41 civilians, injured many others, and then burned the village to the ground.

On May 10, machete-wielding FDLR combatants shot, hacked, and burned to death at least 96 civilians, including 25 children, in Busurungi, Waloaluanda (North Kivu), largely in retaliation for the killing of Rwandan Hutu refugees by FARDC soldiers at Shalio two weeks before. The FDLR attackers then destroyed Busurungi, burning to the ground 702 houses, three health centers, and several schools and churches, according to HRW.

Between January and September 2009, the FDLR destroyed at least 7,051 homes and other structures and perpetrated 290 cases of sexual violence in North and South Kivu in areas affected by military operations. According to HRW, on

March 25, in the Ziralo area of Kalehe Territory, seven FDLR combatants gang-raped a 60-year-old woman. When her daughter resisted being raped, the attackers shot and killed her.

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

According to the November report by the UNGOE, there was strong evidence that "the FDLR continues to benefit from residual but significant support from top commanders of the FARDC, particularly those officers in the 10th military region (South Kivu)." The UNGOE also found that there was "continued diversion of FARDC military equipment to nongovernmental armed groups, notably the FDLR."

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

On November 17, authorities in Germany arrested the FDLR president, Ignace Murwanashyaka, and his deputy, Straton Musoni, for their role in alleged war crimes and crimes against humanity committed by FDLR forces under their command in eastern Congo between January 2008 and July 2009.

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

#### Ituri District Militia Groups

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

On March 31, the Popular Front for Justice in the Congo (FPJC), which splintered from the FRPI in October 2008, attacked villages in the Irumu area of Ituri District, which was followed by a counterattack by FRPI fighters, leading to the displacement of thousands of civilians. On April 12-30, the FARDC, with logistical support from MONUC, conducted Operation Iron Stone in southern Irumu, during which it recaptured villages from the rebels. In July the FARDC conducted another operation against the FPJC, which led to further displacement of civilians and the suspension of five NGOs working in the area. By September further attacks by rebels had impeded access by humanitarian actors and increased the number of displaced persons by 75,000 over the preceding 12 months, according to a UN official.

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

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

The UNJHRO reported that in February 2008 authorities arrested Mathieu Ngudjolo, a former senior FNI commander, and transferred him to the ICC in The Hague. His war crimes and crimes against humanity charges included murder, sexual slavery, and using child soldiers in hostilities. At year's end he was awaiting trial.

During the year no action was taken against former Ituri warlord Bosco Ntaganda, for whom the ICC issued an arrest warrant in April 2008 for the enlistment, conscription, and active use of children in hostilities between 2002 and 2003. In January Ntaganda became the leader of the CNDP and, following an agreement with the government, a member of the FARDC.

During an ICC trial that opened on November 24, Mathieu Ngudjolo and Germain Katanga both pleaded not guilty to charges that they directed an attack in 2003 on a village where 200 civilians were killed. The trial continued at year's end. In 2007 the government transferred Germain Katanga, a former FRPI leader, to the ICC on various charges of war crimes and crimes against humanity, including killings, using child soldiers, and forcing women into sexual slavery.

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

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

#### Mai-Mai

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

Some Mai-Mai groups, including PARECO, were part of the March 23 agreement and were integrated into the FARDC during the year. However, other Mai-Mai groups remained outside the peace process, and some allied with the FDLR.

During the year various Mai-Mai groups continued to commit abuses against civilians, including the recruitment and use of children for use as soldiers. For example, in and around the isolated Walikale Territory town of Otobora, near the border separating North and South Kivu, a group of Mai-Mai known as the Kifuafua committed abuses, including rape and arbitrary arrest, of villagers in the area, often on the charge of collaborating with the FDLR. During July and August, the Mai-Mai Kifuafua, who claimed to protect inhabitants from FDLR elements in the nearby forests, allegedly raped 10 women, all of whom were going to their fields to extract palm oil, in or near the villages of Katatwa, Kilongote, Mifuti, and Nianga. Mai-Mai Kifuafua combatants also continued to maintain child soldiers in their ranks; collected "taxes" at illegal road barriers; cut down bridges across the nearby Luhoho river (reportedly to prevent FDLR attacks), which significantly reduced food security; and forcibly occupied homes and stole livestock from villagers. The group had agreed to integrate into the FARDC early in the year, but by October they remained unintegrated and expressed frustration over what they perceived as a failure of the integration process. There was no government presence in the area, and there were no credible efforts by the group's leaders to hold perpetrators accountable.

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

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

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

According to the UNJHRO, on June 3, the military tribunal of Kisangani convicted five Mai-Mai militiamen, including Colonel Thomas, who led the group, for crimes against humanity, including rape, in relation to the 2007 collective rape of 135 women in Lieke Lesole, Opala Territory, and sentenced them to 30 years' to life imprisonment. The court also ordered them to pay \$2,500 per victim of violence and \$10,000 per victim of rape for damages. They remained in prison at year's end.

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

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

MONUC officials said members of ADF/NALU, a Ugandan rebel group active in northern North Kivu Province, engaged in petty theft and extortion throughout the year.

Lord's Resistance Army (LRA)

The LRA, which relocated from Uganda to the DRC's Garamba National Park (Orientale Province) in 2005, was responsible for killing, raping, and kidnapping hundreds of persons in the DRC, Central African Republic, and Sudan as it continued to seek the overthrow of the Ugandan government. The LRA continued to hold children it had forcibly abducted.

Between September 2008 and June 2009, the LRA killed at least 1,200 persons, abducted an estimated 1,400, including 600 children and 400 women, and displaced a total of approximately 230,000 people in Orientale, according to a December report by the UNHCHR.

Rudia II, the FARDC-led operation against the LRA, was launched on March 26 in cooperation with the Ugandan People's Defense Forces and with logistical support from MONUC. LRA attacks continued throughout the year, resulting in executions, abductions, and sexual violence, although the level and intensity of the attacks decreased as the group fragmented into smaller units.

Between September and December, MONUC received reports that 83 civilians had been killed by the LRA, and in October humanitarian partners reported 21 LRA attacks in Haut and Bas Uele, Orientale. Local authorities reported an increase in "undisciplined behavior" by FARDC elements following the replacement of FARDC GR units with newly integrated FARDC units in the context of the Rudia II operations.

The UNSRESAE underlined that the international community had paid insufficient attention to the security needs of Orientale. He urged the development of more-timely reporting on major incidents and killings and expressed regret that the level of communication and outreach between MONUC and the local population in Orientale was inadequate. According to UNSRESAE Alston, "far more should have been done by the government and by MONUC to prioritize civilian protection in planning the military operations [Rudia II]."

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

The LRA continued to attack local villages and forced citizens to flee in Dungu Territory, Orientale. The UNHCR estimated that there were more than 296,600 internally displaced persons in the territory by late December.

