COUNTRY OF ORIGIN INFORMATION REPORT

THE DEMOCRATIC REPUBLIC OF CONGO

30 JUNE 2009

UK Border Agency
COUNTRY OF ORIGIN INFORMATION SERVICE

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Preface

i This Country of Origin Information Report (COI Report) has been produced by COI Service, United Kingdom Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 8 May 2009. The 'Latest News' section contains further brief information on events and reports accessed from 9 May 2009 to 30 June 2009. The report was issued on 30 June 2009.

ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any UKBA opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

iii The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

iv The structure and format of the COI Report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

v The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.

vi As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

viii This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the COI Service upon request.

ix COI Reports are published regularly on the top 20 asylum intake countries. COI Key Documents are produced on lower asylum intake countries according to operational need. UKBA officials also have constant access to an information request service for specific enquiries.

x In producing this COI Report, COI Service has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to UKBA as below.

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INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION

xi The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Chief Inspector of the UK Border Agency to make recommendations to him about the content of the UKBA's country of origin information material. The IAGCI welcomes feedback on UKBA's COI Reports, COI Key Documents and other country of origin information material. Information about the IAGCI's work can be found on the Chief Inspector's website at http://www.ociukba.homeoffice.gov.uk

xii In the course of its work, the IAGCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. A list of the COI Reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UKBA's COI material from September 2003 to October 2008) is available at http://www.ociukba.homeoffice.gov.uk/

xiii Please note: it is not the function of the IAGCI to endorse any UKBA material or procedures. Some of the material examined by the Group relates to countries designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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Latest News

EVENTS IN THE DEMOCRATIC REPUBLIC OF CONGO, FROM 9 MAY TO 30 JUNE 2009

25 June

"In Kinshasa from 23 June to 3 July 2009, the Ministry for Justice with the support of MONUC organised a workshop on the restructuring of the prison administration in the Democratic Republic of Congo (DRC). … MONUC's [UN Mission in the Democratic Republic of Congo] Rule of Law section head Harriet Solloway said she hoped that the workshop would make it possible to find solutions to the many problems which the DRC prison authorities face.

"'It is rare for prisons to have a maintenance and operational budget for the prisoners; prison buildings are dilapidated and often unfit for use, the personnel are insufficient, and many are not even qualified; there are escapes and mutinies, and illness and death are commonplace. Often, men, women and children are put together in the same cell,' underlined Ms. Solloway."

MONUC: DR Congo: MONUC supports the government in prison system reform, 25 June 2009 via http://www.reliefweb.int/rw/rwb.nsf/db900sid/EGUA-7TCQS4?OpenDocument&rc=1&cc=cod
Accessed 30 June 2009

23 June

The British Embassy (BE) in Kinshasa investigated allegations of the detention and abuse of failed asylum seekers on their return to the Democratic Republic of Congo, as reported in a *Guardian* Online article of 27 May 2009 (see below). The BE reported that – after consulting with a local non-governmental organisation, examining the logbook of the detention centre, cross-checking the details of the 'secret logbook' against official documentation at the prison, and noting that a number of features of the documentation supplied to the *Guardian* were incorrect "… this Embassy continues to have no evidence that nationals from the Democratic Republic of the Congo face persecution from the Congolese authorities after being returned to Kinshasa following a failed asylum claim in the United Kingdom."

The Embassy also noted: "All passengers both Congolese and international – arriving at N'djili airport and other entry points are liable to be questioned by DGM [Directorate General of Migration] officials. But we have no evidence that returning failed asylum seekers – from the UK or any other country – are specifically targeted for this, or for any other adverse treatment."

Foreign and Commonwealth Office: Letter from the British Embassy Kinshasa to the UK Border Agency, 23 June 2009 (Copy available from the COI Service)

22 June

"'Twenty female prisoners were raped on Monday [22 June] night during an attempted prison escape by a group of militia sentenced to long terms and jailed in the prison,' Oscar Kasangandjo, the public prosecutor in Goma, told IRIN. According to the UN, some deaths were reported during the incident, and several people were wounded. The imprisoned ex-militia members had been sentenced for 'murder, rape and other grave offences,' he said, adding that the leaders of the

riot were being detained in a prison within the eighth military command in the region. …

"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'."
IRIN: DRC: Mass rape in Goma prison, 24 June 2009
http://www.irinnews.org/Report.aspx?ReportId=84982
Accessed 30 June 2009

22 June The UN Integrated Regional Information Network (IRIN) reported: "Joint military efforts by the UN peacekeeping force in the Democratic Republic of Congo (DRC) and the country's ramshackle army (FARDC) to neutralize Rwandan Hutu-led militias have been criticized because of the worsening humanitarian crisis in the theatre of operations, the eastern Kivu provinces…" The target of the operation, codenamed Kimia II, is "… the Forces démocratiques pour la libération de Rwanda (FDLR), a 6,000-strong armed group that has been a key ingredient of instability in the Kivu provinces ever since its founders fled Rwanda in the wake of the 1994 genocide. Some 30 percent of the FDLR's forces are now Congolese. …Since the start of the year, 800,000 people have fled their homes in the Kivus. In South Kivu the figure for the past three months alone is 124,000, according to the UN's Office for the Coordination of Humanitarian Affairs (OCHA). Rape, as a weapon of war, has become even more commonplace in the region, not only by the FLDR but also FARDC troops."
IRIN: DRC: MONUC sticks to its guns – analysis, 22 June 2009
http://www.irinnews.org/Report.aspx?ReportId=84943
Accessed 30 June 2009

18 June A *Guardian Online* article reported brief details of Operation Kimya II: "The plan is to bring together former enemy militias – FARDC [Congolese Armed Forces, PARECO [Coalition of Congolese Patriotic Resistance] (Mai Mai), and CNDP [National Congress for the Defense of the People] – without reason, without training, without investigation into war crimes, without stepping back and considering what steps must be taken to integrate former enemy militias into one unified body. In essence, the war criminals who were responsible for raping, destroying and terrorising Bukavu in 2004 are now being charged with protecting it."
Guardian Online: An apathetic, greedy west has abandoned war-torn Congo, 18 June 2009 http://www.guardian.co.uk/commentisfree/2009/jun/18/congo-women-rape
Accessed 29 June 2009

17 June "A UN base in eastern Democratic Republic of Congo has been fired on by army soldiers in a dispute over pay. It is the latest in a string of mutinies in North Kivu by soldiers who have not been paid for six months. A senior UN peacekeeper told the BBC that army commanders are not handing over soldiers' wages."
BBC News Online: Mutinous Congo troops fire at UN, 17 June 2009
http://news.bbc.co.uk/1/hi/world/africa/8104984.stm
Accessed 29 June 2009

17 June The Institute for War and Peace Reporting (IWPR) reported: "A new amnesty law for combatants in the bloody eastern provinces of the

Democratic Republic of Congo, DRC, has a number of serious shortcomings and will not solve the long-term problems of the region, rights advocates say. Some beneficiaries of the law also say it does not go far enough and without political power sharing and better security, the region could revert to war.

"In early May, Congolese president Joseph Kabila signed a law forgiving combatants for war-connected violence in both North and South Kivu committed between June 2003 and May 7, 2009, when the law took effect. It excludes genocide and other international crimes against humanity and war crimes and is restricted to the Kivu provinces."

IWPR: Militias Decry Kivu Amnesty Law, 17 June 2009
http://www.iwpr.net/?p=acr&s=f&o=353323&apc_state=heniacr200906
Accessed 30 June 2009

16 June "Congolese ex-Vice-President Jean-Pierre Bemba will face five counts of war crimes, the International Criminal Court has ruled. The charges relate to the actions of his troops in the neighbouring Central African Republic in 2002 and 2003… He is the most high-profile of four Congolese warlords facing trial at the ICC. A pre-trial panel of judges 'found that there is sufficient evidence to establish substantial grounds to believe that Jean-Pierre Bemba Gombo is criminally responsible' for murders, rapes and pillaging, said a statement from the ICC. He is to face trial on three counts of war crimes and two of crimes against humanity.

"Fighters from his Movement for the Liberation of Congo were accused of committing atrocities when they intervened in the conflict in CAR."

BBC News Online: Congo's Bemba to stand ICC trial, 17 June 2009
http://news.bbc.co.uk/1/hi/world/africa/8101809.stm
Accessed 29 June 2009

10 June IRIN reported: "Civilians in northeast Democratic Republic of Congo (DRC) villages are continuing to flee repeat reprisal attacks by the Ugandan rebel Lord's Resistance Army (LRA). The attacks have been provoked by ongoing anti-LRA operations by the DRC army in the region, according to locals.

"'The LRA continues to attack the villages, which they burn and loot, and kidnap civilians,' Leandres Bwilu, the administrator of the worst-affected territory of Dungu, in Orientale Province, told IRIN. Humanitarian officials said those affected had not been assisted due to a lack of access."

IRIN: DRC-UGANDA: LRA reprisal attacks increase in the northeast, 10 June 2009
http://www.irinnews.org/report.aspx?ReportID=84787
Accessed 30 June 2009

10 June "The Democratic Republic of Congo should halt putting up a border post on a disputed territory off oil-rich Lake Albert until results of a recent study are out, Ugandan officials said Wednesday. … Nebbi borders Lake Albert, which recent findings show holds more than a billion barrels of oil. The site of the new Congolese outpost is in Goli,

which like much of the borderland in West Nile region, has historically been disputed. …

"The two neighbours had recently agreed to put on hold all construction on contested land until they completed a joint survey of the border. … Mugisha said the Congolese claimed the outpost was necessary to control cross-border smuggling."
Agence France Press: Uganda, DR Congo in new border dispute near oil-rich lake, 10 June 2009 via http://www.reliefweb.int/rw/rwb.nsf/db900SID/ASAZ-7SVG3P?OpenDocument&RSS20=02-P
Accessed 30 June 2009

3 June "An independent United Nations expert has called on the Government of the Democratic Republic of the Congo (DRC) to protect human rights workers and prosecute those who threaten or attack them.

"Human rights defenders, including lawyers and members of non-governmental organizations, 'face illegitimate restrictions of their right to core freedoms, i.e. freedoms of opinion and expression, peaceful assembly and association,' said Margaret Sekaggya, the Special Rapporteur on the situation of human rights defenders. 'Defenders, in particular journalists, who report on human rights abuses committed by State and non-State actors are killed, threatened, tortured or arbitrarily arrested, and their offices are raided,' she said in a statement issued following her 21 May to 3 June visit to the country."
UN News Service: Human rights defenders in DR Congo under threat, says UN expert, 3 June 2009 via http://www.unhcr.org/refworld/docid/4a27c61ec.html
Accessed 30 June 2009

3 June IRIN reported: "There has been a marked increase in the number of rape cases being recorded in the eastern Democratic Republic of Congo (DRC) province of South Kivu, where Rwandan Hutu militia attacks against civilians have intensified, according to civil and humanitarian officials. 'As is usual, the FDLR [Forces démocratiques pour la liberation du Rwanda] attack at night, they burn [houses]... and take women to the forest where they rape them ...' Venant Rugusha, the civil society coordinator, told IRIN."
IRIN: DRC: Rape cases soar in South Kivu, 3 June 2009
http://www.irinnews.org/report.aspx?ReportID=84685
Accessed 30 June 2009

29 May IWPR reported on the violence faced by women in Congo: "The terrible details of the Congolese rape epidemic are becoming increasingly well known. Countless numbers of women are sexually assaulted as they go about their daily lives – one of the many consequences of the conflict and impunity that have bedevilled the country in recent years.

"Less publicised has been the attacks on women in their own homes, from those closest to them. Many suffer regular physical and mental abuse – not from strangers but by husbands or family members. And they accuse the government of making little effort to protect them, promote their rights and prosecute their attackers."
IWPR: Women 'Prisoners' in Their Own Homes, 29 May 2009
http://www.iwpr.net/?p=acr&s=f&o=352898&apc_state=heniacr200905
Accessed 30 June 2009

27 May A *Guardian Online* article reported allegations that failed asylum seekers returned by the British Government to the Democratic Republic of Congo were detained and tortured upon arrival in their home country.
Guardian Online: Britain sending refused Congo asylum seekers back to threat of torture, 27 May 2009 http://www.guardian.co.uk/world/2009/may/27/drc-congo-deport-torture
Accessed 29 June 2009

25 May "In a keynote address to a major civil society gathering yesterday in the capital, Kinshasa, Alan Doss offered UN support for the reforms, without which, he said, the fight against poverty would be hampered. Mr. Doss, the Secretary-General's Special Representative and head of the UN peacekeeping mission in DRC (MONUC), asked the participants to come up with a workable strategy.

"'Your ideas to consolidate peace, to end impunity, ensure the democratic electoral processes, and support reforms in institutions and governance practices will be critical,' he said."
UN News Service: Top UN envoy calls for national reforms in DR Congo, 26 May 2009 via http://www.unhcr.org/refworld/docid/4a27c60fe.html
Accessed 30 June 2009

24 May "Fresh attacks by Ugandan rebels in northeast Democratic Republic of Congo have displaced more than 12,000 civilians, according to aid officials. 'The Lord's Resistance Army burned a dozen houses, stole sheeting provided by aid workers, as well as clothes. They even kidnapped some people,' said Aroon Sambia, head of civil society in Dungu territory. … Even before the latest LRA attack, on 24 May, about 100,000 people were sleeping in the open in Dungu because of a lack of sheeting, according to Sambia."
IRIN: DRC: Thousands flee LRA attacks in northeast, 29 May 2009
http://www.irinnews.org/Report.aspx?ReportId=84618
Accessed 30 June 2009

20 May IWPR reported on the plight of Congo's pygmies: "They are among the country's earliest inhabitants, but a combination of war, prejudice and marginalisation has forced the pygmies of the southeastern Katanga province onto the fringes of Congolese society. Known locally as Batembo, thousands of pygmies once lived in the forests of Katanga's Pweto territory – only 400-500 families remain today. Many others fled or were killed during the 2003-2006 destruction wrought by the militia leader Gédéon Kyungu Mutanga and his Mai Mai soldiers… The marginalisation and humiliation suffered by pygmies like Mahisha is common all around Congo where they are considered primitive and savage. [Catholic Bishop, Fulgence] Muteba told IWPR that pygmies in his area are used as scapegoats and are often blamed for the day-to-day problems that affect local villages."
IWPR: Persecuted Pygmies Driven From Forest Home, 20 May 2009
http://www.iwpr.net/?p=acr&s=f&o=352658&apc_state=heniacr200905
Accessed 30 June 2009

18 May "Congolese rebels brought into the country's army under a peace deal are looting, raping and killing the civilians they are meant to protect, UN military commanders told security council officials today.

The failure of integration threatens attempts to bring peace to eastern Congo. … Since a peace agreement was signed in 2003, about 16,600 rebel fighters have been integrated into the regular Congolese army – itself notoriously ill-disciplined.

"Brigadier General Bipin Rawat, the commander of the UN's forces in the north Kivu region, said the former rebels were still murdering, torturing and raping civilians. 'We have been insisting to them that they refrain from carrying out human rights violations,' he told delegates of the UN security council who are touring the region."
Associated Press: Congo army rapes, robs and kills civilians, UN told, 18 May 2009 via http://www.guardian.co.uk/world/2009/may/18/congo-army-rape-civilians-monuc
Accessed 29 June 2009

14 May

IWPR reported: "Lawyers for a group of 44 Congolese soldiers on trial for rebellion say political leaders are interfering in the case. Their military court trial on charges of trying to destabilise the government, robbery, hiding weapons and murder began last year and could drag on for another three. Some of the soldiers, members of the former Zairian armed forces, the FAZ, have been held at Kinshasa's Makala prison since 2004…They face charges in connection with 'Opération Pentecôte' – March 2004 demonstrations at military barracks around the capital. They say it was an attempt to draw attention to their poor treatment by the government, but Kinshasa insists they were attempting a rebellion. The soldiers served in the army during the time of Mobutu Sese Seko, the former Congo president who was deposed by Laurent Désiré Kabila in 1997."
IWPR: Coup Trial Controversy, 14 May 2009
http://www.iwpr.net/?p=acr&s=f&o=352510&apc_state=heniacr200905
Accessed 30 June 2009

9-10 May

"Dozens of people were killed in attacks over the weekend in the east of the Democratic Republic of Congo, UN agencies said citing local sources. The reports say local chiefs blamed the attacks on Rwandan Hutu rebels. The Congolese and Rwandan armies carried out a joint operation earlier this year that they said was successful in rooting out the FDLR rebel group. But correspondents say the rebels have retaken much of their old ground and launched reprisals against civilians."
BBC News Online: 'Dozens killed' in DR Congo raids, 13 May 2009
http://news.bbc.co.uk/1/hi/world/africa/8049105.stm
Accessed 29 June 2009

"A local militia leader confirmed the attack, and aid agency Oxfam warned that joint operations by U.N. peacekeepers and Congolese government forces against the Rwandan Hutu FDLR rebels were causing 'untold death and suffering' among civilians."
Reuters – AlertNet: Dozens killed in Congo's east - UN citing sources, 13 May 2009 via http://www.reliefweb.int/rw/rwb.nsf/db900SID/KERN-7S22HT?OpenDocument&RSS20=02-P
Accessed 29 June 2009

9 May

An Agence France Press article reported allegations that: "Government troops sodomised pygmies in March in the eastern Democratic Republic of Congo (DRC), believing they would gain supernatural powers, a regional rights group said on Saturday… The

Human Rights League of the Great Lakes (LDGL) "…said armed groups in the region also abused the pygmies. 'The elderly, children are being raped by the armed groups and wayward FARDC (government) soldiers' in eastern DRCongo, it added. The pygmies live essentially as subsistence hunter-gatherers in the forests in the DRC's equatorial zones and have been targeted by militia groups in the past."

Agence France Press: DR Congo soldiers raping pygmies for supernatural powers: NGO, 9 May 2009 via http://www.reliefweb.int/rw/rwb.nsf/db900SID/RMOI-7RVHKY?OpenDocument&RSS20=02-P
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Human Rights Watch
Africa's Longest War Still Taking Lives, 19 June 2009
http://www.hrw.org/en/news/2009/06/19/africas-longest-war-still-taking-lives
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World Organisation Against Torture
Steadfast in Protest; Annual Report 2009, released 19 June 2009
http://www.omct.org/pdf/Observatory/2009/obs_report09_03_AFR_eng.pdf
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US Department of State
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DR Congo: Hold Army to Account for War Crimes, 19 May 2009
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Accessed 29 June 2009

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Interim report of the Group of Experts on the Democratic Republic of the Congo, 4 May 2009 submitted by letter from the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council, 14 May 2009
http://www.un.org/Docs/journal/asp/ws.asp?m=s/2009/253
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International Crisis Group
Congo: Five Priorities for a Peacebuilding Strategy – Africa Report N°150 – 11 May 2009
http://www.crisisgroup.org/library/documents/africa/central_africa/150_congo____five_priorities_for_a_peacebuilding_strategy.pdf
Accessed 29 June 2009

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Background information

GEOGRAPHY

1.01 Europa World, accessed on 7 January 2009, recorded that:

"The Democratic Republic of the Congo (formerly Zaire) lies in central Africa, bordered by the Republic of the Congo to the north-west, by the Central African Republic and Sudan to the north, by Uganda, Rwanda, Burundi and Tanzania to the east and by Zambia and Angola to the south. There is a short coastline at the outlet of the River Congo." **[1a] (Country Profile-Location, Climate, Language, Religion, Flag, Capital)**

"**Area:** 2,344,885 sq km
Population (UN estimate mid-2008): 64,704,000
Population density (mid-2008): 27.6 per sq km
[1b] (Country Statistics-Area and Population)

"French is the official language. More than 400 Sudanese and Bantu dialects are spoken; Kiswahili, Kiluba, Kikongo and Lingala being the most widespread. An estimated 50% of the population is Roman Catholic, and there is a smaller Protestant community. Many inhabitants follow traditional (mostly animist) beliefs. The national flag (proportions 2 by 3) is light blue, with a yellow star in the upper left corner and a diagonal red stripe edged in yellow." **[1a] (Country Profile-Location, Climate, Language, Religion, Flag, Capital)**

1.02 Europa World, accessed on 7 January 2009, and the Central Intelligence Agency (CIA) World Factbook last updated on 18 December 2008 both noted that the Democratic Republic of Congo consisted of ten provinces [11 provinces including the capital, Kinshasa] Bandundu, Bas-Congo, Equateur, Kasai-Occidental, Kasai-Oriental, Katanga, Maniema, Nord-Kivu, Orientale, Sud-Kivu and one city (ville) the capital, Kinshasa. **[1b] (Country Statistics-Area and Population) [2a] (Government-Administrative Divisions)** The capital is Kinshasa and the regional capitals are Bandundu, Bukavu, Goma, Kananga, Kindu, Kisangani, Lubumbashi, Matadi, Mbandaka, Mbuji-Mayi. (US Department of State Background Note, October 2008) **[8a] (Geography)**

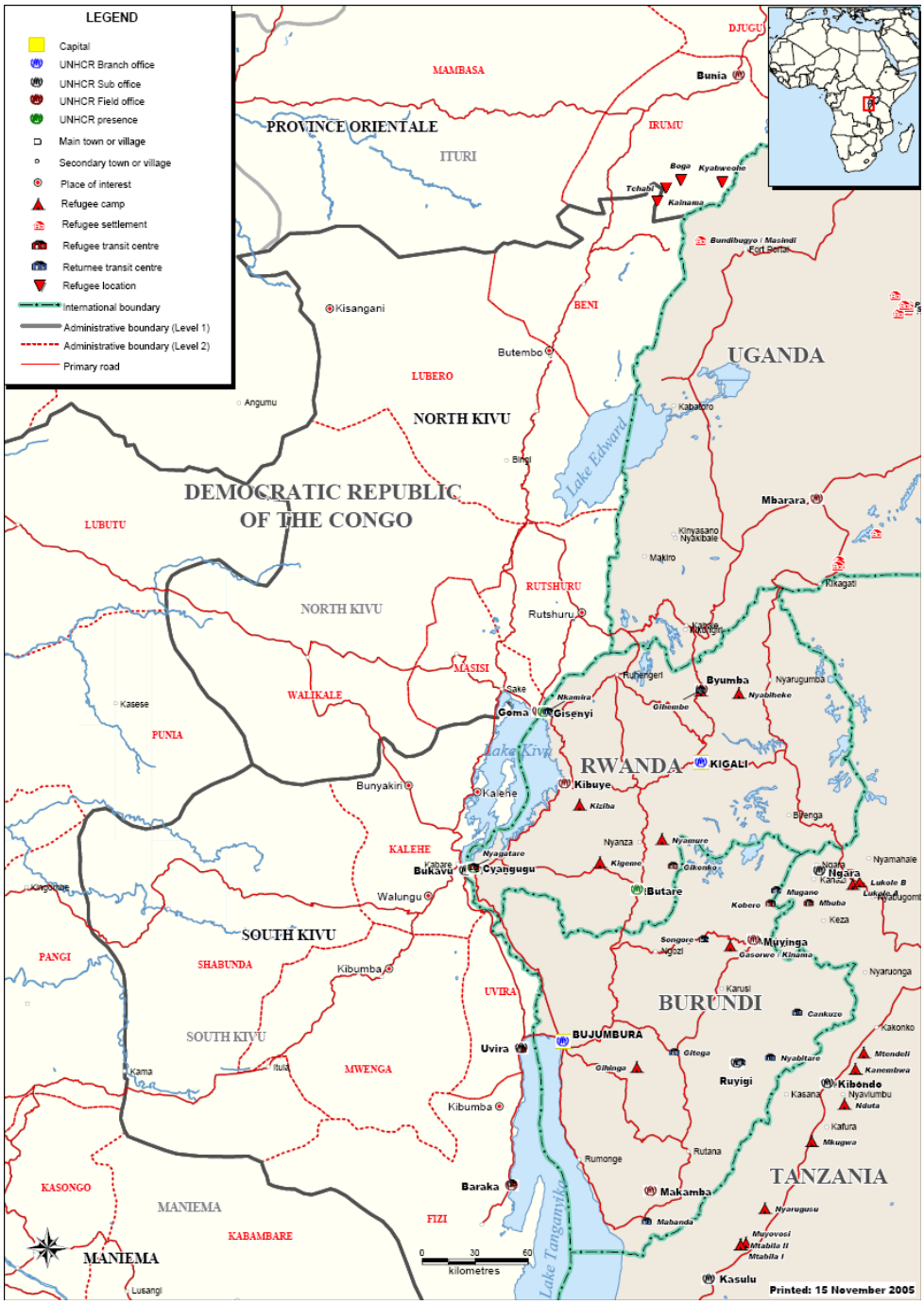
1.03 Europa World, accessed on 7 January 2009, reported: "The Constitution of February 2006 increased the existing 11 provinces to 26: Bas-Uele, Équateur, Haut-Lomami, Haut-Katanga, Haut-Uele, Ituri, Kasaï, Kasaï Oriental, Kongo Central, Kwango, Kwilu, Lomami, Lualaba, Lulua, Mai-Ndombe, Maniema, Mongala, Nord-Kivu, Nord-Ubangi, Sankuru, Sud-Kivu, Sud-Ubangi, Tanganyika, Tshopo, Tshuapa and Kinshasa (city)." **[1b] (Country Statistics-Area and Population)** However, the CIA World Factbook, last updated 23 April 2009, also noted the change to the number of provinces was due to be implemented by 2009. **[8a] (Government-Administrative divisions)**