#### Abuses by UN Peacekeepers

A number of sexual exploitation and abuse cases by MONUC peacekeepers were under investigation. However, the monthly rate of allegations had declined since 2005.

In August 2008 the United Nations Office of Internal Oversight Services made public the results of an investigation wherein it accused Indian peacekeepers posted in the DRC in 2007 and the first part of 2008 of child abuse, indulging in a child prostitution ring near Masisi, North Kivu Province, and helping to organize the ring. The Indian government promised its own thorough investigation and to bring to justice those found guilty. No additional information was available.

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

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

The law provides for freedom of speech and of the press; however, the government restricted these rights in practice. Although severe abuses against journalists and press organs decreased significantly from 2008, overall freedom of the press declined during the year. The government intimidated journalists and publishers into practicing self-censorship.

Following an assessment visit to the country in June, the UN special rapporteur on the situation of human rights defenders, Margaret Sekaggya, said journalists and other human rights defenders "face illegitimate restrictions of their right to core freedoms—freedoms of opinion and expression" and underlined that the country's "defenders, in particular journalists, who report on human rights abuses committed by state and nonstate actors are killed, threatened, tortured, or arbitrarily arrested and their offices raided." In a report to the UNHRC with six other UN special rapporteurs and representatives in March, Sekaggya urged the government to adopt two pending bills that would contribute to the better exercise of the right of freedom of opinion and decriminalize press offenses.

Generally individuals could privately criticize the government, its officials, and private citizens without being subject to official reprisals. However, on June 3, ANR agents arrested Patrick Mukengeshay, director of Radio Television Amazone in Kananga, Kasai Orientale, for having broadcast a press statement by a human rights NGO alleging abuse of power by the ANR. He was questioned and held for six hours, then released without charge. Authorities took no action against the responsible ANR agents in Goma who, in February 2008, arbitrarily arrested, detained, and mistreated for several days a member of the Union for Democracy and Social Progress/Goma for discussing politics with local citizens.

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

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

network. The president's family also owned and operated television station Digital Congo. Political parties represented in the government could generally gain access to RTNC.

Security forces did not generally arrest or harass foreign journalists; however, during the year government authorities informed foreign journalists that the military code of justice (criminal penalties, including imprisonment) would be applied to any foreign journalists who committed press offenses, causing international journalists to express concern over their ability to report on sensitive subjects such as the conflict in the east and corruption.

Security forces arrested, harassed, intimidated, and beat local journalists because of their reporting. In its annual report on press freedom, domestic media watchdog Journalist in Danger (JED) documented 17 cases of assault against journalists during the year, which represented a significant decrease in the number of attacks on journalists compared with 2008. On March 3, a dozen police officers beat Kathy Katayi, a reporter for Radio Okapi in Kananga, Kasai Occidental, and shoved her to the ground. Authorities had not taken action as of year's end.

On August 7, an ANR agent assaulted Paulin Munanga, a Radio Okapi reporter in Lubumbashi, while Munanga was covering a demonstration by human rights activists and confiscated his belongings. His belongings were later recovered at the provincial governorate office. There were no reports that either Munanga or his assailant was arrested; no additional information was available.

JED documented 23 cases of journalists being arrested or detained during the course of their work. For example, on March 15, police arrested Coco Tanda and representatives of local NGOs for having organized a march and a sit-in to protest what they perceived as the forced resignation of National Assembly President Vital Kamerhe. Tanda was held for 48 hours before being released.

During the year several journalists received anonymous threats. For example, on September 9, in Bukavu, two female journalists for Radio Okapi received death threats from SMS, while another female Bukavu journalist for Radio Maendeleo was also named as a target. Jeff Saile, editor of the Kinshasa weekly *Le Barometre*, received a death threat directed at his entire family after publishing an article on alleged embezzling in the finance ministry.

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

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

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

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

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

original trial; in 2007 the alleged gunmen recanted their accusations against Maheshe's friends, claiming the military court had bribed them to make the accusation.

Popol Ntula Vita, a reporter for the weekly *La Cite Africaine*, reappeared in Kinshasa after an out-of-court settlement was reached with the employees in Bomahe, whom he had accused of embezzlement.

No action was taken against the local police chief for the 2007 beating of reporter Nelson Thamba of Community Radio Moanda.

The three men in police uniforms who shot RTNC broadcast journalist Anne-Marie Kalanga and her brother in 2007 were arrested and remained in prison.

Military authorities took no action against security forces responsible for the abuse of journalists in 2007.

The National Media Regulatory Commission, a quasigovernmental organization mandated by the earlier transitional constitution, continued to operate in the absence of a successor body. A law establishing a permanent agency was signed by President Kabila on December 31.

In its end-of-year report, JED criticized the minister of media and communications, whose statements were "barely veiled threats" against the press, while his decision to cut off the signal of Radio France International throughout the country and insist that international journalists be subject to the penal code were not supportive of press freedom. Jed also identified the ANR as "the most repressive agency against press freedom," as it accounted for 26 of the report's 75 documented incidents of attacks against the press.

In September 2008 Communications and Media Minister Emile Bongeli signed a decree shutting down five Kinshasa television stations for failing to submit administrative documents required by the press law. The decree banned Africa TV, Couleurs TV, Radio Lisanga TV, Business Radio Television-Africa, and Canal 5. JED charged that the decree provided no legitimate reason for closing the stations and that the ban was issued to silence the opposition. Africa TV and Couleurs TV were owned by opposition figures Azarias Ruberwa and Zahidi Ngoma, respectively. Radio Lisanga TV was owned by opposition Senator Roger Lumbala. Later in the month, the communications minister reauthorized all the stations except Canal 5 to recommence broadcasting. No additional information was available.

During 2008 national and provincial governments continued to use criminal defamation and insult laws to intimidate and punish those critical of the government.

JED documented 16 cases of sanctions and 12 incidents of censorship during the year. For example, during coverage of the controversy in March over National Assembly president Kamerhe, there was a temporary interruption of broadcasts by multiple channels as well as harassment of newspaper street vendors by police.

In its annual report on press freedom, JED recorded one killing of a journalist by unknown persons and 17 cases of threats or harassment during the year.

On August 22, Bruno Koko Chirambiza, a journalist with Radio Star in Bukavu, was killed by bandits while on his way home from a wedding. His friend, who was present during the attack and escaped unharmed, was arrested. The trial began on December 30.

In November 2008 unknown assailants in Bukavu shot and killed Didace Namujimbo, a journalist for Radio Okapi. According to BVES, three suspects had been arrested and detained in Bukavu prison, but local authorities had not set a trial date.

In May 2008 PARECO leader Captain Ndaliko warned a journalist with RTNC's local affiliate in North Kivu that "I will kill you before the International Criminal Court arrests us," according to JED. In April 2008 RTNC had broadcast an interview with three child soldiers, who had fled from PARECO forces in Kirumba, North Kivu.

There were no developments in the 2007 killing by unidentified armed men of independent reporter and photographer Patrick Kikuku in Goma, North Kivu.

According to JED's annual report on press freedom, there were 31.8 percent fewer press freedom abuses, such as murder, assault, arbitrary arrest and detention, threats, and illegal sanctions or censorship, during the year than in 2008. Despite the decrease in abuses, JED did not observe an improvement in the overall state of press freedom or content of press reports. The NGO underlined that forces working to restrict press freedom have become more subtle and more effective while "methods of repression have become softer," leading journalists to increasingly resort to self-censorship. Following a series of killings of journalists since 2005, journalists have become afraid to address in a professional manner certain difficult or sensitive topics, such as the war in the east and corruption. In addition JED emphasized that economic and political pressure restricted press freedom and expressed concern about the continuing trend of politicians and government officials hiring journalists as advisors.

During the year radio journalists, particularly those in Bukavu, South Kivu, continued to fear for their safety. Journalists often received anonymous death threats from callers, and many journalists continued to be concerned by the lack of serious investigation and judicial action by authorities against the perpetrators responsible for multiple journalist killings since 2005. Many journalists said they expected harassment would continue and possibly worsen as the 2011 elections drew nearer. The Congolese Union of Press Journalists encouraged journalists to follow specific safety precautions for working after dark and was establishing a safe house for journalists who were required to work in the evening.

#### Internet Freedom

The government did not restrict access to the Internet or monitor e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Private entrepreneurs made Internet access available at moderate prices through Internet cafes in large cities throughout the country.

#### Academic Freedom and Cultural Events

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

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

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

The government required organizers of public events to register with local authorities in advance; to deny authorization, authorities must do so in writing within five days of being notified of the planned event. Security forces often acted against unregistered protests, marches, or meetings. For example, police prevented members and supporters of the Union for Democracy and Social Progress from holding a rally.

During 2008 security forces occasionally arrested demonstrators. For example, in February 2008 ANR agents arrested and briefly detained 30 persons following a demonstration at the central market in Kisangani, Orientale, according to the UNJHRO.

No action was taken against security forces responsible for the 2007 killings of demonstrators in Bas-Congo or the beatings of 11 journalists who accompanied the opposition demonstrators.

#### Freedom of Association

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

#### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice, provided that worshippers did not disturb public order or contradict commonly held morals.

The law provides for the establishment and operation of religious institutions and requires practicing religious groups to register with the government; however, unregistered religious groups operated unhindered. Registration requirements were simple and nondiscriminatory.

On the night of December 5-6, armed bandits in Kabare, South Kivu, killed a Catholic priest. Two days later two nuns were shot, one fatally. At year's end, authorities were investigating. There were indications that the killings could have been politically motivated, as the perpetrators did not steal anything.

There were no reports that persons were detained or imprisoned on the basis of their religion. However, the government continued to hold Father Masirika, a Catholic priest, in prison in Kinshasa without trial on charges of participating in an insurrection movement.

There was no investigation into the use of excessive force by security forces against the BDK in Bas-Congo in early 2008, where police reportedly killed at least 100 BDK adherents and razed BDK houses and temples (see section 1.a.).

#### Societal Abuses and Discrimination

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

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf](http://www.state.gov/g/drl/rls/irf).

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

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

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

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

There were reports of attempts by DGM officials to demand that foreigners not carrying passports during the year pay fines, even though the law does not require foreigners to do so.

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

The significant risk of rape by soldiers and armed groups, coupled with government inability to secure eastern territories, effectively restricted freedom of movement by women in many rural areas, particularly in the east.

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

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

#### Internally Displaced Persons (IDPs)

There were more than 2 million IDPs in the country, including 881,000 in North Kivu, 700,000 in South Kivu, and 444,000 in Orientale (see section 1.g.).

The government did not provide adequate protection or assistance to IDPs, who were forced to rely heavily on humanitarian organizations. The government generally allowed domestic and international humanitarian organizations to provide assistance to IDPs; however, lack of security and roads impeded their efforts. While the majority of IDPs in North Kivu stayed with relatives and friends, tens of thousands stayed in 70 "spontaneous" IDP sites and 16 IDP camps managed by international NGOs and coordinated by the UNHCR. An estimated 120,000 IDPs lived in churches and schools. Displaced women and children were extremely vulnerable to abuses by armed groups, including rape and forced recruitment.

In mid-September there was a sudden exodus of between 58,000 and 65,000 residents of six IDP camps in and around Goma, North Kivu, into Masisi Territory, North Kivu. A foreign assistance agency conducted a study of the mass departures and determined that a variety of factors were responsible. There were reports of excessive use of violence and the violation of humanitarian principles during the camps' closure. Some IDPs claimed that government agents pressured them to depart and cited cuts in their food rations. Other IDPs, as well as the government and UNHCR, cited the start of the school year, the coming rainy season, improved security in their zones of origin, and fears that their land would be confiscated as reasons for the exodus. The sudden camp closures damaged relations among the North Kivu government, humanitarian organizations, and displaced populations. While some of the IDPs returned to secure environments and received assistance, others stayed in transit sites and with host families.

IDPs in North Kivu were victims of abuses by all factions engaged in fighting, including the FARDC, and by other civilians. Abuses in camps around Goma included killings and death threats, particularly by demobilized fighters, as well as abduction and rape. According to UNICEF, one third of the more than 1,100 women and girls raped per month in the east were in North Kivu, the majority of them IDPs. Some IDPs were also reportedly subjected to forced labor (see section 1.g.).

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government had established a rudimentary system for providing protection to refugees. In practice it granted refugee and asylum status to individuals as necessary and provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government provided temporary protection to an undetermined number of individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers with welfare and safety needs. The government provided assistance in enabling the safe, voluntary return of refugees to their homes by allowing their entry into the country and facilitating their passage through the immigration system.

From January to November, Angola expelled 85,000 illegal Congolese immigrants to Bas-Congo. Starting in June the number of persons expelled into Bas-Congo gradually increased and reached a peak of 3,000 a day between late September and early October. The DRC government retaliated by expelling 30,000 Angolans, many of whom had refugee status. MONUC verified that DRC authorities conducted their expulsions peacefully. However, expelled Congolese entering the DRC reported Angolan security forces committed abuses against them.

Government authorities did not provide adequate security to refugees.

Unlike in the previous year, there were no reports that CNDP elements recruited children from refugee camps in Rwanda to be used as combatants or forced laborers in the east, according to representatives of MONUC, the UNHCR, and local and international NGOs.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through credible presidential, parliamentary, and provincial elections based on universal suffrage. Presidential and parliamentary elections in June 2006 and a presidential runoff in October 2006 were judged to be credible by the Carter Center and the EU Observer Mission.

#### Elections and Political Participation

In Equateur, the country's political opposition coalition lost its only governorship in an election by members of the Equateur provincial assembly in November. Provincial assembly members elected a candidate aligned with the central government's coalition; the opposition alleged that the ruling party bribed voters.