MAPS

1.04 Map of the Democratic Republic of Congo, dated July 2004, obtained from the UN Department of Peacekeeping Operations Cartographic Section:

[3a]

1.05 Map of Kivu Region, dated November 2005, obtained from the website of the United Nations High Commissioner for Refugees (UNHCR):



[48b]

For more maps issued by a variety of sources see:
http://www.reliefweb.int/rw/rwb.nsf/doc404?OpenForm&cc=cod&rc=1

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ECONOMY

2.01 The Central Intelligence Agency (CIA) World Factbook, last updated 18 December 2008, **[3a]** the Foreign and Commonwealth Office (FCO) Country Profile **[4a]**, last reviewed 17 March 2008, and the US Department of State (USSD) Background Note of October 2008 **[8a]** provided basic facts about the Democratic Republic of Congo's economy:

GDP: US$9.1 bn (2006 est)
GDP growth: 6.2% (2008 est) **[4a] (Economy)**
Per capita GDP (2007): $300. **[8a] (Economy)**
Inflation: 9% (2008 est) **[4a] (Economy)**
Inflation rate (consumer prices): 16.7% (2007 est) **[3a] (Economy)**

The website Oanda recorded the exchange rate on 8 May 2009 as follows:

1 Congolese Franc (CDF)	equalled	0.0008060 British Pounds (GBP)
1 British Pound (GBP)	equalled	1,240.74 Congolese Franc (CDF)
1 Congolese Franc (CDF)	equalled	0.001214 US Dollars (USD)
1 US Dollar (USD)	equalled	823.508 Congolese Franc (CDF)

[5a-5b]

The Economist Intelligence Unit's Country Profile of 2008, dated 19 September 2008, recorded: "About half of the total population is of working age and perhaps 10% are wage-earners." **[6b] (p12)** An article published on the South African website, Business Day, indicated the United Nations estimated that the average wage in the Democratic Republic of Congo was US$30 per month. **[41a]**

2.02 The CIA World Factbook noted: "The economy of the Democratic Republic of the Congo - a nation endowed with vast potential wealth - is slowly recovering from two decades of decline. Conflict, which began in August 1998, dramatically reduced national output and government revenue, increased external debt, and resulted in the deaths of more than 3.5 million people from violence, famine, and disease." **[3a] (Economy)**

2.03 The Economist Intelligence Unit's Country Report of December 2008 stated that:

"According to the Central Bank, copper production in January-August 2008 was 310% higher year on year. Inflation was 24.1% at the end of September. The review of 61 mining contracts is still unfinished. The global financial and economic crisis has begun to curtail investment by mining companies. The diamond parastatal, Société minière de Bakwanga (Miba), has secured a loan of US$140m from regional development institutions for rehabilitating its production facilities. An official review proposes the cancellation of 70% of logging contracts." **[6a] (Summary)**

"The EU is offering development assistance totalling €562m (US$730m) over five years, covering projects in infrastructure, transport, health and governance." **[6a] (Summary)**

2.04 Freedom House's survey, Freedom in the World 2008, covering events in 2007, released on 2 July 2008, reported:

"A crucial factor behind the ongoing crisis in Congo is competition to control the country's vast mineral wealth, which includes some of the world's most significant deposits of cobalt, diamonds, coltan, gold, and copper. A 2003 UN investigating panel listed 85 countries operating in the DRC and detailed how the exploitation of mineral resources was fueling the civil war and feeding into international business networks. The country has virtually imploded under the combined effects of war, economic crisis, and the breakdown of political institutions." **[14a] (Overview)**

CORRUPTION

2.05 The British Broadcasting Corporation (BBC) Country Profile of January 2009 noted: "The history of DR Congo has been one of civil war and corruption." **[37a]** The Transparency International (TI) 2008 Corruption Perceptions Index ranked the Democratic Republic of Congo 41st out of 47 countries in sub-Saharan Africa, and 171st out of 180 countries in the world. **[7a]**

2.06 The Freedom in the World survey 2008 stated:

"Corruption is rampant in the DRC, particularly in the mining sector. By one calculation, royalties in the last financial year should have been about $160 million but the government's direct income from mining was reported at $32 million, suggesting that much of the wealth from the industry flowed into private hands. Some antigraft measures were taken during the transitional period, but there were no convictions of corrupt officials. In 2006, the government approved new investment and mining codes and established a commercial court to protect foreign investment, and the National Assembly's Lutundula Commission implicated a number of senior officials in corruption, some of whom were fired. In April 2007, Kabila bowed to international pressure for transparency and announced a review of over 60 mining contracts with foreign companies that had bought concessions at extremely low prices. But the government rejected calls for an independent body to oversee the review, and the report has not been released. Mismanagement caused donors to suspend many lending programs in 2007, and the country held the bottom rank in the World Bank's 2007 Doing Business survey of 178 countries."**[14a] (Political Rights and Civil Liberties)**

2.07 The US Department of State (USSD) Country Reports on Human Rights Practices 2008, released on 25 February 2009, noted:

"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. 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 [Congolese Armed Forces] and armed groups in the east. …

"There continued to be an Ethics and Anti Corruption Commission, but it had little impact during the year [2008] and lacked resources, independence, and

credibility. It last convened in November 2007 without any significant results or findings." **[8b] (Section 3)**

Further, "Government authorities and wealthy individuals at times used anti-defamation laws that carry criminal punishments to discourage media investigation of government corruption." **[8b] (Section 3)**

The Open Society Institute of Southern Africa, Johannesburg; Third World Network Africa, Accra; Tax Justice Network Africa, Nairobi; Action Aid International, Johannesburg and Christian Aid, London published a detailed report 'Breaking the Curse: How Transparent Taxation and Fair Taxes can Turn Africa's Mineral Wealth into Development' in March 2009. http://documents.twnafrica.org/breaking-the-curse-march2009.pdf **[54a]**

See also Section 19: Corruption

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HISTORY

3.01 The Foreign and Commonwealth Office (FCO) Country Profile, last reviewed in March 2008, briefly summarised the first 37 years of the Democratic Republic of Congo as an independent state:

"DRC (formerly Zaire) gained independence from Belgium in June 1960. Following a period of political instability, General Mobutu, the Chief of the Army, came to power in an army coup in 1965 and remained largely unchallenged throughout the 1970s and 1980s. President Mobutu presided over endemic corruption and reputedly built up a large personal fortune. Moves towards democratisation in the early 1990s did not succeed in removing him from power. But an already-fragile state was further weakened by the aftermath of the Rwandan genocide of 1994, when in October 1996 dissident groups, led by Laurent Kabila and strongly supported by Rwanda and Uganda, rose in revolt. They entered Kinshasa on 17 May 1997. Laurent Kabila declared himself President. Mobutu fled to Morocco where he subsequently died." **[4a] (History)**

LAURENT KABILA REGIME

3.02 The US Department of State (USSD) Background Note of October 2008 recorded:

"Over the next year, relations between Kabila and his foreign backers deteriorated. In July 1998, Kabila ordered all foreign troops to leave the D.R.C. Most refused to leave. On August 2, fighting erupted throughout the D.R.C. as Rwandan troops in the D.R.C. 'mutinied,' and fresh Rwandan and Ugandan troops entered the D.R.C. … The Rwandans and the RCD [Rassemblement Congolais pour la Démocratie] withdrew to eastern D.R.C., where they established de facto control over portions of eastern D.R.C. and continued to fight the Congolese Army and its foreign allies.

"In February 1999, Uganda backed the formation of a rebel group called the Mouvement pour la Libération du Congo (MLC), which drew support from among ex-Mobutuists and ex-FAZ soldiers in Equateur province (Mobutu's home province). Together, Uganda and the MLC established control over the northern third of the D.R.C." **[8a] (Government and political conditions-From Dictatorship to Disintegration)**

It continued: "The Lusaka Accord [signed by all parties in August 1999] called for a cease-fire, the deployment of a UN peacekeeping operation, MONUC [UN Mission in the Democratic Republic of the Congo], the withdrawal of foreign troops, and the launching of an 'Inter-Congolese Dialogue' to form a transitional government leading to elections. The parties to the Lusaka Accord failed to fully implement its provisions in 1999 and 2000." **[8a] (Government and political conditions-From Dictatorship to Disintegration**

JOSEPH KABILA REGIME

3.03 The FCO Country Profile, last reviewed in March 2008, stated:

"In January 2001 President Kabila was assassinated by one of his bodyguards. His son, Joseph Kabila, took over as the new head of State on 26

January 2001 and proved more amenable to negotiations. Foreign forces gradually departed, and a protracted Inter-Congolese Dialogue led to an agreement between the belligerents and members of the political opposition on the formation of a transitional national government (TNG). This was agreed by the parties on 2 April 2003 in Sun City (South Africa)." **[4a] (History)**

TRANSITIONAL NATIONAL GOVERNMENT (TNG)

3.04 Europa World, accessed on 9 January 2009, stated:

"The official adoption of the Constitution on 4 April [2003] was followed by Kabila's inauguration as interim Head of State on 7 April. … In early May 2003 the nomination of the four Vice-Presidents to the new transitional Government was announced: these were Bemba; the new leader of RCD – Goma, Azarias Ruberwa; a former minister (representing the incumbent administration), Abdoulaye Yerodia Ndombasi; and the former UNESCO [UN Educational, Scientific and Cultural Organization] official detained in 1997–98, Z'ahidi Ngoma, as the representative of the political opposition. On 29 June all former combatant groups finally signed an agreement on power-sharing in the future integrated transitional armed forces. This final stage in the peace process allowed Kabila on the following day to nominate a transitional Government, in which portfolios were divided between representatives of the former rebel factions, the incumbent administration, political opposition and civil society organizations." **[1a] (Recent history)**

3.05 The USSD Background Note of October 2008 appraised Kabila's Presidency:

"President Joseph Kabila has made significant progress in liberalizing domestic political activity, establishing a transitional government, and undertaking economic reforms in cooperation with the World Bank and International Monetary Fund (IMF). However, serious human rights problems remain in the security services and justice system. The eastern part of the country is characterized by ongoing violence and armed conflict, which has created a humanitarian disaster and contributed to civilian deaths (more than 3.8 million, according to a prominent international non-governmental organization). MONUC continues to play an important peacekeeping role in the D.R.C., and in October 2004, its authorized force strength increased to 16,700." **[8a] (Government and political conditions-National Dialogue, Transitional Government, and Nascent Democracy)**

3.06 Europa World, accessed on 9 January 2009, recorded that: "According to official results of the national referendum, which was conducted on 18 December 2005, the draft Constitution was adopted by 84.3% of votes cast, subject to its approval by the country's Supreme Court." **[1a] (Recent History)**

"On July 30, 2006 the D.R.C. held its first free, democratic, multi-party elections in more than 40 years. The D.R.C.'s 25 million registered voters were charged with electing a president (from a field of 33 candidates) and 500 deputies to the National Assembly (out of a total of 9,709 candidates). Despite technical and logistical difficulties, coupled with isolated incidents of violence and intimidation, the elections were held in a largely calm and orderly fashion. Voter turnout nationwide was high, particularly in the eastern provinces, compared to the December 2005 constitutional referendum."

(USSD Background Note, October 2008) **[8a] (Government and political conditions-National Dialogue, Transitional Government, and Nascent Democracy)**

3.07 Under the title 'The continuing search for a lasting peace', the USSD Background Note of October 2008 reported:

"On September 8, 2007, the Governments of the D.R.C. and Uganda reached an agreement in Ngurdoto, Tanzania, in which they mutually agreed to strengthen bilateral efforts to eliminate all 'negative forces' (illegal armed groups) operating in and from the two countries.

"On November 9, 2007, the Governments of the D.R.C. and Rwanda, with facilitation by the UN and witness of the United States and the European Union, signed the Nairobi Communiqué, which was designed to put an end to the presence in the D.R.C. of all foreign armed groups, particularly the ex-FAR/Interahamwe (later the Forces Démocratique de Libération du Rwanda, FDLR). These groups were to be disarmed, demobilized, and repatriated.

"On January 23, 2008, the Government of the D.R.C. and over 20 armed groups signed a peace accord in Goma, D.R.C., under which the parties agreed on the need for immediate cessation of hostilities, the disengagement of troops, improved adherence to human rights standards, and the creation of UN buffer zones between and among the various factions.

"As of October 1, 2008, none of these agreements had been fully implemented, and the eastern part of the country in particular continues to suffer from the activities of numerous illegal armed groups that operate largely with impunity." **[8a] (Government and political conditions)**

3.08 The UN Secretary General's November 2008 situation report concurred:

"The processes relating to the Goma statements of commitment (actes d'engagement) and the Nairobi communiqué stalled, and large-scale hostilities between the Armed Forces of the Democratic Republic of the Congo (FARDC) and the Congrès national pour la défense du peuple (CNDP), led by Laurent Nkunda, resumed on 28 August [2008]. The fighting, which spread throughout North Kivu, has further exacerbated the humanitarian crisis, displacing over 250,000 people and bringing the number of internally displaced persons in the eastern part of the country to more than 1.35 million. Exchanges of fire across the border between Rwanda and the Democratic Republic of the Congo, as well as a resurgence of armed groups in Ituri and a resumption of atrocities committed by the Lord's Resistance Army (LRA), further compounded the crisis in the area." **[9a] (II. Major Developments)**

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RECENT DEVELOPMENTS

OCTOBER – DECEMBER 2008

4.01 In October 2008, rebel leader, General Laurent Nkunda, leader of the National Congress for the Defense of the People (CNDP) "… publicly announced that the CNDP had organized itself as the Movement of Total Liberation of the Republic and withdrew from the Amani [peace] process while declaring it dead." **[8b] (Section 1g)**

4.02 In November and December 2008, Human Rights Watch (HRW) released reports on the targeting of civilians by the CNDP and government-aligned Mai Mai militias in eastern Congo ('Killings in Kiwanja', December 2008) **[13d]**, and by the Ugandan rebel group, the Lord's Resistance Army (LRA) in northern Congo. ('The Christmas Massacres', February 2009) **[13e]** An Institute for War and Peace Reporting (IWPR) article of November 2008 reported the United Nations Mission in the Democratic Republic of Congo (MONUC) spokesman, Lieutenant-Colonel Jean-Paul Dietrich, as saying: "'We are stretched to the last man, and it seems we cannot face an escalation of the situation,' …". **[50b]** HRW indicated that the LRA attacks were reprisals against the civilian population for the joint military offensive launched by Congolese, south Sudanese and Ugandan forces against the LRA in mid-December 2008. ('The Christmas Massacres', February 2009) **[13e]**

JANUARY – MAY 2009

4.03 The beginning of 2009 was marked by the continued killing and abuse of Congolese civilians by the Ugandan rebels, the Lord's Resistance Army (LRA) in northern Congo, and the Rwandan rebels, the Democratic Forces for the Liberation of Rwanda (FDLR) in the Kivus in eastern Congo. (HRW, February 2009 & 13 February 2009) **[13e] [13h]**

4.04 The FDLR were targeted by joint military operations conducted by Rwandan and Congolese forces, which were intended to dismantle Rwandan armed groups that have been present in eastern Congo since 1994 – in response, the FDLR have killed, abused and abducted civilians. (HRW, 13 February 2009) **[13h]**

"In early January 2009, [Bosco] Ntaganda, formerly the military chief of staff for the rebel National Congress for the Defense of the People (CNDP), claimed he had supplanted Laurent Nkunda as the head of the group. On January 16, in a joint news conference with the Congolese minister of the interior and the head of the police, he declared that instead of waging war on the Congolese national army, he would join its troops in fighting the Democratic Forces for the Liberation of Rwanda (FDLR), a group with some leaders who participated in the genocide in Rwanda in 1994 that has been operating in eastern Congo." (HRW, 2 February 2009) **[13f]**

HRW's press released noted that: "Since April 2008, Ntaganda has been wanted by the ICC at The Hague for the war crime of enlisting child soldiers and using them in hostilities. Ntaganda is a co-accused in the trial of Thomas Lubanga, another Congo militia leader, which began on January 26." **[13f]**

4.05 On 23 January 2009, the British Broadcasting Corporation (BBC) reported: "The Democratic Republic of Congo has asked for the extradition of rebel leader Gen Laurent Nkunda after his capture by neighbouring Rwanda. Gen Nkunda, who has led an ethnic Tutsi rebellion in the east since 2004, is wanted for atrocities allegedly committed by forces under his command." **[37d]**

4.06 The UN Secretary-General's report of 27 March 2009:

"On 26 January [2008], FARDC initiated the accelerated integration of CNDP and other armed groups into its ranks. Some 5,800 CNDP (of a declared total of 7,000) and nearly 5,000 PARECO elements have been integrated into FARDC. In all, 665 Mayi-Mayi elements have regrouped at the Nyaleke training centre. Integrated CNDP, PARECO [Coalition of Congolese Patriotic Resistance] and other Mayi-Mayi elements were among the seven FARDC integrated brigades engaged in the joint operation against FDLR. However, the cohesion of the newly integrated units, which include more than 25,000 elements from FARDC, CNDP, PARECO and the Mayi-Mayi, remains fragile." **[9g] (p1)**

"On 4 February, CNDP issued a statement which reaffirmed the end of hostilities and announced the transformation of CNDP into a political movement. The statement called for the resumption of talks with the Government, the granting of amnesty for CNDP members and the establishment of a new ministry for internal security and intercommunity relations." (UN Secretary General, 27 March 2009) **[9g] (p2)**

4.07 In March 2009, the trial of Mai Mai commander Gédéon Kyungu Mutanga and other Mai Mai combatants for crimes on major charges, including crimes against humanity, came to an end with the conviction of 21 of the defendants, including Gédéon who was sentenced to death along with six others. **[13g]**

"The court also ruled that the government had civil liability for failing to disarm the Mai Mai, its former allies, after the war in Congo ended in 2003. The judges awarded damages to dozens of victims who were accepted as civil parties to the criminal proceedings. One was awarded the equivalent of US$300,000 while others were granted between US$80,000 and US$150,000. The Congolese government is jointly liable with those convicted of the crimes. The ruling sets an important precedent for compensation for those who have suffered human rights abuses." **[13g]**

4.08 In March 2009, the BBC reported on the resignation of the Congolese Assembly Speaker, Vital Kamerhe, following his criticism of the decision to let Rwandan troops enter the country to engage with the FDLR alongside Congolese armed forces in the joint operation of January and February 2009. **[37g]**

4.09 In March and April 2009, HRW **[13i-13k]**, the BBC **[37e] [37i] [37k-37l]**, the UN Integrated Regional Information Network (IRIN) **[38f]**, Reuters **[55b]** and *The Guardian* **[56a]** all reported on the continued hostilities between the FDLR and Congolese armed forces, and associated attacks by the FDLR and FARDC against the civilian populace in the Kivus.