The 11 new provincial assemblies chose 108 candidates for five-year terms in the national Senate in 2007. The elections took place peacefully but were marred by credible allegations of vote buying.

According to the UN secretary-general's December report to the UN Security Council, during the year the Senate nominated two members to participate in an ad hoc committee to develop recommendations on constitutional reforms. The committee was allegedly to review the duration and number of presidential terms, as well as provisions pertaining to the decentralization process and the judiciary. Several NGOs and foreign diplomats expressed concern over the possibility that the committee would approve, under executive branch pressure or guidance, constitutional revisions that would, in effect, increase executive powers. Other sources in parliament and government dismissed these reports as rumors, saying that the committee was charged primarily with examining the technical issues of decentralization. As of year's end, there was no further action on this issue and no additional information.

In September, in preparation for planned local elections, the Independent Electoral Commission (CEI) completed the first round of voter registration updates for Kinshasa, issuing an estimated 1.4 million new voter cards. However, a similar process for the country's other 10 provinces continued to be delayed, as the government had not yet disseminated to the CEI the official list of constituencies for the local elections or provided funding. In December the UN secretary-general reported to the UN Security Council that such delays cast doubt over whether national elections, scheduled for 2011, could be held as planned. In addition, according to other sources, due to a change in the voter registration methodology, it was determined that the CEI would need to conduct another round of voter registration in Kinshasa. Based on new

methodology adopted by the CEI in December, voter cards issued for the 2006 elections would no longer be valid and would need to be replaced.

In December President Kabila announced that local elections, originally scheduled to be held in 2008, would be delayed until February 2011 due to logistical challenges and would be followed by presidential and legislative elections later in 2011. Some observers expressed concern over the government's capacity, even with international assistance, to ensure the orderliness and credibility of multiple polls in a single year. In addition, uncertainty remained over the decentralization process. Parliament passed the decentralization law, but other crucial pieces of legislation to support the decentralization process were pending, preventing the CEI from proceeding with voter registration.

During the year press reports indicated that the government had begun exerting pressure on MONUC and the UN Security Council to withdraw the peacekeeping force from the country prior to the 2011 national elections. According to the UN secretary-general's December report to the UN Security Council, President Kabila requested the UN to submit a proposal, including a calendar, for the progressive drawdown of MONUC, preferably starting by June 30, 2010, based on the evolution of the security situation. The calendar and the modalities of the drawdown would be mutually agreed between the government and the UN. UN officials, foreign diplomats, and NGOs expressed numerous concerns over the prospect of a premature MONUC withdraw. Some of the concerns related to whether, during an ongoing and fragile peace process, peaceful and credible national elections could be held without the kind of logistical and security assistance that MONUC provided for the national elections of 2006, the country's first democratic elections in more than 40 years.

A 2007 law on the status and rights of the political opposition recognizes opposition parties represented in parliament as well as those outside it and provides for their right to participate in political activities without fear of retribution. During the year political parties were able to operate most of the time without restriction or outside interference; however, there were notable exceptions. Opposition members were sometimes harassed (see section 2.a.), and police prevented members and supporters of the Union for Democracy and Social Progress from holding a rally.

In March National Assembly president Vital Kamerhe, formerly a close ally of the president, resigned his leadership position after publicly criticizing President Kabila for not consulting the legislature before he made the decision to invite the Rwandan military into the country in January for a joint military operation against the FDLR. Some UN officials, foreign diplomats, and NGOs expressed concern that the resignation reflected a setback in the capacity of the legislature to counterbalance the executive branch, while others argued that it was done legally within the framework of the constitution.

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

Unlike in the previous year, there were no reports that security forces killed a member of the political opposition.

In their March report to the UNHRC, seven UN special rapporteurs and representatives expressed concern that, while the family code recognizes equality between spouses, it "effectively renders a married woman a minor under the guardianship of her husband," with one article stating that the wife must obey her husband, and that women remained underrepresented in the democratic institutions. Between 2005 and 2008 the proportion of seats held by women in parliament decreased from 12 percent to 8 percent. Women held 42 of 500 seats in the National Assembly and 47 of 690 seats in the provincial assemblies. Five of the 108 senators were women. Among the 45 government ministers and vice ministers, five were women.

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

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

#### Section 4 Official Corruption and Government Transparency

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

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

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

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

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

During the year a government-initiated review of 61 mining contracts negotiated from 1997 to 2002 continued to be plagued by both numerous delays and a lack of transparency. In December 2008 the government reached new agreements with all but six of the companies under review, and in November it formally announced the completion of the process. One company continued to negotiate its contract.

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

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

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

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

In February 2008 the country was accepted as a candidate in the Extractive Industries Transparency Initiative (EITI), an international voluntary initiative designed to improve governance by strengthening transparency in the extractive industries. To reach the validation stage of EITI, the country began the process of adopting and implementing various transparency principles by 2010.

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

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

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

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

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

Officials from the ministries of justice and human rights met with domestic NGOs and sometimes responded to their inquiries but took no other known action.

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

Domestic human rights NGOs were particularly vulnerable to harassment, arbitrary arrest and detention, and other abuses by security forces when reporting on--or supporting victims of--abuses by the FARDC and spotlighting the illegal exploitation of natural resources in the east. For example, on July 24, ANR agents in Katanga arbitrarily arrested and detained Golden Misabiko, president of the Katanga Province chapter of ASADHO, after ASADHO published a report implicating the provincial government in the illegal trade of uranium from the province's Shinkolobwe mine. Provincial authorities accused Misabiko of serious crimes, including defamation and threats against national security. Authorities detained Misabiko for two months in poor detention conditions despite appeals for release because of a preexisting heart condition. On September 21, a criminal court in the Katangan capital of Lubumbashi found Misabiko guilty, on the basis of limited evidence, of deliberately publishing false information and sentenced him to an eight-month suspended prison sentence followed by four months' confinement in the Kasapa central prison. Some observers expressed concerns about the fairness of the trial. Around the time of his sentencing, Misabiko fled and remained outside the country at year's end. An appeal was filed on his behalf.

On August 31, ANR agents arrested four members of the domestic NGO Friends of Nelson Mandela for the Defense of Human Rights (ANMDH), including its president, Robert Ilunga Numbi, on charges of rebellion, civil disobedience, and defamation following the publication of a communique in which Numbi condemned alleged inhumane working conditions in Bas-Congo Province; human rights organizations believed authorities arrested him because he criticized working conditions in a company owned by individuals with strong connections to the government. Authorities held Numbi for a month before granting him provisional release on October 1. As of year's end, he was awaiting trial. No additional information was available.

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

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

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

Authorities took no known action against the perpetrators of the cases from 2007 in which security forces arbitrarily arrested, detained, or abused human rights workers.

During the year domestic human rights NGOs, including one that identified and liberated child soldiers from FARDC units and armed groups, received death threats from unidentified individuals. For example, on December 24, seven members of local human rights NGOs and three members of the UNJHRO in Kalemie, Katanga, received anonymous telephoned death threats. MONUC offered to help investigate and urged the government to take all necessary action to ensure the security of human rights NGOs and MONUC staff.

The government generally cooperated with international NGOs that published reports on human rights and humanitarian issues and permitted their investigators access to conflict areas. During the year President Kabila met with a representative of HRW to discuss the country's human rights situation, and several ministers met with Global Witness to exchange ideas on means to curb illegal exploitation of natural resources. However, at a July 28 press conference, the minister of communication accused HRW, Global Witness, and the International Federation of Human Rights of trying to destabilize the country and called them "humanitarian terrorists."

The government did not take adequate steps to protect international human rights NGOs from violence or harassment in the east. In July men in FARDC uniforms killed an employee of an international human rights and humanitarian organization in North Kivu (see section 1.g.).

During the year unidentified armed men killed at least one employee of an international human rights and humanitarian NGO (see section 1.g.).

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

The government cooperated with multilateral organizations in many instances. However, there were some notable problems. While authorities continued to permit international humanitarian agencies access to conflict areas, authorities denied the agencies access to certain prisons located in these areas (see section 1.g.). They also continued to consistently deny UNJHRO officers access to detainees in facilities run by the ANR and the GR in numerous areas. In October authorities in Bas-Congo, including the governor, prevented the UN special rapporteur on extrajudicial killings from holding any meetings in Kisantu or speaking with any witnesses or victims of abuses committed by security forces in 2008. Police also detained the individual who had arranged meetings for the rapporteur, who lodged an official protest with the government. He was later released after the rapporteur returned to Bas-Congo on his behalf.

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

No action was taken against ANR agents, who in 2007 subjected two MONUC human rights officers in Uvira, South Kivu, to death threats, physical abuse, and expulsion during a joint monitoring visit to ANR holding cells.

Several senior UN officials visited the country during the year, including UN secretary-general Ban Ki-moon, UNSRESAE Alston, the special rapporteur on the situation of human rights defenders, Margaret Sekaggya, the special representative of the secretary-general for children and armed conflict, Radhika Coomaraswamy, the representative of the secretary-general on the human rights of IDPs, Walter Kalin, and a delegation of UN Security Council ambassadors.

UN officials freely criticized actions by the government during the year. In its March report to the UNHRC, a group of seven UN special rapporteurs and representatives expressed concern over the extent of impunity for abuses and made recommendations to the government regarding impunity, security sector reform, child soldiers, women's rights, illegal

exploitation of natural resources, the rights of displaced persons in relation to land disputes and elections, health care for marginalized groups, and the protection of human rights defenders (see sections 1.c., 1.d., 1.e., 1.g., 2.a., 2.d., 4, and 6).

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

Sekaggya urged the government to investigate and prosecute all abuses against human rights defenders and adopt national and provincial laws, in consultation with human rights NGOs, to protect human rights defenders. She added that the government should openly "give legitimacy to the work of human rights defenders, including women defenders, and acknowledge it as human rights work." Other recommendations for the government included sensitization training for police and public condemnations of all attacks on rights workers. Sekaggya also recommended that MONUC increase the staffing and financial capacity of its human rights offices, and said the international community should help the Human Rights Ministry's programs and assist it in reestablishing offices in the provinces.

In September the UNJHRO released an investigative report on the deaths of civilians during and following the November 2008 fighting in the North Kivu town of Kiwanja between CNDP and local Mai-Mai combatants. The UNJHRO concluded that the 120 MONUC military personnel who were stationed in Kiwanja at the time of the killings "were not aware of the nature or magnitude of the situation, due to language and cultural barriers or lack of effective communication with civil society leaders in Kiwanja." The report commended the MONUC contingent's efforts to evacuate humanitarian personnel while noting that MONUC was "strongly criticized for not having protected the civilian population." The report recommended further training of MONUC personnel, the formulation of clearer criteria for exactly when peacekeepers should intervene to protect civilians, better communication between the population and peacekeepers, and an enhanced understanding of the patterns of human rights abuses. However, the report concluded that "it is unclear whether any such response would have had the necessary dissuasive impact with regards to the CNDP...it is doubtful that MONUC would have had the capacity to protect those civilians who were arbitrarily or summarily executed by the CNDP."

The report also highlighted that, in response to lessons learned from the Kiwanja killings, MONUC's use of innovative protection tools, including the deployment of joint protection teams (JPTs) composed of UNJHRO and other UN specialists, had contributed to improved effectiveness in the area of protection (including in Kiwanja), in part by developing stronger human rights analysis and facilitating greater communication with the local population. It noted, however, the need to provide JPTs with additional civilian staff and greater training for civilian and military peacekeeping personnel in civilian protection.

In October, following his assessment visit to the country at the invitation of the government, UNSRESAE Alston criticized the government and MONUC, which provided logistical support to the FARDC in the east, for not doing more to prioritize the protection of civilians in planning two counterinsurgency operations during the year--Kimia II against the FDLR in the Kivus, and Rudia II against the LRA in Orientale. He detailed the humanitarian costs of Kimia II and concluded that "from a human rights perspective [Kimia II] has been catastrophic." He also criticized officials for preventing him from interviewing victims and witnesses of abuses allegedly committed by FARDC members in Bas-Congo between 2006 and 2008.

Alston criticized the UN Security Council's mandate for MONUC for having "transformed MONUC into a party to the conflict" in the Kivus, and creating "a conflict of interest in terms of [MONUC's] ability and willingness to investigate allegations of abuses by the FARDC or by its own forces." He further underlined "serious concerns about the measures the UN has taken to ensure that it is not implicated in the rights abuses being committed by its partners" (the FARDC). Noting that human rights reporting would always be seen by some as a hindrance to securing political reform, he also expressed concern over "the unavoidable tensions" that had developed since the UN decided in 2006 to place the UN human rights monitoring component in the country under the authority of a peacekeeping mission partly charged with securing political reforms. Alston recommended creating a new mechanism to ensure that the necessary human rights monitoring and reporting roles were improved and carried out effectively, independently, and credibly. He made other observations and recommendations regarding impunity for killings, the penal system, sexual violence, and corruption (see sections 1.a., 1.c., 1.d., 1.g., and 4).

A November report by the UNGOE presented evidence of abuses committed by government security forces and armed groups in the east, presented evidence that the government provided support for armed groups in the east, and made several recommendations, including some relating to the illegal exploitation of resources (see sections 1.g. and 4).

The government had not responded to several requests for information from various UN human rights monitoring bodies in the past. In addition, during the year the government replied to less than 7 percent of communications, including urgent appeals, from UN special procedures (rapporteurs and representatives), according to the UNHCHR. However, several members of the UPRWG commended the government for its cooperation with the UNHRC in the UPR process, including its submission of a report in September to the UNHRC following consultations with domestic NGOs. By year's end, the government had also established a multistakeholder national commission, including domestic NGOs, to follow up on recommendations made by the UPRWG.