Also in March 2009, Reuters reported on the continued killing and abduction of civilians by the LRA **[55a]**, whilst a BBC article in April 2009 asked 'Who is

re-supplying the LRA?' noting unsubstantiated rumours from a number of sources that air-drops were taking place. **[37j]**

4.10 In early May 2009, the BBC **[37m]** and Reuters **[55c]** reported on the passing of an amnesty law for militia fighters in eastern Congo: "MPs in the Democratic Republic of Congo have passed a law granting amnesty to militias in the east of the country. It is the culmination of various deals to bring peace to the North Kivu and South Kivu provinces, a BBC correspondent in Kinshasa says. It will include 'acts of war' committed since 2003 but does not offer amnesty to those accused of war crimes such as rebel leader Laurent Nkunda." **[37m]** Reuters noted that "Despite the conflict's official end, much of Congo's eastern borderlands have remained a volatile patchwork of rebel fiefdoms and militia strongholds." **[55c]**

See also Section 8: Security situation

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CONSTITUTION

5.01 Europa World, accessed on 12 January 2009, noted: "A new Constitution was approved by the transitional legislature in May 2005, and endorsed by a national referendum in December. The Constitution officially entered into effect on 18 February 2006; its main provisions are summarized below:" **[1c] (The Constitution)**

"The state of the Democratic Republic of the Congo is divided for the purposes of administration into 25 provinces and the capital of Kinshasa (which has the status of a province). The provinces are granted autonomous powers for managing local resources, and also powers that are exercised in conjunction with the central Government, including control of between 40% and 60% of public funds. Each province has a Government and Assembly. The Constitution reaffirms the principle of democracy, guarantees political pluralism, and protects fundamental human rights and freedoms. The establishment of a one party system is prohibited and punishable by law as an act of treason." **[1c] (The Constitution-General Provisions)**

Regarding the change to the number of provinces – from 10 to 25, plus Kinshasa – the CIA World Factbook, last updated 18 December 2008, noted this was due to be implemented by 2009. **[8a] (Government-Administrative divisions)**

5.02 An untranslated draft copy of the text of the new Constitution, promulgated in February 2006, was available on the website of the Institute for Security Studies (ISS). **[10a] [10b]**
http://www.iss.org.za/AF/profiles/DRCongo/cdreader/bin/constitution13may2005.pdf

See also Section 3: Transitional National Government (TNG)

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POLITICAL SYSTEM

6.01 The US Central Intelligence Agency (CIA) World Factbook, last updated on 22 January 2009 **[3a]**, the Foreign and Commonwealth Office (FCO) Country Profile, last reviewed on 17 March 2008 **[4a]**, and the US Department of State (USSD) Background Note of October 2008 **[8a]** recorded the following information concerning the DRC's political system:

Type: Republic; highly centralized with executive power vested in the president.
Suffrage: 18 years of age and universal.
Branches: *Executive* - President is head of state. Cabinet is appointed by the ruling party in the parliament. Prime minister is elected by the parliament. **[8a] (Government)**
Head of State: President Joseph Kabila (elected 2006)
Prime Minister: Antoine Gizenga **[4a] (Country Facts)**
Legislative -The 500-member lower house of parliament was elected in July 30, 2006 national elections. Provincial Assemblies elected the Senate in October 29, 2006 elections. The Senate elected provincial governors.
Judicial - Supreme Court (Cour Supreme). **[8a] (Government)**
Administrative subdivisions: Ten provinces and the capital city, Kinshasa. **[8a] (Government)** "… according to the Constitution adopted in December 2005, the current administrative divisions will be subdivided into 26 new provinces by 2009." **[3a] (Government)**
Political parties: President Joseph Kabila's party is Parti du Peuple pour la Reconstruction et le Développement (PPRD). Two main coalitions represent President Kabila and his presidential run-off challenger, former Transitional Vice President Jean-Pierre Bemba.
Other opposition parties include Union pour la Démocratie et le Progrès Social (UDPS),
Forces du Futur (FDF),
Forces Novatrices pour l'Union et la Solidarite (FONUS),
Parti Democrate Social Chrétien (PDSC),
Mouvement Social Démocratie et Développement (MSDD),
Mouvement Populaire de la Révolution - Fait Prive (MPR-FP),
Union des Nationalistes et des Fédéralistes Congolais (UNAFEC), and
Mouvement National Congolais/ Lumumba (MNC/L). **[8a] (Government)**
Mouvement Social pour la Renouveau (MSR),
Parti Unifié Lumumbiste (PALU),
Forces du Renouveau,
Union des Democrates Mobutistes (UDEMO),
Coalition des Democrates Congolais (CODECO),
RCD-Nationale (RCD-N), **[4a] (Country Facts)**
Former rebel movements-turned-political parties include the Rassemblement Congolais pour la Démocratie (RCD),
Mouvement pour la Libération du Congo (MLC), and
independent splinter groups of the RCD (RCD/ML, RCD/N, RCD/G). **[8a] (Government)**

6.02 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, noted: "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." **[8b] (Section 3)** Europa World, accessed on 12 January 2009, recorded:

"The President is the Head of State and Commander-in-Chief of the armed forces. He is elected by direct universal suffrage for a term of five years, which is renewable once. Presidential candidates must be of Congolese nationality and a minimum of 30 years of age. The President nominates a Prime Minister from the political party that commands a majority in the legislature and other members of the Government on the proposal of the Prime Minister. He exercises executive powers in conjunction with the Government and subject to the approval of the legislature. The areas of defence, security and foreign affairs are conducted jointly by the President and the Government." **[1c] (Directory: Government and Politics – President)**

6.03 The same source also noted:

"Legislative power is vested in a bicameral Parlement, comprising a lower chamber, the Assemblée nationale, and an upper chamber, the Sénat. Members of the Assemblée nationale are elected by direct universal suffrage for a renewable term of five years. The number of deputies is determined by electoral law. Members of the Sénat are indirectly elected by the Assemblies of each of the country's provinces for a renewable term of five years. Both chambers have a President and two Vice-Presidents." **[1c] (Directory: Government and Politics – Legislature)**

Further information concerning the Assemblée nationale and Sénat is available from the website of the Inter-Parliamentary Union. http://www.ipu.org/parline-e/parlinesearch.asp **[11a-11b]**

6.04 The USSD 2008, stated: "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 European Union Observer Mission. … The country's 11 new provincial assemblies chose 108 candidates for five-year terms in the national Senate in January 2007. The elections took place peacefully but were marred by credible allegations of vote buying." **[8b] (Section 3)** Freedom House's Freedom in the World 2008 reported:

"The DRC is not an electoral democracy. The 2006 elections were an important milestone but still problematic. The main opposition Union for Social Democracy & Progress (UDPS) party was not allowed to participate as a result of the party leader's call for a boycott of the constitutional referendum the same year. Further, international observers noted that the elections were marred by voter registration irregularities, especially in the capital, and corruption that compromised the credibility of the process. The campaign period included clashes between opposition militants and government forces as well as an attempt on Bemba's life. The 2007 Senate elections were similarly plagued by political corruption, with allegations of vote buying (elected opposition councilors voted for progovernment candidates)." **[14a] (Civil and political rights)**

See also Section 3: Transitional National Government (TNG), Section 16: Political affiliation and Annex B – Political organisations

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Human Rights

INTRODUCTION

7.01 The Office of the High Commissioner for Human Rights (OHCHR) in the Democratic Republic of Congo (2008-2009) recorded on its webpage, accessed on 8 May 2009, that:

"The human rights situation in the DRC continues to deteriorate. Serious violations, such as arbitrary executions, rape, torture and cruel, inhuman and degrading treatment are pervasive, committed mostly by the army, police and intelligence services. The latter, highly politicized, are often used to commit politically-motivated crimes during specific periods and then revert to daily harassment and intimidation of Congolese citizens. Armed groups operating in the country, both foreign and Congolese, although responsible for only six per cent of documented human rights abuses, have perpetrated massacres, arbitrary executions, abductions of villagers, and subjected women to systematic rape, sexual slavery and other forms of sexual violence with full impunity. Civil and military jurisdictions continue to be prone to corruption, and lack the human and material resources needed to function efficiently. Interference by military and political authorities in the administration of justice is widespread. Despite declarations by the authorities, hardly any progress has been made in the fight against impunity. Prolonged pre-trial detention periods, dilapidated detention centres, and the lack of food and medical supplies are common throughout the DRC's correctional system." **[15g]**

7.02 The 2008 annual reports of international non-governmental organisations (NGOs) Amnesty International (AI) **[12a]** and Human Rights Watch (HRW) **[13a]**, and Freedom House's (FH) survey, Freedom in the World 2008 **[14a]** all concurred that human rights abuses are widespread in the Democratic Republic of Congo. Freedom House reported:

"The threat of a wider conflict rose in 2007 as government forces in the eastern Democratic Republic of Congo (DRC) battled fighters loyal to Rwandan-backed Congolese Tutsi general Laurent Nkunda. Also during the year, the DRC signed a trade and development deal with China said to be worth $5 billion, and the nascent democracy that had emerged from the 2006 elections remained precarious as the main opposition leader, Jean-Pierre Bemba, was forced into exile. Human rights abuses continued unabated." **[14a] (Overview)**

7.03 The summary of AI's 2008 annual report, which covered events in 2007, stated:

"Political and military tensions in the Democratic Republic of the Congo (DRC) resulted in major outbreaks of violence in the capital, Kinshasa, and Bas-Congo province. Unlawful killings, arbitrary arrests and detentions, torture and other cruel, inhuman and degrading treatment by the security forces and by armed groups were common across the country, in many cases directed at perceived political opponents. Rape by security force members and armed group fighters continued at high levels. While security continued to improve in some provinces, a human rights and humanitarian crisis deepened in the two Kivu provinces in the east of the country." **[12a]**

7.04 HRW's World Report 2009, covering the events of 2008, recorded:

"Violence, impunity, and horrific human rights abuses continue in the Democratic Republic of Congo, two years after historic elections were expected to bring stability. Early in 2008 a peace agreement brought hope to eastern Congo, but combat between government and rebel forces resumed in August. During the year, hundreds of civilians were killed, thousands of women and girls were raped, and a further 400,000 people fled their homes, pushing the total number of displaced persons in North and South Kivu to over 1.2 million." **[13a]**

7.05 The US Department of State (USSD) Country Report on Human Rights Practices – 2008, released on 25 February 2009, summarised the human rights situation in the Democratic Republic of Congo:

"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. Harsh 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 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 and threatened local human rights advocates and harassed 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 and other possible war crimes." **[8b]**

7.06 The Institute for War and Peace Reporting's (IWPR) November 2008 article, 'Paralysis Over Deepening Goma Crisis', stated "Fighting escalated around North Kivu's regional capital of Goma in recent months, between the Congolese army, FARDC, and Nkunda's militia, the ethnic Tutsi National Congress for the Defence of the People, CNDP. … According to estimates, 253,000 civilians have been displaced by fighting in the east of the country since September, and UN officials say atrocities are being committed." **[50b]**

A December 2008 IWPR comment piece by Sara Nsimire in Goma reported: "People in eastern Democratic Republic of Congo, DRC, witness tragic scenes of barbarism, injustice, corruption and impunity every day." Nsimire continued to describe the lack of justice and accountability in east Congo, and how this is perpetuated, in part, by the low salaries and non-payment of wages to civil servants, including the police." **[50c]**

7.07 HRW's World Report 2009 reported that: "In western Congo, state authorities used violence and intimidation against political opponents, killing over 200 protestors and others in Bas Congo and arresting scores of supposed opponents, many of them from Equateur province, on charges of plotting against the government. Officials harassed press and civil society critical of the government." **[13a]**

7.08 Further:

"In March [2008] the UN Human Rights Council failed to renew the mandate of the independent expert on the human rights situation in the Congo despite the evident need for continued monitoring. Once the Congolese government made clear its opposition to a continued mandate, EU states failed to honor pledges to support the post. In September key donor nations agreed to establish the post of independent special advisor on human rights linked to the peace process in eastern Congo, but by November they had not named a person to the position. Congo is due to be reviewed under the Universal Periodic Review mechanism of the UN Human Rights Council in December 2009." (HRW World Report 2009) **[13a] (Key International Actors)**

7.09 The Office of the United Nations High Commissioner for Human Rights (OHCHR) recorded that the Democratic Republic of Congo has ratified the following UN conventions, covenants and protocols:

1. Convention on the Prevention and Punishment of the Crime of Genocide
2. International Convention on the Elimination of All Forms of Racial Discrimination
3. International Covenant on Economic, Social and Cultural Rights
4. International Covenant on Civil and Political Rights
5. Optional Protocol to the International Covenant on Civil and Political Rights
7. International Convention on the Suppression and Punishment of the Crime of Apartheid
8. Convention on the Elimination of All Forms of Discrimination against Women
9. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
10. International Convention against Apartheid in Sports
11. Convention on the Rights of the Child

11b. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

11c. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography **[15a]**

For information on the issues related to the conventions listed above see:
Section 10: Security forces;
Section 11: Military service;
Section 12: Abuses by Non-government armed forces;
Section 17: Political affiliation;
Section 18: Freedom of speech and the media;
Section 19: Human Rights institutions, organisations and activists;
Section 22: Ethnic groups;
Section 25: Women;
Section 26: Children;

Section 27: Trafficking and
Section 35: Employment rights

7.10 OHCHR also recorded the following UN conventions, amendments and protocols not ratified by the Democratic Republic of Congo:

2a. Amendment to article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination
8a. Amendment to article 20, paragraph 1 of the Convention on the Elimination of All Forms of Discrimination against Women
8b. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
9a. Amendments to articles 17 (7) and 18 (5) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
9b. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
11a. Amendment to article 43 (2) of the Convention on the Rights of the Child
12. Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty
13. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
15. Convention on the Rights of Persons with Disabilities
15a. Optional Protocol to the Convention on the Rights of Persons with Disabilities
16. International Convention for the Protection of All Persons from Enforced Disappearance **[15a]**

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SECURITY SITUATION

OVERVIEW

8.01 The fourth special report of the Secretary-General (UN SG) on the United Nations Organization Mission in the Democratic Republic of the Congo, dated 21 November 2008, reported:

"Efforts to stabilize the eastern region of the Democratic Republic of the Congo witnessed significant setbacks during the reporting period [3 July to 18 November 2008]. The processes relating to the Goma statements of commitment (actes d'engagement) and the Nairobi communiqué stalled, and large-scale hostilities between the Armed Forces of the Democratic Republic of the Congo (FARDC) and the Congrès national pour la défense du peuple (CNDP), led by Laurent Nkunda, resumed on 28 August [2008]. The fighting, which spread throughout North Kivu, has further exacerbated the humanitarian crisis, displacing over 250,000 people and bringing the number of internally displaced persons in the eastern part of the country to more than 1.35 million. Exchanges of fire across the border between Rwanda and the Democratic Republic of the Congo, as well as a resurgence of armed groups in Ituri and a resumption of atrocities committed by the Lord's Resistance Army (LRA), further compounded the crisis in the area. While the security situation remained stable elsewhere in the Democratic Republic of the Congo, little progress was achieved in the key peace consolidation tasks, including the delivery of basic services and the extension of State authority." **[9a] (para 2)**

All of the UN Secretary-General's reports, from 1994-2009, are available on the United Nations' website http://www.un.org/documents/repsc.htm **[9f]** Reports from 2007 and 2008 are listed at Annex E of this report. **[9a-9e]**

For monthly updates on the security situation in the Democratic Republic of Congo access the International Crisis Group's (ICG) Crisiswatch database http://www.crisisgroup.org/home/index.cfm?id=2937&l=1#C1 **[34e]**

Also, refer to the Institute for Security Studies undated Country File for recent developments, research and documentation on the security situation in the country.
http://www.issafrica.org/index.php?link_id=14&slink_id=3410&link_type=12&slink_type=12&tmpl_id=3&link_country_id=14 **[35a]**

EASTERN CONGO

North / South Kivu

8.02 Amnesty International's Annual Report 2008, covering events in 2007, recorded:

"Conflict persisted in the Kivu provinces of eastern DRC. In August [2007], fighting erupted in North-Kivu between the army and forces loyal to Tutsi commander Laurent Nkunda. The fighting, which also involved the Democratic Liberation Forces of Rwanda (FDLR) armed group and mayi-mayi militia, was characterized by grave breaches of international humanitarian law and led to increased tension between the DRC and Rwanda. In November, the two

governments agreed a 'common approach' to end the threat posed by national and foreign armed groups in the DRC. A government military offensive, supported by the UN peacekeeping force, MONUC, against Laurent Nkunda's forces in December was inconclusive." **[12a] (Background)**

8.03 Human Rights Watch's (HRW) World Report 2009, covering events in 2008, stated:

"Hopes for peace soared in January [2008] when the government and 22 armed groups signed a ceasefire agreement and the government launched the Amani Program to coordinate peace efforts. But slow progress in implementing the agreement, plus frequent violations of the ceasefire, gave way in late August to serious fighting in North Kivu between the forces of rebel commander Laurent Nkunda's National Congress for the Defense of the People (CNDP) and the Congolese national army. In October the CNDP stopped just short of taking Goma and unilaterally declared a ceasefire, demanding talks with the government. The CNDP, claiming to protect people of Rwandan descent and particularly Tutsi, also fought the Coalition of Congolese Patriotic Resistance (PARECO), made up of other Congolese ethnic groups and the Democratic Forces for the Liberation of Rwanda (FDLR), a group including Congolese and Rwandan Hutu, some of whom had participated in the 1994 genocide in Rwanda.

"All parties to the combat committed grave human rights abuses, including killing hundreds of civilians, forcibly recruiting children and adults for military service, and widespread looting." **[13a] (Violence in Eastern Congo)**

8.04 HRW's October 2007 report, 'Renewed Crisis in North Kivu', and the International Crisis Group's (ICG) report, 'Congo: Bringing Peace to North Kivu' of the same month, extensively documented the conflict in the region, including the background to the conflict, the failure of the transitional period and the 'mixage' process, abuses committed by armed forces and groups, the use of child soldiers by FARDC and non-government armed groups, the impunity enjoyed by combatants, and the CNDP's political and administrative control of much of the region. **[13b] [34d]** Whilst HRW's December 2008 report, 'Killings in Kiwanja', highlighted the continuing violence and insecurity civilians faced due to the conflict in the region, plus MONUC's inability to fulfil its mandate of protecting civilians:

"On November 4-5, 2008, an estimated 150 people were killed in the town of Kiwanja in eastern Democratic Republic of Congo, half a mile away from United Nations peacekeeping forces. The event marks one of the worst killing sprees in North Kivu in the past two years. … Following the Kiwanja killings, CNDP and Mai Mai combatants continue to kill, rape, forcibly recruit children, and otherwise mistreat civilians in and around Kiwanja, the neighboring town of Rutshuru, and in areas further north." **[13d] (p1)**

"While MONUC has attempted to respond more assertively to threats to civilians since the killings in Kiwanja, its primary focus on deterring attacks on the provincial capital Goma and its inability to respond promptly to new threats, has stopped it from being able to prevent ongoing killings, forced recruitment, and new displacements of civilians. The most MONUC could do during the Kiwanja killings – and now – was to offer sanctuary in the

immediate vicinity of their base for those most at risk." (HRW, December 2008) **[13d] (p2)**

8.05 The United Nations Secretary General reported on the rapidly changing political situation in the Kivus in the first months of 2009 as, in January, General Laurent Nkunda was ousted as leader of the CNDP and then arrested in Rwanda. **[9g] (p2)** In February and March peace talks were held between the Government, CNDP and other armed groups:

"The talks led to the signing of an agreement between the Government of the Democratic Republic of the Congo and CNDP in Goma on 23 March 2009.The agreement, which was co-signed by the co-facilitators as witnesses, foresees a range of actions related to the conversion of CNDP into a political party and the release of political prisoners. It also specifies mechanisms to facilitate local and national reconciliation, including the creation of a community policing mechanism. There are also commitments to reform the police and the army and secure the return of refugees and internally displaced persons. At the signing ceremony, similar agreements were signed between the Government of the Democratic Republic of the Congo and representatives of various remaining armed groups in North and South Kivu." **[9g] (p7)**

8.06 The UN Integrated Regional Information Network also reported on the signing of the agreement in April 2009, noting "The spokesman for various self-defence groups known as Mayi-Mayi expressed some reservations about the latest agreement." **[38d]**

8.07 The United Nations Secretary General's report of March 2009 detailed the January-February 2009 joint operation of Rwandan and Congolese armed forces against the Hutu rebel group, the FDLR noting:

"During the month-long joint operation, as many as seven FARDC integrated brigades and three RDF battalions proceeded along three main axes in North Kivu: Goma-Rutshuru-Ishasha, Rutshuru-Tongo-Pinga and Sake-Masisi-Hombo. The operation, which was confined to North Kivu, was aimed at neutralizing FDLR, including through the targeting of its economic interests. …

"The joint operation succeeded in dislodging FDLR elements from most of their strongholds in Rutshuru, Lubero and Masisi territories and deprived FDLR of important sources of revenue from checkpoints and 'market taxes'. …

"Following the departure of the RDF forces, MONUC has assisted FARDC, at its request, in the planning of follow-up operations against FDLR. The joint FARDC-MONUC operation, 'Kimia II', is aimed at protecting civilians and pursuing the neutralization of FDLR by preventing it from reoccupying former positions and cutting its lines of economic sustenance." **[9g] (p2-3)**

8.08 HRW reported in April 2009 that: "The FDLR were temporarily pushed out of their military positions in January and February 2009 following the start of a joint military operation against them by Congolese and Rwandan troops on January 20. Following the withdrawal of Rwandan forces on February 24, military action diminished and the FDLR reoccupied many of their previous positions." **[13i]** HRW's April 2009 reports noted that the FDLR committed reprisal attacks against the local population, including rapes and the burning of

two villages in which at least one man was shot to death and seven children were burned alive, whilst the Congolese armed forces also continued to abuse the local populace committing rapes and looting homes. **[13i-13k]**

8.09 The United Nations Secretary General's March 2009 report also noted that:

"Overall, the situation remained calm in South Kivu during the reporting period… The continued presence of FDLR in key areas remained a source of concern. The joint FARDC-RDF operation against FDLR was not extended to South Kivu. FDLR elements are present in Mwenga territory and control the area both militarily and economically. FDLR also controls the mines and collects taxes from civilians in the territory." **[9g] (p4)**

8.10 The report of an Institute of Security Studies (ISS) Seminar, 'An Update on the Situation in the Eastern DRC', held in Pretoria on 13 February 2009, concluded:

"According to Col. Nzekani Zena [DRC Ministry of Defence], the DDR [Disarmament, Demobilisation and Reintegration] process is progressing although not at the speed initially hoped. Progress has been made in disbanding the CNDP following the arrest of Gen. Laurent Nkunda, but the FDLR still poses a significant threat to the DDR and SSR [Security Sector Reform] process. The DDR can best be implemented in an environment of peace and the ongoing conflict has aggravated the efforts of the Congolese army. The pursuit of peace is integral to successful DDR and SSR programs in the DRC." **[35b] (p4)**

The website of the United Nations Mission in the Democratic Republic of Congo (MONUC) provided regular updates on its operations and activities, and the security situation in the east. http://monuc.unmissions.org/ **[20a] (Activities)**

ORIENTALE PROVINCE, INCLUDING ITURI, AND KATANGA PROVINCE

8.11 HRW's October 2007 report, 'Renewed Crisis in North Kivu', noted:

"Although immediately focused on activities in North Kivu, [CNDP leader General Laurent] Nkunda has built some ties with politico-military groups as far afield as Ituri and South Kivu. Two of his most important subordinates, Bosco Ntaganda and Colonel Linganga, have links with militia in Ituri. Some Banyamulenge in South Kivu are said to be followers of Nkunda and have demanded that their military forces also be subject to *mixage* rather than *brassage*." **[13b] (p65)**

8.12 The 2007 Annual Report of the International Committee of the Red Cross (ICRC) recorded that "In Ituri, three militia leaders agreed to integrate their forces into the ranks of the FARDC, while Katanga province also saw some political and military stabilization." **[29b] (p95)** Amnesty International's Annual Report 2008, covering events of 2007, noted: "State authority continued to be restored to previously insecure areas of the country. State institutions, though further consolidated, remained weak. A number of armed groups were successfully disarmed and demobilized, notably in Ituri District and Katanga province. However, without the promised assistance to re-enter

civilian life, demobilized fighters were a source of local insecurity." **[12a] (Background)**

8.13 The International Crisis Group's (ICG) webpage 'Conflict in Congo', last updated on 27 January 2009, reported:

"Recent developments have also underscored the fragility of the situation in Ituri. October 2008 saw fresh clashes between government and rebel forces as well as a series of brutal attacks and abductions reportedly by Ugandan Lord's Resistance Army rebels. The risk of renewed violence in the north east region has been limited by the presence of UN troops, the dismantling of the majority of armed groups and the local population's war weariness. However, the root causes of the conflict – including unequal access to land and unfair sharing of revenues from natural resource exploitation – persist, while the emergence of new sources of insecurity pose serious threats to the region's reconstruction." **[34b] (1. The current situation)**

The ICG's May 2008 report, 'Congo: Four Priorities for Sustainable Peace in Ituri', discussed the situation in the region and pointed to the need for the restoration of state authority and disarmament of armed groups, the resolution of tensions over land and resources, the establishment of transparency and justice, and the implementation of genuine inter-community reconciliation. **[34c]**

8.14 The United Nations Secretary General's March 2009 report noted that: "In Ituri, the situation remained volatile in November [2008], with the launch of several attacks against FARDC by the Front de résistance patriotique d'Ituri (FRPI) in Irumu territory. In December, FARDC, supported by MONUC, was able to reoccupy some of the villages which had been captured by FRPI, although new clashes between FRPI and FARDC were reported in mid-February." **[9g] (p5)** Elsewhere in Orientale province:

"On 14 December 2008, FARDC, the Uganda People's Defence Forces (UPDF) and the Sudan People's Liberation Army (SPLA) launched a joint operation, entitled 'Lightning Thunder', against the Lord's Resistance Army (LRA). Ugandan and Congolese officials have announced that the joint operation, which involved 1,186 UPDF and 3,496 FARDC troops deployed in Haut Uélé, was effective in destroying several LRA bases, cutting off food and ammunition supplies and disrupting the movement's command-and-control structure.