During the UNHRC's UPR process, numerous domestic human rights NGOs and the government underlined the need to establish a national human rights commission.

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

During the year the government cooperated with the ICC, which continued investigations into war crimes and crimes against humanity committed in the country since 2003.

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

#### Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

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

#### Women

The law criminalizes rape, but the government did not effectively enforce this law, and rape was common throughout the country and especially pervasive in conflict areas in the east. According to the UN secretary-general's 27th report to the UN Security Council, more than 1,100 women and girls were raped each month in the east alone (see section 1.g.). The law on sexual violence, enacted in 2006, broadened the scope of the definition of rape to include male victims, sexual

slavery, sexual harassment, forced pregnancy, and other sexual crimes not previously covered by law. It also increased penalties for sexual violence, prohibits compromise fines and forced marriage, allows victims of sexual violence to waive appearance in court, and permits closed hearings to protect confidentiality. It raised the age of sexual consent to 18, although the family code establishes that girls can marry at the age of 14. The minimum penalty prescribed for rape is a prison sentence of five years.

Government security forces, armed groups, and civilians perpetrated widespread and sometimes mass rape against women and girls (see section 1.g.). On March 27, the UN secretary-general reported to the UN Security Council that members of armed groups, the FARDC, and the police were responsible for 81 percent of all reported cases of sexual violence in conflict zones and 24 percent in nonconflict areas. The majority of cases were reported in North and South Kivu. The report cited a "disturbing increase of police personnel involved as perpetrators, especially against women in detention." The UNFPA, the agency coordinating efforts against sexual violence in the country, estimated that 200,000 Congolese women and girls had become victims of sexual violence since 1998. The UNFPA reported that 15,996 new cases of sexual violence were registered in 2008 throughout the country, including 4,820 cases in North Kivu. The number of rapes committed during the year increased, according to UN officials, foreign diplomats, and NGOs (see section 1.g.).

Statistical information on rape, often based on information from the judiciary and from agencies providing services to victims, remained fragmented and incomplete. According to UN officials and NGOs such as HRW, it was likely that most statistics on sexual violence represented only a small percentage of the real total of rapes. Victims who were unable or too scared or ashamed to seek assistance were not likely to be counted. In May Nicola Dahrendorf, a former senior advisor and coordinator on sexual violence for MONUC, estimated that less than 50 percent of women who were raped had access to health centers.

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

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

Throughout the year, including in a report submitted in April to the UPRWG, the Women's Synergy for Victims of Sexual Violence (SFVS) and nine other North Kivu-based NGOs urged the government to modify an existing law that continued to make it extremely difficult for them to seek reparations for sexual violence. The law requires victims of sexual violence to pay the public treasury 15 percent of the amount of damages sought in advance of any judgment. According to SFVS, in the rare instances where reparations were awarded, defendants bribed judges, resulting in "lost" case files, effectively preventing the payment of reparations to victims. A group of special rapporteurs and representatives, including the UN special rapporteur on violence against women, mandated by the UNHRC to urgently examine the status of various rights in the country and provide technical assistance, reported in March that the government had been sentenced by multiple courts in the country to pay compensation to a number of women raped by state security agents; however, none of the rape survivors had received compensation.

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

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

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

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

Domestic violence against women occurred throughout the country; however, there were no statistics available regarding its extent. Although the law considers assault a crime, it does not specifically address spousal abuse, and police rarely intervened in domestic disputes. There were no reports of judicial authorities taking action in cases of domestic or spousal abuse.

The constitution prohibits forced prostitution and bans prostitution of children under age 18. Although no statistics were available regarding its prevalence, adult and child prostitution occurred throughout the country, and there were reports of women and girls pressured or forced to engage in prostitution by their families. There were reports that members of the security forces harassed or raped women engaged in prostitution.

Sexual harassment occurred throughout the country; however, no statistics existed regarding its prevalence. The 2006 sexual violence law prohibits sexual harassment, and the minimum penalty prescribed by law is a prison sentence of one to 20 years; however, there was no effective enforcement, and by the end of 2008 judicial authorities had yet to prosecute any cases.

The government respected the right of couples to decide freely and responsibly the number of children they would have and when they would have them. However, women's access to contraception remained extremely low, with only 6.7 percent of women using modern contraceptive methods. Women's access to treatment of sexually transmitted diseases, such as HIV, was not known. Recent studies did not disaggregate by gender, and the data were highly variable across geographic regions, reflecting variations in cultural norms and access to health-care services. The percentage of women seeking skilled medical assistance during child birth was high (74 percent).

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

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

Children

Although the government promulgated a child protection code in January, the government's commitment to and budget for children's welfare were inadequate.

The government did not register all births immediately. According to 2007 UNICEF data, 31 percent of children were registered at birth. However, UNICEF reported that following the government's adoption of a National Plan of Action on Birth Registration in March, child birth registration had increased in Kinshasa from 37 percent to 50 percent by June. The lack of registration did not affect access to government services, as birth registration was not a prerequisite for services.

In practice primary school education was not compulsory, free, or universal, and few functioning government-funded schools existed. Fighting that resumed in August 2008 in North Kivu between government and rebel forces resulted in the closure of approximately 85 percent of all schools in the area according to UNICEF. Public and private schools generally expected parents to contribute to teachers' salaries, and parents typically funded 80 to 90 percent of school expenses. These expenses, plus the potential loss of income or labor while their children attended class, left many parents unable to enroll their children.

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

Reports received by the UN during the year indicated that parents in conflict areas often prevented their children from going to school (where schools were functioning) because of fear that armed groups would forcibly recruit their children. The majority of schools in conflict zones were dilapidated and had been closed due to insecurity.

In a report released in February, the UNCRC welcomed the government's adoption on January 10 of the child protection code, which provides for the establishment of 180 juvenile tribunals. However, the UNCRC expressed concern over the capacity of the government to implement the code's provisions, particularly in the absence of an awareness raising campaign. The UNCRC urged the government to expedite implementation of child protection laws, increase investment in law enforcement training on child protection, adopt a comprehensive child protection action plan, establish a 24-hour child helpline as a tool for children to seek assistance and lodge complaints, establish a data base and coherent national programs for refugee and internally displaced children, and swiftly improve juvenile justice standards.

The law prohibits all forms of child abuse, but it appeared to be common. Although authorities made several arrests related to child abandonment and abuse during the year, no cases had been prosecuted by year's end.

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

The constitution prohibits parental abandonment of children for alleged sorcery; in practice such allegations led to abandonment and abuse. The 2009 Child Protection Law provides for a sentence of imprisonment for parents and other adults who accuse children of witchcraft.

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

In March a group of seven UN special rapporteurs and representatives mandated by the UNHRC to assess human rights in the country deemed it "alarming" that a significant percentage of the victims of sexual violence committed throughout the country were girls, and in some cases also boys. Their report to the UNHRC noted that, according to the UNFPA, of 15,996 new cases of sexual violence registered in 2008 throughout the country, 65 percent of victims were children. The report also underlined the role of civilians in child rape, including in conflict zones where a climate of near total impunity

persisted. For example, of the 2,893 cases of child rape reported in conflict-affected Ituri District, Orientale, between June 2007 and June 2008, UNICEF found that 42 percent of perpetrators were members of the security forces or armed groups and 58 percent were civilians. During the same period, of the almost 2,000 cases of child rape reported in North Kivu, 70 percent of the perpetrators were members of the security forces or armed groups and 30 percent were civilians.

All parties to the conflict in the east were involved in the use of child soldiers (see section 1.g.). During the year the UNCRC expressed concern that children continued to be tried in military courts for crimes allegedly committed while they were enrolled as child soldiers in armed groups.

The law prohibits marriage of girls under age 14 and boys under 18; however, marriages of girls as young as 13 took place. Dowry payments greatly contributed to underage marriage. In some cases parents married off a daughter against her will to collect a dowry or to finance a dowry for a son. The sexual violence law criminalizes forced marriage. It subjects parents to up to 12 years' hard labor and a fine of 92,500 Congolese francs (approximately \$103) for forcing a child to marry. The penalty doubles when the child is under the age of 15. There were no reports of prosecutions for forced marriage in 2008; no additional information was available.

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

There were an estimated 8.4 million orphans and vulnerable children in the country; 91 percent received no external support of any kind, and only 3 percent received medical support. The country's estimated 50,000 street children included many accused of witchcraft, child refugees, and war orphans, as well as children with homes and families. According to UNICEF, there were more than 18,000 street children in Kinshasa, of whom 26 percent were girls. Many churches in Kinshasa conducted exorcisms of children accused of witchcraft involving isolation, beating and whipping, starvation, and forced ingestion of purgatives. According to UNICEF, there was a practice of branding as witches children with disabilities or even speech impediments and learning disabilities; this practice sometimes resulted in parents abandoning their children. According to UNICEF, as many as 70 percent of the street children they worked with claimed to have been accused of witchcraft.

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

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

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

criminalize accusing children of witchcraft, bring to justice persons responsible for violence against children accused of sorcery, and take steps to recover and reintegrate children accused of witchcraft.

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

#### Trafficking in Persons

Several laws prohibited specific acts of trafficking in persons; however, there were credible reports of trafficking, particularly in the east. The laws that could be used to prosecute cases against traffickers included the 2006 law on sexual violence, which prohibits forced prostitution and sexual slavery, as well as legislation prohibiting slavery, rape, and child prostitution. The constitution forbids involuntary servitude and child soldiering; however, the laws do not prohibit all forms of trafficking.

The country was a source and destination country for men, women, and children trafficked for forced labor and sexual exploitation. There were reports of children prostituted in brothels or by loosely organized networks, some of whom were exploited by FARDC soldiers. Women and children were trafficked internally for domestic servitude and, in smaller numbers, to South Africa, the Republic of the Congo, and European countries, such as Norway, for sexual exploitation. No statistical information existed on the extent of adult or child prostitution. In February the UNCRC expressed concern over the continued trafficking and selling of children for sexual exploitation and economic exploitation, and, among other steps, it recommended that the government establish a system for collecting and disaggregating data on trafficking-related abuses.

MONUC and the NGO Save the Children estimated there were tens of thousands of children working in the mining sector, most often in extremely dangerous conditions as artisanal miners. According to UNICEF, 11 percent of children between the ages of four and 15 were involved in some form of exploitative and harmful child labor.

The majority of reported trafficking was conducted in the unstable eastern provinces by armed groups outside government control (see section 1.g.). Indigenous and foreign armed groups, including the FDLR, CNDP, various local militia (Mai-Mai), and the Uganda-linked LRA continued to abduct and forcibly recruit men, women, and children to serve as laborers (including in mines), porters, domestics, combatants, and sex slaves. In some instances elements of the FARDC detained men and women for temporary forced labor. During the year there were several reported cases of FARDC troops, mainly ex-CNDP soldiers in the FARDC, recruiting additional children and preventing UN child protection officers from accessing child soldiers in their ranks (see section 1.g.). Unlike in the previous year, there were no reports of recruitment by CNDP (or ex-CNDP) combatants of children from refugee camps in Rwanda.

According to the UNHCR, between September 2008 and June, the LRA abducted an estimated 1,400 individuals, mostly women and children, from the northeast.

All armed rebel groups in the east increased efforts to recruit children, especially children who were former child soldiers, to serve as soldiers and sex slaves, according to the NGO Save the Children (see section 1.g.).

The law specifically prohibits and provides penalties of 10 to 20 years' imprisonment for child and forced prostitution, pimping, and trafficking for sexual exploitation. The government's capacity to apprehend, convict, or imprison traffickers remained weak; however, unlike in the previous year, there were a few reported investigations or prosecutions of traffickers. For example, in March Bukavu police arrested a nightclub owner for allegedly prostituting 10 girls and seven boys in his facility; in June he was remanded to prison to await formal charges; no additional information was available at year's end. In addition in March the Kipushi Military Tribunal sentenced Kynugu Mutanga (aka Gedeon) to death for crimes against humanity, including illegal child conscription. Seven of his codefendants received sentences ranging from seven to 10 years' imprisonment for complicity in these crimes, 11 received lesser sentences, and five were acquitted.

Military authorities took no action against commanders who employed child soldiers. For example, Commander Jean-Pierre Biyoyo, formerly of the Mudundu-40 armed group and member of the FARDC and the first person convicted by the country's courts of conscripting children, had not been reapprehended since his escape from prison in 2006.

The Ministry of Justice was responsible for combating trafficking. Law enforcement authorities were rarely able to enforce existing laws due to lack of personnel, training, and funding and the limited accessibility of eastern areas of the country.

The government's antitrafficking programs were limited and lacked resources. However, under the National Disarmament, Demobilization, and Reintegration Program, ex-combatants, including child soldiers, passed through a common process during which they disarmed and received information about military and civilian reintegration options. During this process the National Demobilization Agency, in cooperation with MONUC, identified, separated out, and transported any identified children to NGO-run centers for temporary housing and vocational training. The DDR program, with support from UNICEF and other child protection agencies, demobilized 5,930 children, including 1,222 girls, from armed groups and the security forces during the year; it demobilized an estimated 5,000 children in 2008.

MONUC reported that it had facilitated the release of a total of 2,284 children from the armed groups between January and December. Between 2004 and November 2008 more than 31,000 children were released from the FARDC and armed groups. During the year the UNCRC expressed concern about the rerecruitment of children, due in part to insufficient reintegration support from earlier disarmament, demobilization, and reintegration processes.