"Despite those reported achievements, the joint operation has not been assessed as having attained the objective of destroying the LRA command-and-control structures or capturing the LRA leadership. LRA is believed to have split into 7 to 10 groups, each numbering approximately 100 fighters, which have dispersed into the surrounding area, including the Central African Republic and Southern Sudan, or moved southward into the Democratic Republic of the Congo. LRA elements have exacted brutal reprisals against the population in their wake, in particular in the triangle of Doruma, Dungu and Faradje towns in Haut Uélé. Reports indicate that more than 700 people have been killed and many hundreds of others, primarily children, have been abducted since the start of the joint operations. As a result of those attacks, 180,000 people have fled their homes and more than 16,000 Congolese have sought refuge in Southern Sudan." **[9g] (p4-5)**

See also Section 4: Recent developments

WESTERN CONGO

Bas Congo

8.15 HRW World Report 2009 noted: "Human rights violations in western Congo received less attention than combat-related abuses in the east." **[13a] (Key International Actors)** The organisation's November 2008 report, 'We Will Crush You', recorded "During 2007 and 2008, in a number of Bas Congo locations where BDK [Bundu dia Kongo] support is strong and the presence of the police weak, the BDK declared themselves in charge of local administration. Their de facto authority was accompanied by episodes of harassment, violence, and summary justice meted out by BDK adherents." **[13c] (p69)**

8.16 Reports by the USSD **[8b] [8c]**, HRW **[13a] [13c]** and Freedom House **[14a]** all covered the actions of the security forces in Bas Congo province with HRW's World Report 2009 stating:

"In March [2008] police and other state agents used excessive force in quelling protests by the Bundu Dia Kongo (BDK), a political-religious group that promotes greater autonomy for Bas Congo province. Some protestors, armed with sticks and stones, used violence against police or officials. Police used disproportionate force, including grenades and machine guns against the protestors. As in operations in 2007, the police deliberately killed persons who were wounded, running away, or otherwise in no position to threaten them. Some 200 BDK supporters and others were killed, and BDK meeting places were destroyed. The police attempted to hide the extent of the carnage by dumping dozens of bodies in the Congo River and hastily burying others in mass graves. Police arrested over 150 persons suspected of supporting the BDK and tortured or ill-treated some of them." **[13a] (Violence in Bas Congo)**

See also Section 16: Bundu dia Kongo (BDK); Section 20: Bundu dia Kongo and Annex B: Political organisations

Kinshasa

8.17 Freedom House's Freedom in the World Survey 2008 reported: "In March 2007, fighting broke out in the capital between the authorities and Bemba loyalists after Bemba's personal security force resisted government calls to disarm. As many as 600 people, most of them civilians, died in the fighting." **[14a] (Overview)** Amnesty International's Annual Report 2008 concurred; "During the March [2007] fighting in Kinshasa, both government forces and Jean-Pierre Bemba's armed guard used heavy weapons in densely populated residential areas, causing hundreds of civilian deaths." **[12a] (Unlawful killings)** HRW's November 2008 report, 'We Will Crush You', extensively covered the political situation in Kinshasa following the 2006 elections. **[13c]**

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SECURITY FORCES

9.01 The US Department of State Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, recorded:

"The security forces consist of the PNC [Congolese National Police], which operates under the Ministry of Interior (MOI) and has primary responsibility for law enforcement and public order. The PNC includes the Rapid Intervention Police and the Integrated Police Unit. The ANR [National Intelligence Agency], 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 Directorate General of Migration (DGM), responsible for border control; the GR [Republican Guard], which reports directly to the presidency; and the FARDC [Congolese armed forces], which is part of the Ministry of Defense and generally responsible for external security, but which also exercises an internal security role." **[8b] (Section 1d)**

9.02 Jane's Sentinel Country Risk Assessment, last updated on 5 March 2009, recorded the following information concerning the various security forces, both national and foreign, in the Democratic Republic of Congo:

Armed forces

"As part of a drive to integrate former government troops and rebel forces into a single national army, it was projected that 18 integrated brigades would be formed. Fourteen integrated brigades, made up of soldiers from former warring factions who have undergone an integration process, were in place by the time of the 2006 election, and by summer 2007 an additional integrated brigade had been added, bringing the total to 15. The training of the 12th and 13th battalions of the 17th integrated FARDC brigade was concluded at the beginning February 2008. Although few definite details are available, it is assumed that the order of battle also includes an additional formation - the mechanised brigade that was part of the Congolese Armed Forces under Laurent-Désiré Kabila. A commando brigade was also reported as forming part of those forces. The integrated army that has been under formation in more recent times has been given the interim title, Forces Armées de la République Democratique du Congo (FARDC). Many FARDC elements lack proper training. There have also been complaints about lack of discipline, and human rights abuses. The process of melding former militia elements into the national army has been slow. The FARDC has experienced major problems with logistics, and the UN force MONUC has had to assist in this area. Few details are available as to the strength. The figure quoted above [55,000 (including Republican Guard)] is very much an estimate." **[21a] (Army)**

9.03 Jane's Sentinel Country Risk Assessment of February 2009 of the air force and September 2008 of the navy noted their respective estimated numbers of personnel as 1,800 and 6,700 (including 1,000 officers). **[21a] (Air Force & Navy)**

"The principal combat mission would appear to be close air support … In theory, the air force can also provide a modicum of air defence … although there is no evidence to indicate the availability of any air-to-air missile armament and considerable doubt exists as to capability in this area." (Jane's Sentinel Country Risk Assessment, 4 February 2009) **[21a] (Air Force)**

"The navy is considered to be in a state of near total disarray. Nevertheless, riverine operations are critical for the Democratic Republic of the Congo (DRC) due to the country's extensive system of navigable rivers and poor roads. … The navy has made no contributions to UN operations. Revised United Nations Observer Mission in the Democratic Republic of the Congo (MONUC) deployment plans from February 2001 emphasised the importance of safe transit along the DRC's rivers and lakes for Congolese security by specifying that a 400 strong unit of peacekeepers be delegated for waterborne patrol. Some 240 members of the Uruguayan Navy were subsequently deployed with patrol boat to re-open the River Congo." (Jane's Sentinel Country Risk Assessment, 29 September 2008) **[21a] (Navy)**

Police

"Formation of an integrated police force has lagged behind that of the army. Indeed, contrary to the process for the army, the Sun City peace accords did not commit the parties to creating an integrated national police structure. With the exception of Kinshasa (where the riots that accompanied the postponement of national elections in June 2005 were handled in relatively impressive fashion), the police force has remained ill-trained and under-resourced. Police personnel who provided security during the electoral registration process received only a standard monthly wage of USD10, with an additional USD1 per day from a fund for election security (often, this secondary payment went towards meeting the travelling expenses of personnel).

"Given the lack of funding, corruption is inevitably rife. Many towns even lack detention facilities. Estimates suggest that the police force is made up of 70,000 to 80,000 men, with forces largely organised on a regional rather than national basis (this change was effected in October 2004 by the Joint Commission on Security Reform)." **[21a] (Security and Foreign Forces)**

Security services

"Joseph Kabila inherited as many as 13 official and unofficial security services from his father. The primary mission of these services was to uncover conspiracies against the regime. However, the assassination of Laurent-Désiré Kabila in 2001 revealed the general poor quality of their work. In fact, their design had intentionally limited their ability to co-operate with one another and the different services spent much of their time spying on one another. …

"The primary security services include the following:

- "The National Security Council (Conseil de Sécurité de l'Etat: CSE), which is found within the office of the president and was supposed to be the umbrella organisation for all the security services. Its actual influence over the services is often in doubt.
- "The National Intelligence Agency (Agence Nationale de Renseignement: ANR), which is thought to be the most professional of the different security services. Many of its personnel were recruited and trained under the Mobuto government. It is divided between branches responsible for internal and external security.
- "The Military Directorate on Anti-state Activities (Direction Militaire des Activités Antie-Patrie: DMIAP), which is the military intelligence service. It

is organised in the same fashion as the ANR, with which it is in constant competition. Its activities are focused on protecting the regime from its internal enemies rather than providing the army with battlefield intelligence. The service is also a stronghold of the Balubakat ethnic group (Laurent-Désiré Kabila was half Balubakat - referred to as Mulubakat in the singular).

- "The Directorate General of Immigration (Direction Générale des Migrations: DGM), which is the immigration service. This agency is officially in charge of all movements in and out of the country. It also includes an intelligence wing.

"In addition to the police and Gendarmerie, two paramilitary forces exist to provide security for the capital. These are:

- "The Capital Intervention Force (Force d'Intervention de la Capital: FIC), which is the military intervention force for Kinshasa. The force was created in 1999 with a merger between the presidential guard force, and the Kinshasa based 7th army brigade. The FIC is largely made up of ethnic Balubakats.
- "The Rapid Response Police (Police d'Intervention Rapide: PIR), which is the paramilitary force responsible for policing the streets of Kinshasa. The force is a Balundu ethnic stronghold, that is closely linked to Angola. (Laurent-Désiré Kabila was half Balundu - or Mulunda in the singular)." **[21a] (Security and Foreign Forces)**

FOREIGN FORCES

9.04 Jane's Sentinel Country Risk Assessment of March 2009 also recorded the fluctuating presence of various foreign forces over the years, including forces from Angola, Burundi, North Korea, Namibia, Rwanda, Uganda, Zimbabwe and the United Nations Organisation Mission in the Democratic Republic of the Congo (MONUC). **[21a] (Security and Foreign Forces)**

United Nations Organisation Mission in the Democratic Republic of the Congo (MONUC)

"In December 2008, the UN Security Council extended the peacekeeping mandate in the Democratic Republic of Congo until 31 December 2009. Adopting resolution 1856 (2008), the council authorised the continued deployment of a strengthened force of up to 19,815 military personnel, 760 military observers, 391 police and 1,050 personnel of formed police units." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Security and Foreign Forces)**

Full details of MONUC's mandate, strength and activities were available via the MONUC's UN Missions website http://monuc.unmissions.org/ **[20]**

9.05 Amnesty International's (AI) Annual Report 2008, covering events of 2007, commented "Civilian protection in the east remained almost wholly dependent on the overstretched MONUC forces." **[12a] (Police and security forces)** Human Rights Watch's (HRW) World Report 2009, covering events in 2008, recorded:

"MONUC, the UN peacekeeping force, fulfilled its mandate of protecting civilians in some places, but its limited numbers and capacities prevented the

force from providing effective protection in many situations. When confronted by violations to the ceasefire, MONUC troops attempted to halt advances by Nkunda's CNDP but not those of Congolese army soldiers, leading some Congolese to question the neutrality of MONUC. In some cases, angry civilians stoned UN troops whom they believed had taken sides in the conflict." **[13a] (Key International Actors)**

ABUSES BY THE SECURITY FORCES

9.06 The USSD 2008 **[8b]** and international NGOs Amnesty International (AI) **[12a]**, Human Rights Watch (HRW) **[13a]** and Freedom House **[14a]** all covered the human rights abuses committed by the security forces in the Democratic Republic of Congo. The USSD 2008 stated that: "Security forces generally remained ineffective, lacked training, received little pay, and suffered from widespread corruption." **[8b] (Section 1d)** The report also noted the prevalence of forced labour, including children, by the security forces. **[8b] (Sections 6c & 6d)** Freedom House's Freedom in the World Survey 2008 reported:

"Civilian authorities do not maintain effective control of the security forces. Members of the forces are poorly trained and paid and regularly commit serious human rights abuses, including the rape of women and girls on a massive scale. Low pay and inadequate provisions commonly lead soldiers to seize goods from civilians, and demobilized combatants have not been successfully integrated into the civilian economy. The induction of former rebels into the military has resulted in competing chains of command and conflicts between nominally unified factions, with many fighters answering to former commanders and political leaders rather than formal superiors. " **[14a] (Political Rights and Civil Liberties)**

9.07 AI's Annual Report 2008 concurred:

"The national army, police force, and military and civilian intelligence services routinely operated with little or no regard for Congolese and international law, and committed the majority of the human rights violations reported. An increased number of violations were attributed to the police. Ill-discipline and poor command of these forces, and the widespread impunity they enjoyed, remained a major barrier to improved enjoyment of human rights." **[12a] (Police and security forces)**

9.08 Human Rights Watch's (HRW) World Report 2009, covering events in 2008 confirmed "Near total impunity for grave violations of international humanitarian law continues, with very few perpetrators arrested and prosecuted by national authorities." **[13a] (Justice and Accountability)** The organisation's November 2008 report, 'We Will Crush You', on the restriction of political space in the Democratic Republic of Congo extensively reported on the ill-treatment of the political opposition in western Congo by the security forces. **[13c]** An Amnesty International report of October 2007, 'Torture and killings by State Security Agents Still Endemic' documented:

"… serious violations of human rights that took place in Kinshasa, capital of the Democratic Republic of Congo (DRC), during and after the 2006-2007 electoral period. In particular, the report highlights two government security forces that were responsible for the majority of politically-motivated violations against both real and supposed political opponents of President Joseph Kabila

and his ruling party. They are the *Direction des Renseignements Généraux et Services Spéciaux de la police* (DRGS), known as the 'Special Services' police, and the *Garde Républicaine* (GR), Republican Guard, the elite army presidential guard under the control of President Joseph Kabila." **[12d]**

Reports published in October 2007 and December 2008 by HRW documented serious human rights abuses by government security forces in North Kivu and Kinshasa. **[13b] [13d]**

See also Section 8: Security situation; Section 12: Judiciary; Section 13: Arrest and detention – Legal rights; and Section 16: Political affiliation

Arbitrary arrest and detention

9.09 The USSD 2008 stated that:

"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, presenting them with evidence, 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 and refused to acknowledge their detention." **[8b] (Section 1d)**

Further, "Authorities at times arrested or beat a relative or associate of a person they sought to arrest." **[8b] (Section 1f)**

9.10 HRW's World Report 2009 reported on the illegal detention scores of political opponents, "… many of whom were tortured or ill-treated …". **[13a] (Political Repression)** "Security forces targeted political opponents, particularly those from Equateur province, the home region of former presidential candidate Jean-Pierre Bemba. … At least a dozen detainees remain unaccounted for at this writing. Detainees were frequently accused of plotting a coup, but as of October 2008, no cases had been brought to trial." **[13a] (Political Repression)**

9.11 The USSD 2008 also noted: "Prolonged pretrial detention, often ranging from months to years, remained a problem. 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." **[8b] (Section 1d)**

9.12 The United Nations Special Rapporteur on the independence of judges and lawyers visited the Democratic Republic of the Congo in April 2007 at the invitation of the Government; in May 2008 he reported:

"The Special Rapporteur was … informed that uniformed men, such as soldiers and officers of the National Intelligence Agency (ANR), often carry out arbitrary arrests and detentions - which is beyond their authority - and often for activities that do not constitute an offence. Many persons are reportedly held

without access to their families, to a judge or to a lawyer, in known and unknown places of detention. The Director of the ANR denied the existence of these places in an interview with the Special Rapporteur." **[15c] (p14)**

9.13 HRW's World Report 2009, released in January 2009, recorded that: "In July [2008] the government released 258 prisoners from Makala central prison, including many who had been illegally detained since March 2007. The decision was taken to resolve problems of overcrowding in the jail and did not appear to have been based on a judicial review of the cases. At this writing, at least 200 other political prisoners remain in detention without trial." **[13a] (Political Repression)**

Torture

9.14 The USSD 2008 stated: "The law does not specifically criminalize torture, and during the year [2008] 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. There were almost no reports of government authorities taking action against members of security forces responsible for these acts." **[8b] (Section 1c)**

9.15 AI's Annual Report 2008 concurred:

"Acts of torture and ill-treatment were routinely committed by government security services and armed groups, including sustained beatings, stabbings and rapes in custody. Detainees were held incommunicado, sometimes in secret detention sites. In Kinshasa, the Republican Guard (presidential guard) and Special Services police division arbitrarily detained, tortured and ill-treated numerous perceived opponents of the government." **[12a] (Torture and other ill-treatment)**

9.16 Reports by HRW noted the continued use of torture to repress political opposition, notably against actual or perceived political opponents in Bas Congo and those "… from Equateur province, the home region of former presidential candidate Jean-Pierre Bemba." (World Report 2009) **[13a] (Political Repression)** ('We Will Crush You', November 2008) **[13c]**

Extra-judicial killings

9.17 The USSD 2008 stated:

"There were reports that the government or its agents committed politically motivated killings. … On July 6 [2008], Kinshasa-based members of the Republican Guard (GR), an elite armed force under the control of President Joseph Kabila, killed Daniel Botethi, the vice president of the Kinshasa Provincial Assembly and a prominent figure of the opposition party Liberation of Congo (MLC), whose leader Jean-Pierre Bemba ran against Kabila for president in 2006. The soldiers shot and killed Botethi and his bodyguard at a roadblock in Kinshasa, near the site of an attack in May that injured opposition Senator Adolphe Onusumba. The MLC subsequently suspended its participation in government bodies to protest the killing. On September 22, the Military Tribunal of Kinshasa/Ngaliema sentenced four GR soldiers to death for their involvement in the killing. Although a soldier on trial for the murder

testified that Kinshasa Governor Andre Kimbuta, an ally of President Kabila, ordered the killing, the connection was never proved." **[8b] (Section 1a)**

9.18 AI's Annual Report 2008 recorded: "State security forces as well as Congolese and foreign armed groups committed hundreds of unlawful killings. During military operations, all forces deliberately targeted civilians or failed to take adequate measures to protect civilian populations." **[12a] (Unlawful killings)** HRW's World Report 2009 reported on the killing of civilians in eastern Congo, and of protesters in Bas Congo in the west of the country by the security forces. **[13a] (Violence in Eastern Congo; Violence in Bas Congo)** The USSD 2008 concurred: "In the east, security forces summarily executed civilians and killed civilians during clashes with illegal armed groups." **[8b] (Section 1a)**

Further, "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, and often for failing to surrender their possessions, submit to rape, or perform personal services." (USSD 2008) **[8b] (Section 1a)**

AVENUES OF COMPLAINT

9.19 Amnesty International **[12a]**, HRW **[13a]** and Freedom House **[14a]** all noted the climate of impunity under which the security forces of the Democratic Republic of Congo operated. The USSD 2008 stated:

"The government prosecuted and disciplined few security forces personnel for abusing civilians. Impunity in the security forces remained a severe, widespread problem. Investigating misconduct or abuses by the security forces is the responsibility of the military justice system. According to MONUC's Rule of Law Unit, there were a total of 265 investigators, 232 prosecutors, and 125 judges in the military system. However, they were poorly trained, had little or no resources for investigations, and limited, if any, access to legal codes." **[8b] (Section 1d)**

9.20 The February 2008 report of the United Nations independent expert on the situation of human rights in the Democratic Republic of the Congo, reporting on the period June-December 2007, did note: "The fact that the [February 2007] convictions handed down in the trials for the [2006] Bavi massacre and the [May 2003] murder of two MONUC military observers were upheld [in July and November 2007, respectively] constitutes the main progress in the fight against impunity during the reporting period." **[15d] (p6)** The UN independent expert also reported on "…the transfer of Germain Katanga, the militia leader of Force de résistance patriotique en Ituri (Patriotic Resistance Front in Ituri) (FRPI), to the International Criminal Court (ICC) on the night of 16-17 October 2007, with the assistance of the Congolese authorities. Germain Katanga is accused of committing crimes against humanity and war crimes in Ituri in 2002 and 2003 …". **[15d] (p7)**

The UN independent expert continued: "Notwithstanding the aforementioned examples, impunity remains flagrant. The persistence of impunity has resulted in a failure to initiate judicial investigations into serious human rights violations, lack of progress on cases that have been opened (in particular when there is interference by political and military authorities - see paragraphs 13 and 14 below [in the UN report]), or even sham trials." **[15d] (p7)** His report went on to

discuss the many continuing problems involving impunity and the administration of justice, including the failure to instigate investigations – particularly focussing on the situation in North Kivu – the stalling of cases and trials, sham trials, the obstruction of justice by the political and military hierarchy, and the underfunding of the judiciary. **[15d] (I. Impunity and the Administration of Justice)**

9.21 The Institute for War and Peace Reporting noted in February 2009 that:

"The parliament of the Democratic Republic of the Congo, DRC, is to investigate alleged human rights abuses by government security forces, but there are some doubts over how effective the probe will be. Luete Katembo, who monitors defence and security issues for the Congolese National Assembly, said that parliament had established an 11-member commission in January [2009] to investigate the alleged abuses.

"'If there are allegations that weren't known [by] the Congolese parliament, the [commission] will find them,' he said, adding that the inquiry will begin in March."

See also Section 8: Security situation; Section 11: Abuses by non-government armed forces; Section 12: Judiciary and Annex C: Prominent people

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MILITARY SERVICE

10.01 The US Central Intelligence Agency (CIA) World Factbook, last updated 18 December 2008, recorded military service age 18-45 years, there was no distinction between men and women. **[2a] (Military)** The Child Soldiers Global Report 2008 concurred, noting that the voluntary recruitment age was 18, and that there was no conscription to the armed forces in the Democratic Republic of Congo. **[18a]**

10.02 A January 2006 information response compiled by the Immigration and Refugee Board (IRB) of Canada noted that the Military Penal Code adopted in November 2002 replaced the 1972 Military Justice Code but the penalties for desertion remained the same. **[19a]** The distinct categories were listed as:

- simple desertion,
- desertion with conspiracy,
- desertion abroad,
- desertion to an armed gang and
- desertion to the enemy or in the presence of the enemy

"… [D]esertion in wartime or in exceptional circumstances is subject to capital punishment. … However, in peacetime, sentences range from two months to 20 years of [translation] 'penal servitude,' depending on the category of desertion and the circumstances." (IRB, 26 January 2006) **[19a]**

FORCED RECRUITMENT

10.03 Amnesty International's (AI) Annual Report 2008, covering events in 2007, stated: "In North-Kivu, Laurent Nkunda's armed group and opposing mayi-mayi militia recruited large numbers of children, many of them by force. Nkunda's forces allegedly targeted schools for forced recruitment." **[12a] (Child soldiers)** The UN Secretary-General's report of 2 April 2008 noted "Forced recruitment by all armed groups signatories to the statements of commitment [signed in Goma in January 2008] has deepened the sense of insecurity and led to additional displacements [in the Kivus]." **[9c] (IV. Humanitarian situation)**

See also Section 8: Eastern Congo; Section 11: Abuses by Non-government armed forces; Section 21: Ethnic groups; Section 25: Child soldiers; Section 30: Internally displaced people (IDPs) and Annex B – Armed groups

DISARMAMENT, DEMOBILIZATION AND REINTEGRATION (DDR) OF FORMER NON-GOVERNMENT COMBATANTS INTO THE CONGOLESE ARMED FORCES

10.04 In November 2007, the UN Secretary-General reported:

"The disarmament, demobilization and reintegration of Congolese combatants belonging to various armed groups, and a definitive solution to the presence on Congolese soil of foreign combatants including those of FDLR, the Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU) and the Lord's Resistance Army, will be key to establishing a stable security environment, leading to the gradual drawdown and departure of MONUC. To date, the national disarmament, demobilization and reintegration programme has processed 165,687 former combatants. Of these, 62,929 have been

integrated into FARDC while 102,758 have been demobilized and are receiving financial entitlements. About 15,300 of an estimated 18,500 foreign fighters, primarily from FDLR, have been repatriated." **[9e] (VI. Disarmament, demobilization and reintegration)**

10.05 HRW's December 2008 report, 'Killings in Kiwanja', noted:

"In late August 2008, heavy fighting resumed in North Kivu between the Congolese army and Nkunda's CNDP rebels, as well as other armed groups, breaking a fragile ceasefire that had been in place since the Goma peace agreement was signed on January 23 [2008]. The agreement had been intended to halt hostilities, to lead to disengagement of forces from front line positions, and to make possible political and security discussions between the government and 22 armed groups, of which the CNDP was the most significant." **[13d] (II. Context – Peace process fails)**

10.06 In November 2008, the UN Secretary-General reported that: "The national programme [for Disarmament, Demobilization and Re-integration] has continued to work with key partners to plan disarmament, demobilization and reintegration for 131,400 combatants, including 31,200 in the Kivus." **[9a] (IV. MONUC deployment and reconfiguration – Disarmament, demobilization and reintegration)** Further:

"Many challenges remain with regard to disarmament, demobilization and reintegration. The majority of the new target groups are located in the eastern part of the Democratic Republic of the Congo, where the current security situation is not conducive to the implementation of the process. There are many outstanding questions regarding modalities of military integration and disarmament, demobilization and reintegration, including the linkage between the regroupment process as envisaged in the Amani programme and the brassage/disarmament process." (UN Secretary-General, 21 November 2008) **[9a] (IV. MONUC deployment and reconfiguration – Disarmament, demobilization and reintegration)**

See also Section 8: Eastern Congo and Annex B – Armed groups

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ABUSES BY NON-GOVERNMENT ARMED FORCES

11.01 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, and Jane's Sentinel Country Risk Assessment, updated on 5 March 2009, reported that the non-state armed groups known or believed to be active in the Democratic Republic of Congo included:

- National Congress for the Defense of the People (CNDP),
- Democratic Forces for the Liberation of Rwanda (FDLR),
- Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU),
- Lord's Resistance Army (LRA)
- Mai Mai community-based militia groups,
- Ituri District Militia Groups, including the Front for National Integration (FNI) and the Front for Patriotic Resistance in Ituri (FRPI) – the FNI and the FPRI informed MONUC in October 2008 that their forces had merged to form the Popular Front for Justice in Congo (FPJC) **[8b] (Section 1g) [21a] (Non-state Armed Groups)**

See also Section 8: Security situation and Annex B: Armed groups

11.02 The USSD 2008 noted: "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 and other possible war crimes." **[8b] (p1)** The report continued:

"Many human rights violations were committed in 2007 by five 'mixed brigades,' created when former FARDC general Nkunda, based in North Kivu Province, agreed in late 2006 to 'mix' his troops with pro-government troops in North Kivu, before the agreement collapsed in August 2007. Nkunda remained subject to a 2005 Congolese arrest warrant for alleged war crimes and crimes against humanity committed since 2002." **[8b] (Section 1g)**

Further, "Illegal armed groups committed numerous serious abuses, especially in rural areas of North and South Kivu provinces during the year [2008]. Such groups, which were believed to have approximately 20,000 combatants, killed, raped, and tortured civilians, often as retribution for alleged collaboration with government forces." **[8b] (Section 1g)**

11.03 The USSD 2008 **[8b] (Section 1g)**, and the Human Rights Watch (HRW) reports 'Renewed Crisis in North Kivu', of October 2007 **[13b] (V. Conflict and Abuses Against Civilians)** and 'Killings in Kiwanja', December 2008, **[13d]** recorded reported abuses committed by specific forces involved in the conflict, and the impunity they enjoyed; the USSD 2008 noting: "There were no credible attempts by armed groups to investigate abuses allegedly committed by their fighters." **[8b] (Section 1g)** In February 2009, HRW released the report, 'The Christmas Massacres', which detailed the abuses committed by the Ugandan rebel movement the Lord's Resistance Army (LRA) against Congolese civilians in northern Congo during the last months of 2008 and early 2009. **[13e]**

11.04 In relation to western Congo, HRW released the extensive report, 'We Will Crush You' in November 2008, which commented that: "The government of President Joseph Kabila has used violence and intimidation to eliminate its political opponents …

"The BDK [Bundu Dia Kongo of Bas Congo province] and Bemba's bodyguards [in Kinshasa] also perpetrated acts of violence in the context of clashes with police and army soldiers, and, in the case of the BDK, in trying to assert administrative control in parts of Bas Congo. While the government has a right and duty to respond to such violence, it must do so with restraint and respect for human rights. Congolese authorities seized on the violent acts of their opponents to try to justify their far more extensive violence." **[13c] (p3, 4)**

See also Section 8: Security Situation; Section 24: Violence against women; Section 25: Violence against children & Child soldiers; Section 34: Employment rights and Annex B: Armed groups

ARBITRARY ARREST AND DETENTION / ABDUCTIONS AND 'DISAPPEARANCES'

11.05 The USSD 2008 recorded: "Armed groups operating outside government control kidnapped numerous persons, often for forced labor, military service, or sexual services. Many of the victims disappeared." Further, "Armed groups outside central government control sometimes detained civilians, often for ransom, but little information was available concerning the conditions of detention." **[8b] (Section 1c)** HRW's reports of October 2007 and December 2008 reported on the abduction and disappearance of civilians at the hands of 'mixed' brigades and non-governmental armed groups stating specific cases where persons were targeted due to being suspected collaborators with their abductors enemies – government or rebel-aligned – to obtain the abductee's property and for recruitment purposes. **[13b] (p33-34, 39, 52, 55) [13d] (p12, 18, 19)**

"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 parts of the east sometimes detained civilians, often for ransom. They continued to loot, extort, and illegally tax civilians in areas they occupied." (USSD 2008) **[8b] (Section 1g)**

TORTURE / UNLAWFUL KILLINGS

11.06 The USSD 2008 reported: "Illegal armed groups committed numerous serious abuses, especially in rural areas of North and South Kivu provinces during the year. Such groups, which were believed to have approximately 20,000 combatants, killed, raped, and tortured civilians, often as retribution for alleged collaboration with government forces." **[8b] (Section 1g)** HRW's October 2007 and December 2008 reports concurred, detailing abuses – including sexual violence – committed by the CNDP and troops loyal to Laurent Nkunda, members of the FDLR, and government-aligned Mai Mai militias. **[13b] (p27-41) [13d] (p8-20)**

11.07 The USSD 2008 stated: "Illegal armed groups, including rebel groups and community militias, committed unlawful killings during the year." **[8b] (Section 1a)** HRW's October 2007 and December 2008 also extensively

recorded the unlawful killings comitted by all parties to the conflict in eastern Congo. **[13b] [13d]**

"FARDC mixed brigades in North Kivu Province, notably Bravo Brigade, based in Rutshuru territory, and Charlie Brigade, based in Masisi territory, killed civilians during 2007. The government took no action during the year against any of the soldiers in the mixed brigades responsible for killings in 2007, largely because most of them subsequently joined the CNDP following the disintegration of the mixed brigades and remained outside government control." (USSD 2008) **[8b] (Section 1g)**

FORCED CONSCRIPTION / RECRUITMENT

11.08 The USSD 2008 noted:

"Some mixed brigade commanders recruited or tolerated the use of children as soldiers during 2007. These commanders included Colonel Faustin of Delta Brigade, deputy commander Colonel Baudouin of Charlie Brigade, former Ituri District militia leader Bosco Ntaganda, Bravo commander Colonel Sultani Makenga and Lieutenant Colonel Mulomba. Since they all subsequently joined the CNDP, the government was not able to take any action against them." **[8b] (Section 1g)**

11.09 HRW's October 2007 and December 2008 reports concurred, the latter – 'Killings in Kiwanja' – noting: "Following their takeover of Rutshuru and Kiwanja [on 29 October 2008], the CNDP [Laurent Nkunda's National Congress for the Defense of the People] forcibly recruited dozens of young men and boys into military service." **[13d] (Forced recruitment and abduction of adults and children)** Further:

"All parties to the conflict in North Kivu have forcibly recruited civilians, including children, and forced them to serve as soldiers. These children have been sent to the frontlines or are used as porters, guards, or sex slaves. According to child protection workers, many of those recently recruited are 're-recruits' who have already gone through demobilization programs but who received limited support to integrate back into their communities." (HRW, December 2008) **[13d] (Forced recruitment and abduction of adults and children)**

"All parties to the conflict in North Kivu have forcibly recruited civilians, including children, and forced them to serve as soldiers. These children have been sent to the frontlines or are used as porters, guards, or sex slaves. According to child protection workers, many of those recently recruited are 're-recruits' who have already gone through demobilization programs but who received limited support to integrate back into their communities." **[13d] (p12)**

See also Section 10: Military service

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JUDICIARY

12.01 Jane's Sentinel Country Risk Assessment of 5 March 2009, reported: "...there is extremely little in the way of rule of law in the contemporary Democratic Republic of Congo beyond Kinshasa. Judges are barely paid and few resources are allocated to the judicial system." **[21a] (Internal Affairs)** The United Nations Special Rapporteur on the independence of judges and lawyers visited the Democratic Republic of the Congo in April 2007 at the invitation of the Government; his report of April 2008 summarised his findings thus:

"During his [the UN Special Rapporteur] visit, he was able to observe that the judicial system in the Democratic Republic of the Congo is in a deplorable state. Over and above the damage caused by the war, it must be recognized that the State does not provide the judicial authority with adequate resources to enable it to function. The justice system is rife with political interference and corruption, partly owing to the lack of an independent Higher Council of the Judicature that could protect judges from interference, provide them with the financial and material resources that are sorely lacking and supervise their conduct, as provided in the Constitution." **[15c] (p2)**

12.02 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, concurred recording:

"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 only 2,000 magistrates (judges who serve in the lowest level courts) serving the entire population (one magistrate for every 30,000 citizens), and two-thirds of them were located in Kinshasa, Matadi (Bas-Congo Province), and Lubumbashi (Katanga Province). 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 310-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 [2008] 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." **[8b] (Section 1e)**

12.03 The International Center for Transitional Justice's (ICTJ) March 2009 report, 'Difficult Peace, Limited Justice: Ten Years of Peacemaking in the DRC' asserted:

"In general the Congolese justice sector is unable to deliver day-to-day rule of law for the population, let alone tackle massive rights abuses. The infrastructure of the justice system has collapsed almost completely; the European-funded Rejusco project has made considerable strides in improving the infrastructure but is geographically limited to the East. On the whole, magistrates are poorly trained, ill-equipped (often lacking basic Congolese legal texts), and badly paid. The DRC does not lack the necessary legislation, but it faces serious problems in implementing laws and delivering justice." **[36a] (p25)**

ORGANISATION

12.04 The UN Special Rapporteur reported in April 2008 that: "Several important fundamental rights and freedoms are enshrined in the [2006] Constitution. The first paragraph of article 149 establishes the independence of the judicial authority." **[15c] (p5)** His report continued:

"Section 4 of Title III of the Constitution provides a detailed framework for the organization and functioning of the judiciary. It states unambiguously that the fundamental principle governing the judiciary is its independence. The first paragraph of article 149 provides that: 'The judiciary is independent of the legislature and of the executive'. Accordingly, it is the 'guarantor of the individual freedoms and fundamental rights of citizens' (article 150, first paragraph). Article 151 of the Constitution states, inter alia, that 'the executive branch cannot issue instructions to judges in the exercise of their jurisdiction, obstruct justice or oppose the enforcement of a court decision'.

"The new Constitution also provides for the establishment of the Constitutional Court, the Council of State and the Court of Cassation. Pending the constitution of these three new courts, the Supreme Court of Justice is discharging their functions." **[15c] (p5)**

12.05 The USSD 2008 concurred:

"The 2006 constitution laid the foundation for an independent judiciary by removing previous presidential powers to appoint and remove magistrates. The Supreme Court's functions are also divided into a Constitutional Court, Appeals Court, High Council of Magistrates (CSM), and Administrative Oversight Agency. In July [2008] parliament passed the necessary legislation to create the new CSM. President Kabila promulgated the legislation in August. By law, the CSM was to have adopted internal rules of procedure within 30 days; this was delayed, in part, because no government funds had been received since September. By year's end the new body was not fully operational." (USSD Reports on HR Practices 2008) **[8b] (Section 1e)**

12.06 The USSD 2008 **[8b] (Section 1e)** and the UN Special Rapporteur's report of May 2008 **[15c] (B. The judiciary)** detailed the structure of the judicial system; the UN Special Rapporteur noting:

"The Court of Cassation hears applications for judicial review of final judgements handed down by civil and military courts and tribunals. In addition, the Court has competence to act as a court of first instance in certain cases. The Constitutional Court is responsible for verifying the constitutionality of laws and instruments with force of law. In this context, an individual remedy of unconstitutionality against any law or regulation is available. Lastly, the Constitution provides for an administrative jurisdiction consisting of the Council of State and administrative courts and tribunals.

"The remaining ordinary courts are courts of appeal, one for each province and two in Kinshasa; courts of major jurisdiction in the provincial and district capitals; commercial courts and labour courts (the latter have not yet been set up); and a community justice system consisting of magistrates' courts, which should be set up in each territory to gradually replace customary justice.

"Every court or tribunal, except for the magistrates' courts, has a prosecutor's office attached to it. The prosecutor's office investigates offences and transmits the results of the investigations to the court. There is a State prosecution service attached to each court of appeal in each provincial capital. A prosecution service of major jurisdiction, and in some cases a secondary prosecution service of major jurisdiction, is attached to the courts of major jurisdiction in the provincial and district capitals. The Office of the Attorney-General of the Republic, attached to the Supreme Court of Justice, is in Kinshasa." **[15c] (B. The judiciary)**

12.07 On military courts, the UN Special Rapporteur reported:

"Like the ordinary courts, the military courts are part of the judiciary and are governed by the same principle of independence of the judicial authority. The military courts comprise the following:

- "Military police courts: there are usually one or more of these under the jurisdiction of a garrison court martial
- "Garrison courts martial: there are one or two in a district, a town, a garrison or a military base
- "Military courts: there are usually one or two in each province, in addition to the one in Kinshasa
- "The Military High Court: the final court of appeal of the military jurisdiction, this court is in Kinshasa

"The military courts are under the oversight of the Court of Cassation, which hears applications for review of final judgements of military courts.

"Each military court has a prosecutor's office called the 'auditorat': the Military Prosecutor's Office of the armed forces attached to the Military High Court, a senior military prosecutor's office attached to each military court and a military prosecutor's office attached to each garrison court martial and each police court within the latter's jurisdiction. Like the prosecutor's offices of the ordinary jurisdiction, the military prosecutor's offices conduct investigations, establish offences and gather evidence, which they then transmit to the courts.

"The Constitution provides that 'the military courts have jurisdiction over offences committed by members of the armed forces and the national police'. This provision is very important in that it makes it clear that military courts do not have jurisdiction to try civilians.

"However, the Military Judicial Code, which allows the possibility of military courts trying civilians, has not yet been revised. Nonetheless, these provisions are unconstitutional and should no longer be applied." **[15c] (p5-6)**

12.08 The USSD 2008 added: "Military courts, which had broad discretion in sentencing and provided no appeal to civilian courts, tried military as well as civilian defendants during the year [2008]. The military code of justice, in place prior to the adoption of the present constitution, continued in force. It prescribed trial by military courts of all cases involving state security and firearms, whether the defendants were military or civilian." **[8b] (Section 1e)**

12.09 The USSD 2008 noted: "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 Congolese citizens as ineffective and corrupt." **[8b] (Section 1e)** Freedom House's Freedom in the World Survey 2008 reported: "Civilian and military justice personnel were deployed to provincial centers with MONUC [United Nations Mission in the Democratic Republic of Congo] assistance in 2005, but the judicial system still lacks both trained personnel and resources." **[14a] (Political Rights and Civil Liberties)**

12.10 On judges and lawyers, the UN Special Rapporteur stated: "Under the recent Act on the status of judges, in order to qualify as a judge a candidate must hold a doctorate or undergraduate degree in law." **[15c] (p8)** Also, "There are far too few judicial personnel, both in the prosecution service and in the courts. This is true of nearly all courts, both military and civilian, to the extent that civilian courts are sometimes unable to sit or have to call in a military judge." **[15c] (p9)** On courts he noted: "There are also not enough courts, and these are usually only to be found in the main cities. … Although the plan is to have a magistrates court in each territory, only 53 out of the expected 180 have been set up so far. As a result, customary justice, which provides no guarantee of independence or professionalism, is still too widespread." **[15c] (p9-10)**

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INDEPENDENCE

12.11 The UN Special Rapporteur's May 2008 report recorded:

> "A major breakthrough in the new Constitution was the introduction of a new Higher Council of the Judicature (article 152 of the Constitution) [which was formerly presided and co-presided by the President of the Republic and the Minister of Justice]. Composed entirely of judges, this independent body is responsible for administering the judicial authority. It prepares proposals for the appointment, promotion and removal of judges and exercises disciplinary authority over them. It then submits its recommendations to the President of the Republic, who adopts them by means of an ordinance. This substantially reduces the risk of interference and pressure brought to bear by the other branches of power on judges, since such pressure has most often taken the form of threats of removal or transfer of judges. …
>
> "The Constitution provides that an organization act shall determine the organization and functioning of the Council. However, more than a year after the Constitution entered into force, this law has not yet been adopted. The Council is thus not operational, although there is an extremely urgent need to set it up so as to guarantee the independence of the judiciary." **[15c] (p7)**

12.12 The USSD 2008 noted: "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." **[8b] (Section 1e)** Amnesty International's Annual Report 2008, covering events in 2007, recorded "There were frequent instances of political and military interference in the administration of justice." **[12a] (Justice system)** Freedom House's survey, Freedom in the World concurred "Despite guarantees of independence, the

judiciary remains subject to corruption and manipulation by both official and nonstate actors." **[14a] (Political Rights and Civil Liberties)** The UN Special Rapporteur reported in May 2008:

"… the executive branch continues to issue instructions to judges and to oppose the enforcement of certain court decisions. Some judges, especially in the military jurisdiction, stated that their superiors had instructed them to take a certain decision if they wanted to be eligible for promotion. In several trials involving serious crimes, the Special Rapporteur noted that judges who had taken actions or decisions unfavourable to a member of the military command had been transferred, following which their successors had taken decisions resulting in acquittal of the accused. … Judges find themselves in an intolerable situation in which it is often impossible to work.

"The power the executive continues to exert over the transfer and promotion of judges, in violation of the provisions of the Constitution, which assigns these functions to the Higher Council of the Judicature, remains one of the main reasons for the lack of independence of the judiciary and hence the persistence of impunity in the country." **[15c] (p11-12)**

See also Section 19: Corruption

12.13 The February 2008 report of the United Nations independent expert on human rights, which covered the human rights situation of June-December 2007, recorded the problem of "Frequent obstructions of justice linked to interference by the political and military hierarchy" **[15d] (p9)** and stated that, "At present, many important cases are making no progress through the judicial system and remain stalled." **[15d] (p7)** Also:

"During the reporting period, two landmark trials [of the alleged perpetrators of the Kilwa massacre, and the killing of journalist Serge Maheshe] in the fight against impunity in the Democratic Republic of the Congo provoked strong reactions from the international community and Congolese civil society and disappointment among the population. Fundamental fair trial guarantees were not afforded, there were instances of political and military interference and the judgements handed down were strongly criticized." **[15d] (p8-9)**

12.14 In May 2009, Agence France Press (AFP) reported "The government in the Democratic Republic of Congo is abusing the justice system to silence its opponents, a local rights groups said Tuesday." **[53b]** The rights group, African Association for the Defence of Human Rights (ASADHO) highlighted the cases of Norbert Luyeye, the president of the Union of Republicans, a small opposition party not represented in parliament and Gabriel Mokia, president of the Movement of Congolese Democrats (MDC), also unrepresented in parliament. **[53b]**

12.15 In May 2008, the UN Special Rapporteur reported:

"… the Joint Committee to Monitor the Justice Framework Programme in the Democratic Republic of the Congo serves as a consultation platform bringing together all the development partners involved in modernizing the Congolese judicial system … Priority actions and interventions for the short, medium and long term are planned in the following areas: institution building; improving

access to justice; fighting corruption; transitional justice; and the situation in the eastern part of the country." **[15c] (p7-8)**

FAIR TRIAL

12.16 The UN Special Rapporteur's report of May 2008 detailed the "… many factors blocking access to justice in the Democratic Republic of the Congo", including the insufficient number and geographical remoteness of courts, poverty, ignorance of the law, continued used of informal settlement based on customary justice, corruption and political interference, insecurity, the power of criminal investigation officers over the prosecution, and the lack of access to justice for vulnerable sectors of the population who he identified as the poor and women. **[15c] (p15-17)**

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Judges and lawyers

12.17 The UN Special Rapporteur's report of May 2008, also stated that, as:

"The Democratic Republic of the Congo no longer has a judicial training college. Judges enter the profession immediately upon graduation from university, which gives rise to weaknesses in the system. Lacking adequate training and professional knowledge, judges often deliver judgements that are vague, poorly drafted and legally weak. Their lack of training also means that judges are more easily influenced." **[15c] (p8)**

12.18 The USSD 2008 noted: "Although the government permitted, and in some cases provided, legal counsel, lawyers often did not have free access to defendants." **[8b] (Section 1e)** The UN Special Rapporteur reported:

"Lawyers assigned by this service [the Pro Bono Assistance Office] are required to provide free assistance to accused persons who cannot afford to pay a lawyer.These lawyers are usually inexperienced and poorly motivated to handle these cases, for which they are not paid. The State budget does not contain any provision for paying lawyers providing free legal aid to indigents, who make up the majority of the population in the Democratic Republic of the Congo. In many cases, especially in the eastern regions visited by the Special Rapporteur, the free legal aid services are not operational, and this assistance is sometimes provided by NGOs." **[15c] (p12)**

12.19 The UN Special Rapporter found that:

"Lawyers do not appear to be suffering from a lack of organization of their profession or an absence of independence in a formal sense; the difficulties they face have more to do with the lack of independence of judges, and their corruption in particular. All too often, judges demand money from lawyers, on pain of finding against their clients if they do not pay. Some lawyers therefore give in to corruption, and those who resist it face many difficulties.

"Other serious obstacles to the exercise of the legal profession are the threats, intimidation and assault to which lawyers are subjected, not only by some judges, but by the opposing parties." **[15c] (p13)**

Trials and appeals

12.20 The USSD 2008 stated:

> "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 adjudicates. 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." **[8b] (Section 1e)**

12.21 AI's Annual Report 2008 noted: "Trials of civilians by military court continued, despite being unconstitutional. Many trials, especially by military courts, were unfair. Death sentences continued to be passed, the vast majority by military courts, but no executions were reported. There were lengthy delays in bringing people to court, although trials themselves were often summary." **[12a] (Justice system)**

CUSTOMARY JUSTICE

12.22 In his May 2008 report the UN Special Rapporteur acknowledged that:

> "Informal settlement based on customary justice is still very common, particularly outside cities, although it is prohibited in criminal cases. Although one of the reasons for resorting to this system is ignorance of written law and the competent jurisdiction, as mentioned above, people choose customary justice even when they are aware of the formal justice system. They often have misgivings about the formal system, having observed the corruption among judges and court officers, political interference and inefficiency affecting the entire system, and the resulting impunity that prevails in the vast majority of cases. People thus have more confidence in the customary justice system, which is more familiar, easier to understand and easily accessible. However, it can give rise to unfair and even inadmissible settlements, for example in rape cases where victims are often forced by their families to marry the perpetrator." **[15c] (p15-16)**

INTERNATIONAL CRIMINAL COURT (ICC)

12.23 Human Rights Watch's (HRW) World Report 2009 commented:

> "The International Criminal Court (ICC) provided some hope for victims seeking justice. On February 6 [2008], the ICC took custody of Ituri warlord Mathieu Ngudjolo Chui, who was charged with war crimes and crimes against humanity. On September 26, the court confirmed the charges against Ngudjolo and Germain Katanga, another Ituri warlord arrested in 2007. The case is expected to go to trial in 2009. On April 28, the court unsealed an arrest warrant for Jean-Bosco Ntaganda, military chief of staff for Nkunda's CNDP, for crimes allegedly committed in Ituri. Procedural errors in the prosecution of Thomas Lubanga Dyilo, the first Congolese arrested by the

court, delayed the proceedings and raised questions about the efficacy of ICC justice in the minds of some victims." **[13a] (Justice and Accountability)**
The same report also noted "The ICC was also investigating the conduct of Bemba's troops in Congo, but has not filed charges in that case." **[13a] (Justice and Accountability)**

12.24 The UN independent expert on human rights highlighted that:

"It is clear that the International Criminal Court alone cannot try the thousands of crimes and serious violations of international humanitarian law committed in the Democratic Republic of the Congo over almost a decade, especially because its jurisdiction is limited to acts committed since the entry into force of the Rome Statute (1 July 2002).