In addition, in the east there were reports of certain FARDC units, comprised mainly of ex-CNDP soldiers, preventing UN officials from providing assistance to child soldiers in their ranks (see section 1.g.).

The Katanga provincial government also funded and operated a center for vulnerable children in Lubumbashi and worked with Save the Children, Solidarity Center, and other NGOs to direct children away from the mining sector and into formal education.

The government provided training to some police and military personnel on preventing sexual violence and child soldiering.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

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

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

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

#### National/Racial/Ethnic Minorities

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

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

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

Between October and November, in the South Ubangi District of Equateur, ethnic violence between the Banzaya and Enyele clans (both of the Lobala ethnic group) erupted over farming and fishing rights, triggering a humanitarian crisis. After the district government recognized a member of the Banzaya clan as interim tribal chief in the village of Dongo in June, members of the Enyele clan forced the government-recognized tribal chief to flee. When the chief returned several months later with an armed police escort, Enyele clan members reportedly killed approximately 45 police officers, which led to a deployment of FARDC soldiers to address the Enyele insurgency and stabilize the area. By year's end, the clashes had resulted in at least 100 civilian deaths, as many as 60,000 internally displaced persons, and more than 117,000 refugees, of whom 109,000 fled into the neighboring Republic of the Congo and 18,000 into the Central African Republic.

During the year the special adviser to the UNSG on the prevention of genocide expressed concern regarding the situation in North Kivu, including the risk of genocidal violence. The special adviser cited allegations and counter-allegations by various groups that genocide continued in the east and that this rhetoric had drastically increased tensions between ethnic communities. He concluded that the risk of individuals being targeted because of their ethnicity was pronounced, above and beyond other underlying causes of conflict.

#### Indigenous People

The country had a population of between 10,000 and 20,000 Pygmies (Twa, Mbuti, and others), believed to be the country's original inhabitants; the government did not effectively protect their civil and political rights, and societal discrimination against them continued. Most Pygmies took no part in the political process and continued to live in remote areas. During the year fighting in North Kivu between armed groups and government security forces caused displacement of some Pygmy populations.

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

No action was taken against PNC officers, who in 2007 arrested a Pygmy and subjected him to cruel, inhuman, and degrading treatment for no known reason.

In a report submitted in September to the UPRWG, a coalition of local NGOs expressed concerns over the exploitation of forestry resources that endangered Pygmies' way of life in the provinces of Equateur and Orientale, and over the social marginalization of Pygmies. In a separate report for the UPRWG, the UNHCHR cited past concerns expressed by the UN Committee on the Elimination of Racial Discrimination (CERD) over the lack of guarantees for the rights of Pygmies to own, exploit, control, and use their lands, resources, and communal territories. According to CERD, concessions were granted on the lands and territories of indigenous peoples without their prior permission or other input.

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

There are no known laws specifically prohibiting homosexuality or homosexual acts; however, individuals engaging in public displays of homosexuality were subject to prosecution under public decency provisions in the penal code and articles in the 2006 law on sexual violence. Homosexuality remained a cultural taboo, but there were no reports during the year of police harassing homosexuals or perpetrating or condoning violence against them. There were no reports during the year of official or societal discrimination based on sexual orientation in employment, housing, education, or health care.

### Other Societal Violence or Discrimination

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

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

### Section 7 Worker Rights

#### a. The Right of Association

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

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

The constitution provides for the right to strike, and workers sometimes exercised it. In small and medium-sized businesses, workers could not exercise this right effectively in practice. With an enormous unemployed labor pool, companies and shops could immediately replace any workers attempting to unionize, collectively bargain, or strike, and, according to the Solidarity Center, companies and shops did so during 2008. The law requires unions to have prior consent from the Ministry of Labor and to adhere to lengthy mandatory arbitration and appeal procedures before striking. The law prohibits employers and the government from retaliating against strikers; however, the government did not enforce this law in practice.

Unlike in 2008, there were no reports of the use of violence by security forces against unions. There were no developments concerning the March 2008 incident during which police in Katanga reportedly fired into a crowd and killed a boy during clashes with hundreds of artisanal miners.

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

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

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

There are no export processing zones.

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

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

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

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

Government security forces continued to force men, women, and children, including IDPs and prisoners, to serve as porters, mine workers, and domestic laborers (see sections 1.c., 1.g., 6, and 7.d.).

The military took no action against FARDC soldiers who used forced labor and abducted civilians for forced labor in 2009, 2008, or 2007.

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

Armed groups operating outside central government control subjected civilians, including children, to forced labor, including sexual slavery (see section 1.g.).

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

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

Although the minimum age for full-time employment without parental consent is 18, employers may legally hire minors between the ages of 15 and 18 with the consent of a parent or guardian. Those under age of 16 may work a maximum of four hours per day. All minors are restricted from transporting heavy items.

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

hours of domestic work or a child who was 12 to 14 years old performed at least 14 hours of economic activity or at least 28 hours of domestic work.

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

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

Child prostitution, including forced prostitution, was practiced throughout the country (see section 6).

According to a 2007 Save the Children report, approximately 12,000 children in Kasai Oriental were employed at 20 unlicensed diamond mining sites. The children excavated, transported, and washed dirt in search of diamonds. At mines near Tumpatu, Kasai Oriental, girls who were approximately 12 years old worked as prostitutes. According to the report, preteen children also worked digging tombs at the cemeteries for 500 to 1,000 Congolese francs (approximately \$.55 to \$1.10) per day and as dishwashers and guards at restaurants for 125 to 250 Congolese francs (approximately \$.14 to \$.28) per day. No action was taken against mine operators and supervisors.

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

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

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

During the year government officials participated in a tripartite dialogue on child labor in Katanga with unions, enterprises, and the ILO. The effort was part of an ILO program, conducted in cooperation with government officials, designed to withdraw children from industrial and artisanal mining, improve working conditions for diggers, and eradicate child labor.

In November the ILO recommended that the government focus on creating employment opportunities, strengthening the skills of women, enrolling children in school, and reducing the country's reliance on imports in order to bolster the fight against child labor.

e. Acceptable Conditions of Work

Employers in the informal sector often did not respect the legally required minimum wage of 500 Congolese (approximately \$0.55) per day. The average monthly wage did not provide a decent standard of living for a worker and family. Government salaries remained low, ranging from 25,000 to 55,000 Congolese francs (approximately \$28 to \$61) per month, and salary arrears were common in both the civil service and public enterprises (parastatals). More than 90 percent of laborers worked in subsistence agriculture, informal commerce or mining, or other informal pursuits.

The law defines different standard workweeks, ranging from 45 to 72 hours, for various jobs. The law also prescribes rest periods and premium pay for overtime, but employers often did not respect these provisions in practice. The law establishes no monitoring or enforcement mechanism, and businesses often ignored these standards in practice.

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

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