"What is needed, therefore, is a mechanism that would guarantee not only the effective punishment of crimes covered by the Rome Statute which were committed prior to 1 July 2002, but also the administration of justice and an all-out campaign against impunity." **[15d] (p11)**

Thus, "In order to combat impunity, which must be done if peace is to be restored to the country and further crimes are to be prevented, the independent expert recommends the creation of a special international tribunal for the Democratic Republic of the Congo or, failing that, joint criminal chambers to try crimes committed since 1993, the year when serious violations of humanitarian law are first taken up in United Nations resolutions." **[15d] (p11)**

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ARREST AND DETENTION – LEGAL RIGHTS

13.01 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, stated:

"By law, arrests for offenses punishable by more than six months' imprisonment require warrants. Detainees must appear before a magistrate within 48 hours. Authorities must inform those arrested of their rights and the reason for their arrest, and may not arrest a family member instead of the individual being sought. They may not arrest individuals for non-felony offenses, such as debt and civil offenses. Authorities must allow arrested individuals to contact their families and consult with attorneys. In practice security officials routinely violated all of these requirements." **[8b] (Section 1d)**

Elsewhere, the report also noted, "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 by authorities." **[8b] (Section 1e)**

13.02 The United Nations Special Rapporteur on the independence of judges and lawyers visited the Democratic Republic of the Congo in April 2007 at the invitation of the Government; in May 2008 he reported:

"Under the second paragraph of article 19 of the Constitution, every person has the right to have his or her case tried within a reasonable time by a competent judge. In practice, however, trials often do not take place and when they do, they are extremely slow. Trials in which military officers or other State officials are charged with serious violations of human rights are in most cases obstructed by interference - often quite blatant - from political quarters or the military command, and never seem to reach a conclusion. In trials implicating opponents of the Government, however, the administration of justice is swift, as was the case of the trials of Pasteur Kutino and Marie-Thérèse Nlandu." **[15c] (p13)**

13.03 The USSD 2008 concurred: "Prolonged pretrial detention, often ranging from months to years, remained a problem. 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." **[8b] (Section 1d)**

13.04 The UN Special Rapporteur stated: "Preventive detention is the rule rather than the exception in the Democratic Republic of the Congo. It is used in connection with far too many offences, and often the sole aim is to extract money in return for the detainee's release. The law sets an upper limit on preventive detention, but this is usually not applied." **[15c] (p14)**

13.05 On the subject of juvenile detention, the report continued, "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." (USSD 2008) **[8b] (Section 1c)**

13.06 Amnesty International's (AI) Annual Report 2008, covering the events of 2007, stated: "Impunity persisted in the vast majority of cases. There were, however, a growing number of national – predominantly military – investigations and trials for human rights abuses, including a handful for war crimes and crimes against humanity." **[12a] (Impunity – international justice)** The USSD 2008 concurred:

"The government prosecuted and disciplined few security forces personnel for abusing civilians. Impunity in the security forces remained a severe, widespread problem. Investigating misconduct or abuses by the security forces is the responsibility of the military justice system. According to MONUC's Rule of Law Unit, there were a total of 265 investigators, 232 prosecutors, and 125 judges in the military system. However, they were poorly trained, had little or no resources for investigations, and limited, if any, access to legal codes." **[8b] (Section 1d)**

13.07 AI's Annual Report 2008 also recorded that: "Prosecutions were undermined by frequent escapes from prisons and detention centres." **[12a] (Impunity – international justice)** The USSD 2008 concurred also noting that: "In some cases security personnel who were detained or convicted for 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." **[8b] (Section 1c)**

13.08 The 2007 Annual Report of the World Organisation Against Torture (OMCT), published in June 2008, stated: "In 2007, as in the past, [human rights] defenders taking part in ICC investigations, or more generally in the fight against the impunity enjoyed by warlords and heads of militia, were subjected to smear campaigns and threats." **[16a] (p46)**

See also Section 9: Security forces

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PRISON CONDITIONS

14.01 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, recorded:

"Conditions in most prisons remained harsh and life-threatening. 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.

"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." **[8b] (Section 1c)**

14.02 The United Nations Special Rapporteur on the independence of judges and lawyers visited the Democratic Republic of the Congo in April 2007 at the invitation of the Government; his findings echoed the USSD report stating that: "Attention should also be drawn to the appalling conditions of detention to which detainees are subjected. Many prisons do not have electricity, food, drinking water or basic medical care, endangering the lives of prisoners. It is not unusual for prisoners to die in prison owing to lack of food or care." **[15c] (p15)**

14.03 The USSD 2008 also noted that: "During the year [2008] many prisoners died due to neglect. For example, the UNJHRO reported in February that over a two-month period, 21 prisoners died from malnutrition or dysentery in prisons in Uvira, Bunia, and Mbuji-Mayi." **[8b] (Section 1c)** The report summarised the findings of visits to CPRK and Kisangani Central Prison by foreign diplomats in June and December 2008, respectively; it noted that CPRK housed almost three times its capacity of prisoners and Kisangani prison "was in a state of disrepair". **[8b] (Section 1c)**

14.04 The report continued:

"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 detention center authorities often arbitrarily beat or tortured detainees. Guards frequently extorted bribes from family members and NGOs to visit detainees or provide food and other necessities." **[8b] (Section 1c)**

14.05 The USSD 2008 also noted: "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." **[8b] (Section 1c)** The ICRC Annual Report 2007 stated that it carried out 134 visits to 45 places of detention, visiting 6,900 detainees of which 771 (29 females, 34 minors) were individually monitored; "Food rations were provided when nutritional levels fell particularly low, and medicines and hygiene items were

supplied in certain prisons. Delegates also visited people held by Laurent Nkunda's forces in North Kivu." **[29b] (p96)**

14.06 The United Nations Special Rapporteur's May 2008 report recorded:

"During his visits to places of detention in Kinshasa and Bunia, the Special Rapporteur was extremely concerned to note that, given the slowness of the judicial system, and in some cases the absence of any trial, men, women and children are often held in preventive detention for months or even years without being found guilty by a court of law. What is more, these persons are usually held with convicted prisoners." **[15c] (p14)**

14.07 The USSD 2008 concurred:

"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. 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." **[8b] (Section 1c)**

14.08 The UN Special Rapporteur considered:

"The very low rate of enforcement of court decisions is compounded by the high rate of prison escapes, mainly due to the dilapidated state of the prisons. Efforts to bring the perpetrators of human rights violations to justice are invalidated by these all too frequent escapes, which contribute to immunity. According to MONUC figures, at least 429 detainees, including some convicted of serious human rights violations, escaped from places of detention throughout the country in the second half of 2006." **[15c] (p15)**

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DEATH PENALTY

15.01 Amnesty International's (AI) web pages on the death penalty, accessed 11 February 2009, noted that the Democratic Republic of Congo retained the death penalty. **[12b] (Death penalty in numbers-Abolitionist and retentionist countries)** A Hands Off Cain commentary of 1 January 2009 reported that:

"Capital crimes [in the Democratic Republic of Congo] are: aggravated murder, aggravated robbery, treason, spying, political and military offences and genocide…On May 10, 2005, the National Assembly, the lower house of parliament, removed the reference to the death penalty in the draft constitution previously approved by the Senate. The Assembly finished its review of all the articles of the new constitution on May 13, 2005. The new constitution was approved by popular vote in December 2005." (Hands Off Cain, 1 January 2009) **[17a]**

15.02 AI's report 'Death sentences and executions in 2008', published in March 2009, recorded the passing of at least 50 death sentences in the Democratic Republic of Congo, but did not record any executions taking place in the country. **[12c] (Reported executions 2008; Reported death sentences 2008)** The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, recorded: "On September 22 [2008], the Military Tribunal of Kinshasa/Ngaliema sentenced four GR soldiers to death for their involvement in the killing [of Daniel Botethi, the vice president of the Kinshasa Provincial Assembly and a prominent figure of the opposition party Liberation of Congo (MLC)]." **[8b] (Sections 1a)**

Further, "On May 21 [2008], at the conclusion of an appeals trial, the Bukavu Military Court in South Kivu Province sentenced three civilians to death for the June 2007 killing of Radio Okapi editor Serge Maheshe; two of the three had already received death sentences at the first trial in August 2007." (USSD 2008) **[8b] (Section 2a)**

15.03 The Hands Off Cain commentary of 1 January 2009 reported that, "On December 18, 2008 Democratic Republic of Congo was absent during the vote on the Resolution on a Moratorium on the Use of the Death Penalty at the UN General Assembly." **[17a]**

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POLITICAL AFFILIATION

16.01 Amnesty International's Annual Report 2008, covering the events of 2007, stated:

> "A new government, formed in February [2007], ended the interim power-sharing administration in place since 2003. Tensions between the government and Jean-Pierre Bemba, the main opposition presidential candidate in 2006, degenerated in late March. Up to 600 people were killed when fighting broke out in Kinshasa between government forces and Jean-Pierre Bemba's armed guard after he refused a government order to disarm. Jean-Pierre Bemba then left the country, and an uneasy co-existence between the government and political opposition developed." **[12a] (Background)**

16.02 Freedom House's Freedom in the World Survey 2008 reported: "The rights to freedom of assembly and association are sometimes limited under the pretext of maintaining public order, and groups holding public events must inform local authorities in advance." **[14a] (Political Rights and Civil Liberties)**

16.03 Human Rights Watch's November 2008 report, 'We Will Crush You', observed: "The government of President Joseph Kabila has used violence and intimidation to eliminate its political opponents beginning in the immediate aftermath of the election's inconclusive July-August 2006 first round." **[13c] (p2)**

FREEDOM OF ASSOCIATION AND ASSEMBLY

16.04 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, stated: "The constitution provides for freedom of association; however, in practice the government sometimes restricted this right." **[8b] (Section 2b)** Further:

> "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. During the year [2008] security forces occasionally arrested demonstrators." **[8b] (Section 2b)**

OPPOSITION GROUPS AND POLITICAL ACTIVISTS

16.05 The USSD 2008 recorded that: "During the year [2008] political parties were able to operate most of the time without restriction or outside interference; however, there were notable exceptions." **[8b] (Section 3)** The report stated: "There were reports that the government or its agents committed politically motivated killings." **[8b] (Section 1a)** Further, "There were reports of politically motivated disappearances caused by government forces. … There were few, if any, reports that the government made efforts to investigate disappearances and abductions, including those in which security force members were accused of involvement." **[8b] (Section 1a)**

16.06 The same report also noted: "Security personnel detained perceived opponents and critics of the government during the year [2008]." **[8b]**

(Section 1d) And "There were reports of political prisoners and detainees … The government sometimes permitted access to political prisoners by international human rights organizations." **[8b] (Section 1e)** HRW's World Report 2009 stated:

"Security forces targeted political opponents, particularly those from Equateur province, the home region of former presidential candidate Jean-Pierre Bemba. They killed at least five and illegally detained scores of others, many of whom were tortured or ill-treated. At least a dozen detainees remain unaccounted for at this writing. Detainees were frequently accused of plotting a coup, but as of October 2008, no cases had been brought to trial." **[13a] (Political Repression)**

See also Section 9: Security forces,

Bundu dia Kongo (BDK)

For background information on the Bundu Dia Kongo, see also Section 16: Bundu dia Kongo (BDK); Section 20: Bundu dia Kongo and Annex B: Political organisations

16.07 The USSD 2008 noted:

"On February 28 [2008], the government launched operations ostensibly to restore state authority in Bas-Congo Province. Members of the Bundu Dia Kongo (BDK), a political-religious group seeking greater provincial autonomy, had effectively taken over state functions in several villages and towns in Seke-Banza, Lukula, and Luozi territories to set up a parallel justice system where existing state authority was extremely weak. The arrival of security forces spawned violent clashes with the BDK, as well as the rape of local residents by the PNC." **[8b] (Section 1a)**

"In June [2008], after dispatching an investigative team to the province in late March, the UNJHRO published a report concluding that at least 100 persons, most of whom were members of the BDK, died during the operations launched by the PNC. The report concluded that the police used excessive force and in some cases committed arbitrary executions." **(USSD 2008) [8b] (Section 1a)**

The USSD 2008 recorded, "Although it criticized the [UNJHRO] report, the government made a commitment to hold a judicial investigation, which had not begun by year's end [2008]." **[8b] (Section 1a)**

16.08 HRW World Report 2009 reported: "On March 21 [2008], the government revoked the authorization of the BDK to operate as a social and cultural organization, effectively making it illegal." **[13a] (Violence in Bas Congo)** The organisation's detailed November 2008 report, 'We Will Crush You' on the restriction of political space in the Democratic Republic of Congo, which included extensive reportage on the "Crackdown in Bas Congo" **[13c] (Chapter V)** stated:

"In Bas Congo in February 2007 and March 2008, state agents acting under Kabila's authority used unnecessary or excessive force against Bundu Dia Kongo (BDK), a political-religious group based in Bas Congo that promoted greater provincial autonomy and gained significant electoral popularity. In August 2006, ahead of the runoff vote for president, the BDK allied

themselves with [Jean-Pierre] Bemba [leader of the Liberation of Congo (MLC)]. Since then the harsh conduct of government forces toward the BDK has increased. When BDK demonstrators protested, at times violently, against electoral corruption in early 2007, police and government soldiers shot or stabbed to death 104 BDK adherents and bystanders. In March 2008 police made a preemptive strike in anticipation of further protests, in what United Nations (UN) investigators said appeared to be a deliberate effort to wipe out the movement. Over 200 BDK supporters and others were killed and the BDK's meeting places were systematically destroyed." **[13c] (p3)**

See also Section 20: Bundu dia Kongo and Annex B: Political organisations

Movement for the Liberation of Congo (MLC)

16.09 Freedom House's survey, Freedom in the Worldy 2008 noted: "The campaign period [of the 2006 elections] included clashes between opposition militants and government forces as well as an attempt on Bemba's life." **[14a] (Political Rights and Civil Liberties)** HRW's November 2008 report, 'We Will Crush You', which extensively reported on the "Crushing [of] Jean-Pierre Bemba and his Supporters" **[13c] (Chapter IV)** stated:

"In Kinshasa, Kabila launched what were in effect military operations (qualifying as internal armed conflict under international law) against his electoral rival Bemba in August 2006 and again in March 2007. Soldiers and Republican Guards interviewed by Human Rights Watch who participated in the military operations said that they had received and interpreted their orders in March 2007 as needing to 'eliminate Bemba.' The military operations against Bemba and his often ill-disciplined guards were brutal and sudden. The use of heavy weapons during the busy work day in central Kinshasa left hundreds of civilians dead through the indiscriminate use of force by both sides, and left many others injured." **[13c] (p3)**

16.10 Freedom House's Freedom in the World Survey 2008 concurred:

"In March 2007, fighting broke out in the capital between the authorities and Bemba loyalists after Bemba's personal security force resisted government calls to disarm. As many as 600 people, most of them civilians, died in the fighting. Bemba himself sought refuge in the South African embassy before going into exile in Portugal in April. The crackdown on the country's top opposition leader added to existing doubts about whether Kabila would allow genuine political pluralism to emerge." **[14a] (Overview)**

16.11 The USSD 2008 and the HRW World Report 2009 recorded the killing of MLC member Daniel Boteti, with the latter noting:

"On July 6 [2008], Republican Guards killed Daniel Boteti, the vice-president of the Kinshasa provincial assembly and a member of [Jean-Pierre] Bemba's Congolese Liberation Movement (MLC). In May and June security agents arrested at least 15 persons from Equateur [Bemba's home province]. They were held incommunicado for several months before 12 of them were transferred to Makala central prison, some of them showing visible signs of torture. In July another eight people from Equateur were arrested, illegally detained, and brutally beaten." **[13a] (Political Repression)**

See also Section 8: Western Congo; Section 9: Abuses by the security forces; Section 11: Abuses by non-government armed forces; Section 17: Freedom of speech and the media; Section 20: Abuse of religious freedom; Annex B: Political organisations and Annex C: Prominent people

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FREEDOM OF SPEECH AND MEDIA

17.01 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, stated:

"The law provides for freedom of speech and of the press; however, the government restricted these rights in practice. Freedom of the press declined during the year [2008]. In August 2007 the UN's independent expert on human rights in the DRC recommended that the government increase its dialogue with the media to seek 'remedies, when necessary, through the law' and reduce violence against the media; however, the government took no action on the proposal during the year. The government intimidated journalists and publishers into practicing self-censorship." **[8b] (Section 2a)**

17.02 The British Broadcasting Corporation's (BBC) Country Profile of January 2009 included information on the Congolese press, noting that "There are several daily newspapers and many more sporadic publications. In addition, there are dozens of private TV stations and more than 100 private radio stations, some of which broadcast news. Radio is the dominant medium; a handful of stations, including state-run RTNC, broadcast across the country. Three TV channels have near-national coverage." **[37a]**

17.03 The USSD 2008 **[8b]** and Freedom House's Freedom in the World Survey 2008 **[14b]** reported on the large and active private press in the Democratic Republic of Congo noting: "While not always objective, the private media are often highly critical of the government." **[14b]** And "Many newspapers remained critical of the government, and many others showed bias toward it or supported particular political parties." **[8b] (Section 2a)**

17.04 Reporters sans Frontières' (RSF) Annual Report 2008, covering events in 2007, stated: "The Congolese media is highly politicised and consequently suffers as a result of highly-charged political tensions across the country. Following the 2006 presidential election, media owned by Jean-Pierre Bemba, former vice-president and unsuccessful election rival to Joseph Kabila, were particularly targeted." **[25a]**

17.05 Freedom House's Survey 2008 recorded: "In order to operate legally in DRC, a media outlet must obtain a license and authorization for technical operations from the Ministry of the Post, Telephones, and Telecommunication as well as a separate authorization to open from the Ministry of Information, Press, and National Communication." **[14b]** Whilst the USSD 2008 stated: "The government required every newspaper to pay a license fee of 250,000 Congolese francs (approximately $450) and complete several administrative requirements before publishing." **[8b] (Section 2a)**

17.06 The USSD report **[8b]** and Freedom House Survey **[14b]** agreed that journalists were often subject to corruption; "Journalists in all major media outlets are usually poorly paid and lack sufficient training, leaving them vulnerable to bribery and political manipulation." **[14b]** "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." **[8b] (Section 2a)**

"Radio remained the most important medium of public information due to limited literacy and the relatively high cost of newspapers and television. More than 200 privately owned radio and television stations operated independently. The state owned two radio stations and one television station, Congolese National Radio-Television (RTNC). The UN operated Radio Okapi, 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." (USSD 2008) **[8b] (Section 2a)**

17.07 Freedom House's Freedom of the Press Survey 2008 noted:

"In October [2007], Information Minister Toussaint Tshilombo banned 22 local private television stations and 16 radio stations for alleged noncompliance with national media laws. While most were allowed to resume broadcasting by year's end, the ban came down particularly hard on media outlets associated with the former rebel leader and Kabila's rival in the 2006 presidential election, Jean-Pierre Bemba." **[14b]**

17.08 Freedom House also noted the existence of the regulatory body, "… the High Authority on Media (HAM), a public agency created under the 2002 peace accord that formally ended the civil war within the Democratic Republic of the Congo (DRC). Some HAM decisions have appeared politically motivated, such as the May [2007] closure of the private broadcaster Radio Television Debout Kasai for allegedly defaming the local governor." **[14b]** Whilst the USSD 2008 recorded: "The National Media Regulatory Commission, a quasigovernmental organization mandated by the earlier transitional constitution, continued to operate in the absence of a successor body. Unlike during the previous year [2007], it did not sanction any media organizations for broadcasting defamatory comments." **[8b] (Section 2a)**

17.09 Freedom House's 2008 Survey also reported that: "Officials used an array of prohibitive licensing regulations, criminal libel laws, and legal provisions allowing 'preventive detention' without due process to restrict free speech and suppress political criticism." **[14b]**

JOURNALISTS

17.10 Freedom House's Freedom of the Press Survey 2008 reported: "Local journalists were vulnerable to violent assault, harassment, and arbitrary imprisonment; during the year [2007] … The International Federation of Journalists ranks DRC as the second most dangerous place for journalists to operate in Africa after Somalia." **[14b]** The Committee to Protect Journalists' (CPJ) Attacks on the Press 2008 concurred: "… the Democratic Republic of the Congo was one of the most perilous countries in Africa for journalists." **[24a]** The USSD 2008 recorded: "Security forces arrested, harassed, intimidated, and beat local journalists because of their reporting." **[8b] (Section 2a)**

The USSD 2008 **[8b] (Section 2a)**, Human Rights Watch's (HRW) World Report 2009 **[13a] (Threats to Journalists and Human Rights Defenders)**, Freedom House's Freedom of the Press Survey 2008 **[14b]**, CPJ **[24a] [24b] [24c]** and the RSF **[25a] [25b]** all detailed specific incidents of abuses committed by the security forces and other armed groups / assailants against journalists during 2007,

2008 and in the first months of 2009 – including threats, physical attacks, frequent imprisonment, arrests, abductions, and murder.

For updates on the situation of journalists and the media, see: http://www.rsf.org/ and http://www.cpj.org/

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HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

18.01 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, recorded:

"The main Kinshasa-based domestic human rights organizations included ASADHO [African Association for the Defense of Human Rights], Voice of the Voiceless, Committee of Human Rights Observers, JED [Journaliste en Danger], and the Christian Network of Human Rights and Civic Education Organizations. Prominent 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 known actions. There were reports that NGOs seeking to register had to pay bribes to local officials to avoid lengthy application requirements. …

"The government generally cooperated with international NGOs that published reports on human rights and humanitarian issues and permitted their investigators access to conflict areas." **[8b] (Section 4)**

18.02 The report also noted:

"A number of senior UN officials visited the country during the year, including UN Special Envoy Olusegun Obasanjo, UN Under-Secretary-General for Peacekeeping Alain Le Roy, Representative of the UN Secretary-General on the Rights of IDPs Walter Kalin, the UN Independent Expert on Human Rights Titinga Pacere, and a delegation of UN Security Council ambassadors.

"UN officials freely criticized actions by the government during the year. During the first half of the year, the UN Human Rights Council's independent expert on human rights in the DRC expressed concern over the extent of impunity for human rights abuses and made recommendations to the government.

"On March 27 [2008], the UN Human Rights Council decided not to renew the mandate of the Independent Expert (IE) on the situation of human rights in the DRC that was established in 2004. Prior to this decision, on March 19, Frederic Titinga Pacere, the IE, had presented a report on his last two working visits to the country (November 2007 and March 2008). The government opposed the renewal of the IE's mandate because of perceived overwhelming criticism and lack of proposed solutions and technical assistance on the part of the IE." **[8b] (Section 4)**

18.03 Human Rights Watch's (HRW) World Report 2009, covering events in 2008, stated:

"In March [2008] the UN Human Rights Council failed to renew the mandate of the independent expert on the human rights situation in the Congo despite the evident need for continued monitoring. … In September key donor nations agreed to establish the post of independent special advisor on human rights linked to the peace process in eastern Congo, but by November they had not named a person to the position. Congo is due to be reviewed under the

Universal Periodic Review mechanism of the UN Human Rights Council in December 2009." **[13a] (Key International Actors)**

TREATMENT OF HUMAN RIGHTS ACTIVISTS AND HUMANITARIAN WORKERS

18.04 The USSD 2008 stated: "A wide variety of domestic and international human rights organizations investigated and published findings on human rights cases. However, security forces harassed, beat, intimidated, or arrested local human rights advocates and NGO workers during the year [2008]. In addition prison officials sometimes obstructed NGO access to detainees." **[8b] (Section 4)**

18.05 The World Organisation Against Torture's (OMCT) Annual Report 2007, released in June 2008, stated: "The Congolese authorities are extremely sensitive to activities that could adversely affect their credibility and image abroad, and denunciation of human rights violations is carried out in an environment that is exceedingly dangerous for defenders. This year again, they have paid a heavy toll: assassinations, clandestinity, exile and persecution." **[16a] (p44)** The report continued:

"Human rights defenders who denounce violations of fundamental freedoms and international humanitarian law are often considered to be sympathisers of one of the existing forces, and are repeatedly subjected to threats, harassment and intimidation from the national authorities and members of armed groups. … Moreover, defenders continue to be systematically questioned by Government agents, such as those belonging to the General Directorate for Migrations (Direction générale des migrations - DGM), following travels abroad for human rights activities, and accused of tarnishing the image of the national institutions." **[16a] (p45)**

18.06 The USSD 2008 **[8b] (Section 4)** and HRW's World Report 2009 **[13a] (Threats to Journalists and Human Rights Defenders)** noted specific incidents of harassment – including arbitrary arrest and detention – threats and violence against human rights activists and NGO workers in 2008. Amnesty International's (AI) Annual Report 2008, covering events in 2007, concurred; "Human rights defenders continued to suffer attacks and death threats, believed to be perpetrated mainly by government agents. Journalists and lawyers were routinely attacked, arbitrarily arrested or intimidated because of their professional activities." **[12a] (Human rights defenders)**

The UN Integrated Regional Information Network (IRIN) reported in April 2009 on the rise in attacks on humanitarian workers in the east of the country:

"There was a 22 percent increase in such attacks in the first quarter of 2009 compared to the same period in 2008, [UN Office for the Coordination of Humanitarian Affairs spokesman, Nestor Yombo] said. Violent attacks, such as armed robberies on offices and private homes, are particularly prevalent in Goma, the capital of North Kivu province, where many NGOs have their regional headquarters. Beyond rural areas, attacks tend to target humanitarian convoys travelling without armed escorts." **[38c]**

18.07 The USSD 2008 recorded that, "Unlike in the previous year [2007], there were no reports that security force members threatened members of international organizations." **[8b] (Section 4)**

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CORRUPTION

19.01 Transparency International's 2008 Corruption Perceptions Index (CPI), released in September 2008, ranked the Democratic Republic of Congo as 42nd of the 47 countries surveyed in Africa, and 171st of the 180 countries surveyed in the world with a score of 1.7. (The CPI score relates to perceptions of the degree of corruption as seen to exist among public officials and politicians by business people and country analysts. It ranges between 10 (highly clean) and 0 (highly corrupt). **[7a]**

19.02 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, noted: "Government corruption remained pervasive." **[8b] (p1)** Further, the report recorded the security forces suffered from widespread corruption, and that corruption was as a factor in both trial delays and the holding of prisoners for longer than their sentenced terms. **[8b] (Section 1d)** Human Rights Watch's (HRW) World Report 2009, covering events in 2008, stated "In a February 2008 report, the UN special rapporteur on violence against women concluded that 'due to political interference and corruption, perpetrators, especially those who belong to the State security forces, go unpunished.'" **[13a] (Justice and Accountability)**

19.03 In terms of the judiciary, the USSD 2008 continued:

> "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. … In rural areas, where there were often no courts within a 310-mile radius, justice was administered on an ad hoc basis by any available authority, creating extraordinary opportunities for corruption and abuse of power. …
>
> "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 Congolese citizens as ineffective and corrupt. … 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." **[8b] (Section 1e)**

19.04 Freedom House's Freedom in the World Survey 2008 reported, "Despite guarantees of independence, the judiciary remains subject to corruption and manipulation by both official and nonstate actors." **[14a] (Political Rights and Civil Liberties)** The USSD 2008 added: "During the year [2008] 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." **[8b] (Section 1e)**

19.05 On political corruption, the Freedom in the World Survey 2008 reported "… international observers noted that the [2006] elections were marred by voter registration irregularities, especially in the capital, and corruption that compromised the credibility of the process. … The 2007 Senate elections were similarly plagued by political corruption, with allegations of vote buying (elected opposition councilors voted for progovernment candidates)." **[14a] (Political Rights and Civil Liberties)**

19.06 While the USSD 2008 noted, "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 2008 Worldwide Governance Indicators, official corruption was a severe problem." **[8b] (Section 3)**

19.07 The United Nations Secretary General's March 2009 report stated: "…the Governor of Equateur province resigned after a motion of no confidence was adopted by the Provincial Assembly following the National Assembly's recommendation that he be tried on charges of corruption." **[9g] (p6)**

See also Section 2: Corruption, Section 9: Security forces and Section 11: Judiciary

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FREEDOM OF RELIGION

20.01 The US Department of State (USSD) International Religious Freedom Report 2008, released on 19 September 2008, covering the period from 1 July 2007 to 30 June 2008, recorded:

"Approximately 55 percent of the population is Roman Catholic, 30 percent is main line Protestant, and less than 5 percent each is Kimbanguiste or Muslim. The remainder generally practices traditional indigenous religious beliefs. Other religious groups include Jehovah's Witnesses, the Church of Jesus Christ of Latter-day Saints (Mormons), and Orthodox Christians.

"Most religious groups are scattered throughout the country and are widely represented in cities and large towns. Muslims are mainly concentrated in the provinces of Maniema, Orientale, and Kinshasa. Members of the ethnically based spiritual and political movement Bundu dia Kongo (BDK) reside predominantly in Bas-Congo, although BDK has never attempted to gain official recognition as a religious association." **[8c] (Section I. Religious Demography)**

20.02 The report also noted: "The Constitution provides for freedom of thought, conscience, and religion, and other laws and policies contributed to the generally free practice of religion. The law at all levels protects this right in full against abuse, either by governmental or private actors." **[8c] (Section II. Status of Freedom of Religion)** Freedom House's Freedom in the World Survey 2008 concurred; "The constitution guarantees religious freedom, which is generally respected in practice, although religious groups must register with the government to be recognized." **[14a] (Political Rights and Civil Liberties)**

Although laws and decrees that provide the state with the power to suspend or dissolve religious groups, and which require religious organisations to register with the government exist, such powers were not exercised and "… in practice unregistered religious groups operated unhindered." (USSD Religious Freedom Report 2008) **[8c] (Section II. Status of Freedom of Religion)**

ABUSE OF RELIGIOUS FREEDOM

20.03 The USSD International Religious Freedom Report 2008 recorded that: "The Government generally respected religious freedom in practice." **[8c] (Section II. Status of Freedom of Religion)** The report stated there were no reported incidents of forced religious conversion in the Democratic Republic of Congo, also "There were no reports of persons detained or imprisoned on the basis of religion." **[8c] (Section II. Status of Freedom of Religion)** Whilst, in terms of societal abuses, the USSD Religious Freedom Report 2008 stated that: "There were no reports of societal abuses or discrimination based on religious affiliation, belief, or practice. However, many families continued to accuse children and elderly persons of being witches and forced them from their homes." **[8c] (Section II. Status of Freedom of Religion)**

RELIGIOUS GROUPS

Bundu dia Kongo (BDK)

20.04 GlobalSecurity.org, accessed on 3 April 2009, recorded the following information about the Bundu dia Kongo (BDK):

"The Bundu dia Kongo (Kingdom of Kongo) is a political-religious group centred in the Bas-Congo province (west of Kinshasa) which has campaigned for the independence of the Bas-Congo region from the rest of the DRC. Its adherents have to renounce western and eastern religions. It seeks the restoration of the ancient Kongo Kingdom with its pre-colonial boundaries, which encompass parts of today's Angola, Republic of Congo and Gabon. The centre of the kingdom was located in Bas-Congo Province and in neighbouring Bandundu Province in the DRC. Bundu dia Kongo adherents have protested in the past against former presidents Mobutu and Laurent Kabila. These protests have occasionally ended in the deaths of the groups' adherents, who have themselves sometimes been armed." **[42a]**

20.05 The USSD report on religious freedom 2008 noted:

"In response to acts of violence by BDK members, the Government conducted operations to restore its authority in the province of Bas-Congo in February 2008. According to a June 2008 report by the United Nations Organization Mission to the DRC (MONUC), at least 100 persons were killed in the course of these operations. The report concluded that police used excessive or unwarranted force against BDK adherents and destroyed more than 200 houses and every BDK temple they encountered. The report noted that BDK houses, shops, and hospitals were looted during the operation. It cited police for arbitrary and illegal detentions and cruel, inhuman, and degrading treatment of detainees. Although BDK ideology and practice contains spiritual elements, the BDK is primarily a political organization and was registered as a nonprofit rather than religious organization. In March 2008 the Ministry of Social Affairs rescinded the BDK's status as a nonprofit organization for noncompliance with rules governing nonprofits." **[8c] (Section II. Status of Freedom of Religion)**

20.06 Human Rights Watch's (HRW) World Report 2009, covering events in 2008, also reported on the violence in Bas Congo, noting that:

"Some 200 BDK supporters and others were killed, and BDK meeting places were destroyed. The police attempted to hide the extent of the carnage by dumping dozens of bodies in the Congo River and hastily burying others in mass graves. Police arrested over 150 persons suspected of supporting the BDK and tortured or ill-treated some of them. On March 21 [2008], the government revoked the authorization of the BDK to operate as a social and cultural organization, effectively making it illegal." **[13a] (Violence in Bas Congo)**

See also Section 8: Bas Congo; Section 16: Bundu dia Kongo and Annex B: Political groups

Armée de Victoire (Army of Victory Church)

20.07 An information response by the Canadian Immigration and Refugee Board's (IRB) Research Directorate, dated 25 March 2008, provided the following translation from the Army of Victory church's website in which it describes itself as follows:

"the main branch of the World Mission for Message of Life (Mission Mondiale Message de Vie), which brings together over 30,000 followers, supporting Archbishop KUTINO Fernando's vision with prayers and donations. He is assisted by a college of bishops and a team of deacons. The organization's headquarters is located at 72 rue Kanda-Kanda, in the Kasa-Vubu commune [administrative division]. (Armée de victoire n.d.)"

The IRB response also noted that "Save the Congo (Sauvons le Congo) is a religious movement established by Fernando Kutino in 2003 (Sauvons le Congo n.d.; RSF 19 June 2003). Reporters Without Borders (Reporters sans frontières, RSF) describes Save the Congo as [translation] "a political and religious movement" (ibid.)." **[19b]**

20.08 Another IRB response of March 2008, reported:

"During a 17 March 2008 telephone interview with the Research Directorate, a representative of the Army of Victory church (Église Armée de la victoire) stated that because of a property dispute with the Church of Praise (Église de la louange) concerning the lot on rue de l'Enseignement, the Army of Victory can no longer use that location. Therefore, the church's headquarters are currently located at the YMCA in the Matonge neighbourhood (Armée de la victoire 17 Mar. 2008). Two other sources mention a property dispute between the two churches (AI 4 July 2006; La Conscience 5 June 2006).

"The Representative stated that, since June 2006, the Army of Victory's radio station has had to suspend operations twice, once for six months and another time for two months (Armée de la victoire 17 Mar. 2008). The radio station's headquarters used to be located on rue de l'Enseignement, but it is now located on avenue Unzua, Matonge neighbourhood, in the commune [administrative district] of Kalamu (ibid.)." **[19c]**

The IRB response also noted:

"Corroborating information could not be found among the sources consulted by the Research Directorate. However, according to one source, when Pastor Kutino was arrested, the National Police Special Services (Services spéciaux de la police nationale) interrupted broadcasting by the station Radio Télévision Message de Vie (RTMV) for three days, from 14 to 16 May 2006 (JED 23 May 2006). RTMV belongs to the Army of Victory (Congo Vision 24 May 2006). However, another source indicates that the interruption affected only the church's television station, and that the radio station [translation] 'continued broadcasting as normal' (ibid.). On 22 May 2006, the church's station was looted, which resulted in another broadcasting interruption (CPJ 23 May 2006; UN 26 June 2006)." **[19c]**

20.09 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, recorded: "On October 2

[2008], the Kinshasa/Gombe Military Court reduced the 20-year sentence of Fernando Kutino to 10 years in prison following the end of his appeal trial. After Kutino criticized President Kabila in a radio broadcast, a military tribunal convicted him and two colleagues in 2006, following a trial that reportedly used evidence obtained through torture, according to informed sources." **[8b] (Section 1e)**

See also Section 25: Children accused of 'witchcraft' and Annex C – Prominent people

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ETHNIC GROUPS

21.01 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, recorded: "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." **[8b] (Section 5)** The report continued "The security forces in Kinshasa sometimes harassed, arbitrarily arrested, or threatened members of ethnic groups from Equateur Province, according to the UNJHRO." **[8b] (Section 5)** It also noted:

"Discrimination against persons with albinism was widespread and limited their ability to obtain employment, health care, 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 stated their children were successful in school, but 47 percent said they felt humiliated by having albino children." **[8b] (Section 5)**

21.02 The concluding observations of the United Nations Committee on the Elimination of Racial Discrimination, published on 17 August 2007, recorded: "The Committee notes with concern that, while the State party does not deny the existence of ethnic conflicts in the Democratic Republic of the Congo, there is no definition of racial discrimination in domestic law that reflects the definition given in article 1 of the Convention." **[15f] (p3)** Also, "The Committee notes with concern that, as recognized by the State party, the Convention and other texts and laws concerning racial discrimination have not been sufficiently publicized in the Democratic Republic of the Congo. " **[15f] (p5)**

21.03 Freedom House's Freedom in the World Survey 2008 reported:

"Societal discrimination based on ethnicity is practiced widely among the country's 200 ethnic groups, particularly against the various indigenous Pygmy tribes and the Congolese Banyamulenge Tutsis. The ongoing fighting in the eastern Kivu region is driven in part by ethnic rivalries. The ubiquity of firearms and deep mutual resentment over land security has helped to harden ethnic identities." **[14a] (Political Rights and Civil Liberties)**

21.04 The August 2007 concluding observations of the United Nations Committee on the Elimination of Racial Discrimination reported that "The Committee notes with concern the information received about the de facto segregation in Kinshasa, where Luba Congolese and Swahili-speakers are discriminated against and have difficulty finding housing." **[15f] (p4)** The report also noted that "… one of the candidates in the last provincial election campaign in Katanga in October 2006 made racist comments about other candidates and that, although the High Authority for the Media banned him from making statements to the media, no judicial proceedings were taken against him." **[15f] (p3)**

21.05 In a similar vein, Human Rights Watch's (HRW) November 2008 report, 'We will crush you' recorded:

"During a bitter [2006 Presidential] campaign both candidates tried to mobilize ethnic and regional loyalties to win votes. Bemba, member of a well-known business and political family from the northwestern province of Equateur,

portrayed himself as 'One Hundred Percent Congolese,' implying that Kabila was a foreigner. Bemba supporters stressed that Kabila was unable to speak Lingala (the main language of western Congo) and raised questions about his parentage, alleging that his mother was a Rwandan Tutsi." **[13c] (p13)**

21.06 The UN report of August 2007 also asserted: "The Committee is concerned at the persistence of tensions between the Bantu, Sudanic, Nilotic, Hamitic and Pygmy ethnic groups." **[15f] (p5)** The USSD Reports on Human Rights Practices 2008 noted the "Security forces in North and South Kivu provinces sometimes harassed, arbitrarily arrested, or threatened members of many different ethnic groups resident there." **[8b] (Section 5)**

INDIGENOUS PYGMY TRIBES

21.07 The USSD 2008 noted:

"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; societal discrimination against them continued. Most Pygmies took no part in the political process and continued to live in remote areas. During the year [2008] fighting in North Kivu between armed groups and government security forces caused displacement of some Pygmy populations." **[8b] (Section 5)**

21.08 The August 2007 concluding observations of the UN Committee on the Elimination of Racial Discrimination asserted: "The Committee remains concerned that Pygmies are subjected to marginalization and discrimination with regard to the enjoyment of their economic, social and cultural rights, in particular their access to education, health and the labour market. The Committee is particularly concerned at reports that Pygmies are sometimes subjected to forced labour." **[15f] (p5)** The USSD 2008 also noted:

"In some parts of the country, traditional leaders (mwami) and wealthy persons were known to capture Pygmies and force them into slavery. Those captured were known as 'badja' and were considered the property of their masters. During the year [2008] the World Peasants/Indigenous Organization conducted a three-month campaign to free such individuals. On August 18, 96 Pygmies who had been held as slaves were released; 46 of the group belonged to families that had been enslaved for generations." **[8b] (Section 5)**

21.09 The August 2007 concluding observations of the UN Committee on the Elimination of Racial Discrimination stated: "The Committee notes with concern that the rights of the Pygmies (Bambuti, Batwa and Bacwa) to own, exploit, control and use their lands, their resources and their communal territories are not guaranteed and that concessions are granted on the lands and territories of indigenous peoples without prior consultation." **[15f] (p4)**

BANYARWANDA / BANYAMULENGE / TUTSIS

21.10 An October 2007 Human Rights Watch (HRW) report, 'Renewed Crisis in North Kivu' recorded:

"Congolese who speak Kinyarwanda (Rwandophones) represent less than five percent of the population of Congo and live largely in the two eastern provinces of North and South Kivu. Congolese Tutsi are a small part of the

larger group of Rwandophones, numbering several hundred thousand and constituting between one and two percent of the total Congolese population of some 60 million. In South Kivu, Tutsi are known locally as Banyamulenge, but this term does not apply to Tutsi living in North Kivu. The rapid rise of Tutsi to national political prominence in the 1990s followed by a sharp decline in their power, as well as the anti-Tutsi hostilities accompanying the process, form the essential context of the current political and military crisis in eastern Congo." **[13b] (p9)**

21.11 The August 2007 concluding observations of the UN Committee on the Elimination of Racial Discrimination stated: "While welcoming the adoption of the Act of 12 November 2004, granting the Banyarwanda Congolese nationality, the Committee is concerned to note that in practice Congolese nationality is particularly difficult to acquire by members of this group." **[15f] (p4)** A March 2009 Refugees International report, 'Nationality Rights for All: A Progress Report and Global Survey on Statelessness', concurred; "Despite a 2004 citizenship law granting citizenship to the Banyamulenge community, it is unclear whether the 300,000 to 400,000 of them living in Congo can obtain nationality documents or their rights as citizens in the ongoing conflict in eastern Congo." **[31b] (p29)**

21.12 The October 2007 HRW report noted: "The struggle over North Kivu was embittered by ethnic hostilities, with Nkunda and his movement identified with Tutsi, while many other North Kivu residents, as well as most FDLR [he Democratic Forces for the Liberation of Rwanda] combatants, were Hutu. Both Tutsi and Hutu remembered past discrimination and violence against people of their ethnic group in Congo, and in neighboring Rwanda and Burundi. Both groups asserted the need to protect themselves from the other." **[13b] (p4)**

21.13 Refugees International's March 2009 report, provided a brief history of the Banyamulenge in the Democratic Republic of Congo, which concluded by noting: "In the name of defending Tutsis against oppression in North Kivu, a rebel army consisting primarily of Banyamulenge and commanded by General Laurent Nkunda has been fighting the government. Violence from this conflict has displaced hundreds of thousands of people. In early 2009, General Nkunda was arrested, a development with uncertain implications for conflict in the region." **[31b] (p29)**

See also Section 11: Abuses by non-government armed forces and Annex B: Armed groups

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LESBIAN, GAY, BISEXUAL AND TRANSGENDER (LGBT) PERSONS

OVERVIEW

22.01 An April 2007 report on the status of homosexuals and nationality laws produced by the Foreign and Commonwealth Office's (FCO) Embassy in Kinshasa stated: "LGBT people are a tiny (but slowly growing) minority which has not yet felt strong enough or sufficiently accepted to aggregate into any form of organised group." **[4b]**

LEGAL RIGHTS

22.02 The (ILGA) World Legal Survey 2008, dated May 2008, noted that: "Homosexual acts are not banned as such, but article 172 [of the 1940 Penal Code, modified in 2006] criminalizing offences against the moral can be used against same-sex contacts. Violations of the statute are punished with between three months to five years imprisonment and a fine." **[40a] (p13)**

22.03 According to the April 2007 report produced by the FCO:

> "There are no laws explicitly punishing or discriminating against LGBT persons. … the Constitution, while not overtly granting them the right of marriage, seems to have a loophole for that, as constitutional specific provisions relating to marriage do not clearly indicate that it should be undertaken by persons of different genders. They only state that '…marriage must be entered into by two individuals.'" **[4b]**

22.04 The FCO April 2007 report noted: "They [LGBT persons] do not benefit from any legal protection whatsoever, more so as their alternative lifestyle still constitutes a legal issue not addressed by the DRC lawmakers of all times." Plus there was "No enforcement (there are no laws yet)". **[4b]** Further: "Evidence of police/authorities taking actions against LGBT people are few and far between. There is no legal basis to substantiate any such actions, so LGBT people are seldom disturbed by police/authorities." **[4b]** Additionally: "The police virtually never consider complaints (if any at all) filed by LGBT persons." **[4b]**

TREATMENT BY, AND ATTITUDES OF, STATE AUTHORITIES

22.05 The FCO's April 2007 report stated: "LGBT people are mostly negatively portrayed by DRC politicians, although this is not often a central campaign focus for politicians. These politicians hail from a society that is extremely intolerant to any sexual practices termed 'against nature'. Besides, most of them claim to be or are Christians so that LGBT are, in their eyes, violators of the biblical principles." **[4b]** Additionally: "The government does not provide funding to LGBT groups, as there are not any yet in existence. It is unlikely that the government would fund them in the present climate." **[4b]**

22.06 The FCO report continued:

> "It is difficult to tell what social rights are denied them. LGBT people scarcely display their LGBT status so that they can still have access to education, health care or employment opportunities. Yet, those few who challenge the

social intolerance are likely to also face denial of a number of social/economic rights.

"Theoretically LGBT people can enlist in the army without suffering violence or discrimination. There is, however, a strong probability of them being victims of violence/discrimination if their status is revealed." **[4b]**

SOCIETAL TREATMENT AND ATTITUDES

22.07 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, noted that: "There were no reports of societal violence or discrimination based on sexual orientation…". **[8b] (Section 5)** "However, [the FCO April 2007 report stated] LGBT people face wide social discrimination." **[4b]** The FCO report continued:

"General perceptions and treatment of LGBT people by the majority of DRC population are very negative. There are two major societal inhibiting factors towards LGBT status: religious factor and African (Bantu) cultural aspects. On the religious side, the DRC (although constitutionally a secular state) is around 75-80% Christian. Prevailing religious doctrine is either very traditional Catholic/Protestant or revivalist Christian. Either way, religious teaching in DRC is strongly anti-homosexual. Any homosexual and/or transgender behaviour is, hence, seen and socially condemned as being abnormal/unacceptable. Congolese (Bantu) culture finds LGBT status to be practically unthinkable.

"As mentioned [above], major religions in DRC regard and unanimously condemn sexual minorities as 'filthy sinners'. The practical impact of these religions' views is that their strong influence shapes the general stigmatisation of Congolese LGBT people.

"LGBT persons are often called names in DRC society. The verbal invective targeting them can be construed as part of the 'societal' violence/harassment inflicted them." **[4b]**

22.08 Anecdotal evidence regarding the ill-treatment of homosexual men included 2007 articles published by the Mail & Guardian **[43a]** and *The Independent* **[23a]**. The April 2007, Mail & Guardian online article recounted that: "Luzau Basambombo spent six months in a Kinshasa prison, being abused over and over again. The Congolese human-rights activist suspects that he was put behind bars because he openly admitted being homosexual. 'If you are gay in Congo, you become an outlaw,' Basambombo says." **[43a]** Whilst *The Independent* reported in July 2007 that Innocent Empi, whose asylum claim was refused in the United Kingdom, claimed to have been targeted for his political activism and because he is a homosexual:

"He said: 'It's acceptable to kill and beat them [homosexuals], either by decapitation or by putting tyres around them and burning them.'

"While on his way to a [political] demonstration, he was confronted by his late partner's family, who wrongly blamed him for his death. 'I was beaten and others joined in. It was terrifying. One person stamped on my hand and broke it and they beat me with sticks. When the police saw me they saw leaflets on

me and saw I was going to the demonstration. Someone told the police I was a homosexual and they took me away.'" **[23a]**

See also Section 24: Women

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DISABILITY

23.01 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, recorded:

"The law prohibits discrimination against persons with disabilities; however, the government did not effectively enforce these provisions, 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." **[8b] (Section 5)**

23.02 On victim assistance, the Landmine Monitor report 2008 stated:

"At the Eighth Meeting of States Parties in November 2007, the DRC acknowledged the importance of victim assistance (VA) and its integration into the multi-sectoral disability framework. It also recognized that implementation had been challenged by the absence of funds and technical assistance, and by a weak legal framework.

"Conflict has severely damaged the DRC's infrastructure: services in many areas are either non-existent or incapable of addressing the needs of mine/ERW survivors and other persons with disabilities. Access to services is further reduced by long distances, a lack of roads and security concerns. Health sector improvement and renovation programs launched by the government remained insufficient and the great majority of the population continued to have limited or no access to healthcare. When services were received they often were often not of high quality." **[51a] (Victim Assistance)**

23.03 Handicap International's undated webpage on the Democratic Republic of Congo noted that care for handicapped people was given in some cities, such as Kinshasa, Mbuji Mayi and Kisangani, by an international organisation, Handicap International. This included supporting a Centre for the Rehabilitation of Handicapped People (CRHP) in Kinshasa. **[44a]**

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WOMEN

OVERVIEW

24.01 Freedom House's Freedom in the World Survey 2008 summarised the situation of women in the Democratic Republic of Congo:

"Despite constitutional guarantees, women face discrimination in nearly every aspect of their lives, especially in rural areas, where there is little government presence. The law requires a married woman to obtain her husband's permission before engaging in routine legal transactions. Violence against women, including rape and sexual slavery, has soared since the war began in 1996. Congolese women are also subjugated as agricultural laborers, and armed groups regularly loot their harvests. Abortion is prohibited. Save the Children has ranked the DRC among the world's five worst conflict zones in which to be a woman or child." **[14a] (Political Rights and Civil Liberties)**

24.02 The United Nations Special Rapporteur on violence against women, its causes and consequences visited the Democratic Republic of the Congo in July 2007; her report of February 2008 also found that "Women face discrimination and oppression in virtually every sphere of life. The country ranks 130th among 136 countries in the UNDP gender-related development index (GDI)." **[15e] (p21)** The Democratic Republic of Congo is a signatory of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). **[15a]**

LEGAL RIGHTS

24.03 The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, reported:

"Women did not possess the same rights as men in law and 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, and applying for a passport. 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'." **[8b] (Section 5)**

24.04 The February 2008 report of the UN Special Rapporteur concurred:

"The Family Code recognizes equality between the spouses (art. 330), but effectively renders a married woman a minor under the guardianship of her husband. Article 444 stipulates that the wife must obey her husband; article 448 requires a woman to obtain her husband's authorization to effect any legal act for which she must present herself in person. The law also endorses double standards on marital fidelity: all cases of adultery committed by a married woman are punishable by six months to one year of imprisonment, whereas male adultery is only punishable if it is of an 'injurious quality'. In almost all ethnic groups, bride price is practised, which leads some men to believe that they have 'bought' their wife. Punishment of women's 'disobedience' enjoys considerable social acceptance, whereas the concept of marital rape is often not understood." **[15e] (p21)**

The UN Special Rapporteur reported that she "… was told that a comprehensive reform of the Family Code was high on the agendas of Parliament's Gender Parity Network and the Minister on the Status of Women." **[15e] (p21)**

POLITICAL RIGHTS

24.05 The February 2008 report of the UN Special Rapporteur stated:

"Article 14 of the Constitution stipulates that women have a right to equitable representation in national, provincial and local institutions and mandates the State to guarantee this. Article 13 of the Electoral Law requires political parties to give consideration to equal representation of women and men on its lists of candidates. Yet the same provision states that lists of candidates that violate this requirement remain admissible. Consequently, women are grossly underrepresented in the country's newly established democratic institutions. Women comprise 42 out of 550 members in the National Assembly, 5 out of 108 in the Senate and 9 of 60 ministers and vice-ministers in the Cabinet. Not a single Governor or Vice Governor is female. A Gender Parity Law that would implement article 14 has yet to be drafted and passed." **[15e] (p21)**

24.06 The USSD 2008 recorded: "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." **[8b] (Section 5)** The Inter-parliamentary Union's (IPU) regularly updated 'Women in National Parliaments' webpage concurred, noting that women accounted for 8.4 percent of representatives in the National Assembly and 4.6 percent of the Senate. **[11c]** The IPU ranked the Democratic Republic of Congo joint 110th of 188 countries in terms of women's participation in parliament. **[11c]**

SOCIAL AND ECONOMIC RIGHTS

24.07 The USSD 2008 stated: "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, women often received less pay in the private sector than men doing the same job and rarely occupied positions of authority or high responsibility." **[8b] (Section 5)**

24.08 The UN Special Rapporteur's report of February 2008 concurred: "Women also face discrimination and violence in places of work and education." **[15e] (p21)** It continued:

"Girls are often denied access to education, as families privilege boys' attendance to school. This is evidenced by the 63.1 per cent literacy rate for young women (15-24 years), which is far lower than the literacy rate of 78 per cent for men in the same age range.20 Interlocutors also pointed out that the sexual coercion of women and girls, committed by supervisors, professors and teachers, is a long-standing phenomenon that existed before the armed conflicts." **[15c] (p21)**

24.09 The USSD 2008 added, "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 year's end [2008] judicial authorities had yet to prosecute any cases." **[8b] (Section 5)**

VIOLENCE AGAINST WOMEN

24.10 The USSD 2008 noted: "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." **[8b] (Section 5)**

"The law does not prohibit female genital mutilation (FGM), but there were no reports of FGM being practiced." **[8b] (Section 5)**

24.11 The same report further stated

"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." **[8b] (Section 5)**

24.12 The Coalition to stop the use of child soldiers' Global Report 2008 stated:

"Thousands of girls were recruited and used by armed forces and groups during and after the armed conflict, and girls continued to be associated with armed forces and groups in the eastern DRC. They performed combat duties and portering, provided medical assistance and carried out domestic labour. Thousands were raped, resulting in serious and permanent injuries; many had children as a result of rape." **[18a] (Disarmament, demobilization and reintegration (DDR))**

The British Broadcasting Corporation (BBC) released a photo article on a Medicins sans frontieres (MSF) clinic for victims of sexual violence, and pregnant women at risk, called the 'Welcome Village' at Masisi Hospital, 80km west of Goma. **[37f]** The clinic's work is documented on the MSF website http://www.condition-critical.org/ **[28c]**

Rape

24.13 The USSD 2008 recorded:

"The law criminalizes rape, but the government did not effectively enforce this law, and rape was common throughout the country and especially pervasive in areas of conflict in the east. According to UNICEF, more than 1,000 women and girls were raped each month in the east. Legislation enacted in 2006 broadened the scope of the law that defines 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. In addition, it raised the age of consent to 18, creating a discrepancy with the family code by exceeding the current allowable age of marriage. The minimum penalty prescribed for rape is a prison sentence of five years." **[8b] (Section 5)**

24.14 The International Rescue Committee (IRC) devoted an undated special report to 'Rape in Congo', noting: "A recent peace agreement could halt the fighting—but it has done nothing to end the war on women. Tens of thousands of women and girls have suffered attacks, leaving them physically damaged and emotionally terrorized. The IRC and a number of other aid groups are working to ensure that women and girls have access to critical care." **[49a]**

24.15 The UN Special Rapporteur's February 2008 report stated:

"Sexual violence has been a defining feature of the Democratic Republic of the Congo's recent armed conflicts. Women, in areas of armed conflict, still suffer sexual violence committed by the Forces armées de la République démocratique du Congo (FARDC), the Police nationale congolaise (PNC), armed groups and, increasingly, civilians. … Sexual violence extends beyond eastern Congo. In Equateur Province, PNC and FARDC have carried out systematic reprisals against the civilian population, including mass rape. Soldiers and police who commit these acts amounting to crimes against humanity are rarely held accountable by the commanding officers. Some of the perpetrators have been given commanding positions in the State security forces, which further aggravates the situation." **[15e] (p2)**

Her report detailed the magnitude and nature of sexual violence – focussing particularly on South Kivu, Ituri district, Equateur Province, and sexual abuse committed by peacekeepers – the care, treatment and livelihood security of survivors of sexual violence, and the perpetuation of sexual violence due to impunity, the integration of alleged perpetrators of sexual violence in to the Congolese armed forces, and the general inequality faced by women. **[15e]**

24.16 Amnesty International's Annual Report 2008, covering events in 2007, recorded: "High levels of rape and other forms of sexual violence continued across the country, particularly in the east. Soldiers and police, as well as Congolese and foreign armed group members, were among the main perpetrators. An increasing number of rapes by civilians was also reported. Many rapes, notably those committed by armed groups, involved genital mutilation or other extreme brutality." **[12a] (Sexual violence)** An Insitute of War and Peace Reporting (IWPR) article of October 2008 concurred:

"Rape victims have been as young as infants and toddlers and as old as 80-year-old grandmothers, according to experts. Some women have been raped by groups of soldiers, while others have been abducted and held as sex slaves. Many victims have been mutilated by their rapists or gravely injured by having wooden sticks or even guns inserted in their vaginas. …

"Aid groups and UN officials reported that in 2004, only about 13 per cent of all rapes were committed by civilians. Three years later, the figure had risen to 40 per cent. UNICEF's DRC-based Protection Specialist Pernille Ironside pointed out children are often targeted by civilians, 'In some areas, as many as half of the victims are children.'" **[50a]**

24.17 The UN Special Rapporteur's February 2008 report also recorded that:

"Many survivors of sexual violence are severely injured, since most rapes are collective and carried out with an extraordinary brutality. Medical data collected by the Provincial Synergy for South Kivu showed that more than 26,000 women in the province sought medical assistance for rape-related injuries in 2006. In some cases, the perpetrators deliberately seek to destroy the victim's genital and reproductive organs." **[15e] (p14)**

24.18 On rapes committed by civilians the UN Special Rapporteur's February 2008 report also cautioned:

"Extreme sexual violence used during the armed conflicts seems to have eroded all protective social mechanisms, unleashing the exercise of brutal fantasies on women's bodies. Civilians are increasingly among the perpetrators of rape, which adds another layer of oppression for women. If the sexual violence associated with war is addressed in isolation, gender-based discrimination and violence endured by women in 'peace' will be grossly neglected and the war on women reinforced." **[15e] (p2)**

Elsewhere in the report, she asserted that: "The war has further reduced women to mere objects that can be raped, tortured and mutilated. Without fundamentally altering gender relations and supporting women's empowerment, high levels of rape will persist, even if stability, the rule of law and democratic, civilian control over the armed forces are established." **[15e] (p21)**

24.19 The USSD 2008 **[8b] (Section 5)** and Human Rights Watch's (HRW) World Report 2009 **[13a] (Violence in Eastern Congo)**, covering events in 2008, also covered the issue of sexual violence against women, the latter noting that "Sexual violence against women and girls continued at its previously horrifying rate with more than 2,200 cases of rape recorded from January [2008] to June in North Kivu province alone, likely representing only a small portion of the total. Dozens of other women and girls were reported to have been raped following resumption of combat in August." **[13a] (Violence in Eastern Congo)** In May 2008, the United Nations Representative of the Secretary-General on the human rights of internally displaced persons stated:

"Where women are concerned, the Representative joins all those who have already expressed their concern at the near-systematic acts of sexual violence which they continue to suffer. For example, there were 5,470 cases of sexual violence in South Kivu in the first half of 2007, and 4,997 victims of sexual violence were identified in 2007 in Ituri. Displaced women whom the Representative met, particularly in the three camps he visited near Goma, confirmed that many cases are not reported, owing to the social stigma attached to victims and the prevailing impunity in the country." **[15b] (p20)**

24.20 The February 2008 report of the UN Special Rapporteur on violence against women asserted that "Massive impunity prevails." **[15e] (p16)** The Amnesty International Annual Report 2008 **[12a] (Sexual violence)**, and the USSD 2008 **[8b] (Section 5)** noted that the prosecution of sexual offenders was rare during 2007 and 2008. Amnesty stated that "A 2006 law which strengthened judicial procedures and penalties for crimes of sexual violence was not widely

implemented." **[12a] (Sexual violence)** Whilst the USSD report recorded "Prosecutions for rape and other types of sexual violence remained rare. … victims … 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." **[8b] (Section 5)**

24.21 The February 2008 report of the United Nations independent expert on human rights, reporting on the period June-December 2007, also noted that: "In the absence of a functioning judicial system, many out-of-court settlements are concluded on the initiative or under the authority of traditional chiefs or local administrative officials, sometimes even the police, in breach of the legislation of July 2006 increasing the penalties for sexual violence and reaffirming the prohibition on such out-of-court settlements." **[15d] (p12)** It also stated:

"The underrepresentation of women among judicial personnel, the predominantly patriarchal culture and the tendency for acts of violence against women to become commonplace contribute to the proliferation of these 'mediations' in the Democratic Republic of the Congo, to the detriment of the victims' basic rights. The practice is often accompanied by acts of intimidation and, sometimes, even punishment of the victim." **[15d] (p12)**

24.22 Amnesty Annual Report noted that: "Rape survivors continued to be stigmatized, suffering social and economic exclusion. Few had access to adequate medical care. The continuing rape crisis is part of a broader pattern of violence and endemic discrimination against women in the DRC." **[12a] (Sexual violence)** The UN Special Rapporteur's February 2008 report concurred, noting that many rape victims suffer vaginal fistula and / or are often infected with HIV. **[15e] (p14)**

"Women survivors of rape are often ostracized and rejected by their own families and communities. Husbands often desert women who have been raped or eject them from their home. The fact that State security forces and armed groups often deliberately rape women in front of their husband or families increases the social consequences of rape. There are also thousands of babies born from rape, who are often rejected by society and sometimes even by their own mothers. Children born from rape committed by foreign armed groups are often persecuted by the local population." (UN Special Rapporteur, February 2008) **[15e] (p15)**

See also Section 8: Security situation; Section 9: Abuses by the security forces; Section 11: Abuses by non-government armed forces; Section 14: Prison conditions; Section 25: Children and Section 26: Trafficking

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CHILDREN

OVERVIEW

25.01 The Democratic Republic of Congo is a signatory of the Convention on the Rights of the Child. **[15a]** The Coalition to stop the use of child soldiers Global Report 2008 noted "The February 2006 constitution defined a child as any person below the age of 18. All forms of exploitation of children were punishable by the law (Article 41), and public authorities were under obligation to protect young people from threats to their health, education and development (Article 42)." **[18a]** The US Department of State's Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, reported: "The government's commitment to and budget for children's welfare were inadequate." **[8b] (Section 5)**

25.02 UNICEF's undated 'Background Information' recorded "A National Council for Children has been created to strengthen and coordinate programmes to protect orphans, child soldiers, survivors of sexual abuse and other vulnerable children." **[26a]** The USSD 2008 also noted that: "Several NGOs worked effectively with MONUC and UNICEF to promote children's rights throughout the country." **[8b] (Section 5)** Save the Children's Country Brief 2008/09 detailed the organisation's achievements in the Democratic Republic of Congo, outlining the following:

- "We've secured the release of 2,865 children involved with armed groups
- "We're helping 26,661 children go to primary school
- "We're reuniting 4,514 separated children with their families
- "We're vaccinating 46,709 children
- "We're providing food supplements for 1,500 malnourished children" **[46a] (p1)**

25.03 The United Nations Representative of the Secretary-General on the human rights of internally displaced persons reported in May 2008 that: "As in many conflicts, displaced children in the Democratic Republic of the Congo suffer to a greater extent from the difficulties which must be overcome by the whole of the displaced population." **[15b] (p19-20)**

25.04 The concluding observations of the UN Committee on the Rights of the Child (UN CRC), released January 2009, noted: "The Committee is concerned at the high level of poverty in the State party, which hampers the full enjoyment by children of their rights and leads to several forms of exploitation, such as economic exploitation, sexual exploitation and trafficking, and also increases vulnerability of certain groups of children inter alia street children, refugee and displaced children." **[15h] (p2)**

The UNICEF website provided statistical information http://www.unicef.org/infobycountry/drcongo_statistics.html **[26b]** and updates on issues affecting children in the Democractic Republic of Congo. http://www.unicef.org/infobycountry/drcongo_36344.html **[26c]**

EDUCATION

25.05 The Economist Intelligence Unit (EIU) Country Profile 2009 recorded:

"The state education system is in a state of collapse; infrastructure is dilapidated or non-existent, and teachers infrequently paid and often absent. Education was officially nationalised in 1972, but the Catholic Church remains responsible for an estimated 80% of functioning primary schools and 60% of secondary schools. The World Bank estimates male adult literacy at 81% and female adult literacy at 54%." **[6b] (p12)**

25.06 The USSD 2008 noted:

"In practice primary school education was not compulsory, free, or universal, and very 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 in school." **[8b] (Section 5)**

UNICEF's undated 'Background Information' recorded that: "School enrolment rates are declining. More than 4.4 million children (nearly half the school-age population) are not in school. This number includes 2.5 million girls and 400,000 displaced children." **[26a]** USSD 2008 noted that: "Rates for girls were lower because many parents preferred to send their sons to school, either for financial or cultural reasons." **[8b] (Section 5)** "UNICEF and its partners rehabilitated classrooms, trained hundreds of teachers and other non-formal educators, and distributed school supplies to 200,000 internally displaced children." (UNICEF, 'Background Information', undated) **[26a]**

25.07 The United Nations Representative of the Secretary-General on the human rights of internally displaced persons reported in May 2008 that internally displaced children "…are denied certain rights which are specific to children, such as the right to education." **[15b] (p20)**

25.08 The UN CRC's concluding observations of Jnaury 2009 reported:

"The Committee recognizes the Constitutional provision for free public primary education but notes with concern that, in reality, schooling costs remain relatively high. The Committee welcomes the 'Initiative 25 pour 2005', which aims to ensure gender parity in schools. However, the Committee notes with concern that, despite governmental efforts, school enrollment rates in primary and secondary schools are low, particularly for girls, children living in rural areas and children from vulnerable groups. The Committee expresses further concern that the educational infrastructure is poor, that schools are poorly equipped, that only a small percentage of teachers are qualified and that salaries are not regularly paid." **[15h] (p14-15)**

CHILD CARE

25.09 The USSD 2008 recorded:

"The country's estimated 50,000 street children included many accused of sorcery, child refugees, and war orphans, as well as children with homes and

families. … The government was ill-equipped to deal with large numbers of homeless children. Many engaged in prostitution without third-party involvement, although some were forced to do so. 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.

"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." **[8b] (Section 5)**

25.10 The UN CRC's concluding observations of January 2009 reported:

"The Committee regrets that there is little information in the State party report on the situation of children without parental care and is concerned that there are no minimum standards or regulations for institutions, orphanages and other bodies that care for such children. While noting that the State party is collaborating with UNICEF in order to register residents of orphanages and monitor their situation, the Committee remains concerned that monitoring of children in care is currently inadequate." **[15h] (p9)**

HEALTH ISSUES

25.11 Save the Children's 'State of the World's Mothers' report of 2008 adjudged the Democratic Republic of Congo ranked 8th out of the 10 worst countries in the world in terms of children's access to medical services, with 61 per cent of under-five-year-olds believed to be without basic health care. **[46c] (p17, 21)** UNICEF's undated 'Background Information' recorded the following health issues faced by children in the Democratic Republic of the Congo:

- "Rates of infant, under-five and maternal mortality are staggering. One in five children dies before reaching the age of five. Mothers die in childbirth in 13 out of every 1,000 deliveries.
- "Nearly one third of children are underweight. Malnutrition and micronutrient deficiencies are responsible for nearly half of deaths among children under age five.
- "Vaccination rates for the most common childhood diseases are approximately 65 per cent. [In December 2008, WHO also provided statistical information on estimated vaccination coverage **[27e]**]
- "Less than half the population has access to a safe source of clean drinking water. Less than one third has access to adequate sanitation facilities.
- "The adult HIV/AIDS prevalence rate was 4.2 per cent in 2005, a significant increase from 2004. The rate is believed to be significantly higher in areas of recent armed conflict, where sexual abuse and violence against women was widespread.
- "There are over 4 million orphaned children in the country." **[26a]**

25.12 Save the Children's Annual Report 2007/2008 stated "… we've drawn up agreements with the relevant health authorities that pregnant and breastfeeding women, and children under five, would receive essential drugs free of charge in all Save the Children-supported health centres…". **[46d] (p9)**

25.13 Médecins san Frontières' 'Top Ten Humanitarian Crises of 2008', published in December 2008, reported on the lack of access to medical services in the Kivus due to continuing violence, but also noted that "… the Congolese population in other regions of the country endures a perpetual lack of access to health care and recurring epidemics, such as the cholera outbreak that sickened more than 4,000 people in Lubumbashi and Likasi in Katanga province, and a measles outbreak to which MSF responded with a vaccination campaign reaching more than 225,000 children between 6 months and 15 years old." **[28b]**

25.14 The UN CRC's concluding observations of January 2009 recorded:

"The Committee notes with appreciation that the State party has ratified the WHO Framework Convention on Tobacco Control. The Committee also welcomes the improvements in the vaccination rates for childhood illnesses and in the nutritional levels of women and children under the age of five, as well as the campaigns carried out against measles, malaria and intestinal parasites. Nevertheless, it is concerned that the State party has not implemented the Committee's previous recommendations on this issue (CRC/C/15/Add.153, paragraphs 48 and 49) in their entirety. The Committee expresses grave concern at the current situation in the health services sector, including the following:

"(a) Lack of adequately functioning health centres, particularly in rural areas, and the deplorable conditions and lack of human, medical and financial resources in hospitals;
"(b) High infant, under-five and maternal mortality rates;
"(c) High chronic and acute malnutrition rates, inadequate vaccination rates for childhood illnesses;
"(d) Difficulty for children to access health services due to costs;
"(e) Lack of qualified health practitioners particularly in the east of the country, due mainly to armed conflict in that region; and
"(f) Declining quality of medical and paramedical training in the country." **[15h] (p12)**

UNDERAGE / FORCED MARRIAGE

25.15 The concluding observations of the UN CRC, released in January 2009, recorded: "The Committee is concerned that the legal minimum age for marriage is 15 years for girls." **[15h] (p5)** However, USSD 2008 reported:

"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 $166) 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 during the year." **[8b] (Section 5)**

VIOLENCE AGAINST CHILDREN

25.16 The USSD 2008 stated: "The law prohibits all forms of child abuse, the extent of which was unknown and had not been thoroughly investigated." **[8b] (Section 5)**

"Child abuse was an especially serious problem in the eastern conflict regions. During the year [2008] HRW documented rapes of girls by army soldiers and by combatants of the CNDP, FDLR, and Mai-Mai militias. Between June 2007 and June 2008, the UN recorded 5,517 cases of sexual violence against children in Ituri and North and South Kivu." **[8b] (Section 5)**

25.17 The summary of a November 2008 report of the UN secretary-general on children and armed conflict in the DRC concluded that "Widespread incidents of rape and other sexual violence against girls and boys remains of critical concern. The report identifies both State and non-State parties responsible for grave violations against children." **[9b]** The report went on to detail specific violations, including abduction, rape and killing of children. **[9b] (p5-10)**

25.18 The UN CRC's concluding observations of January 2009 reported:

"The Committee welcomes the adoption in 2006 of two laws against sexual violence, particularly law n°06/018, which takes into account provisions of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Committee however is deeply concerned over extremely high rates of sexual violence in the State party and that in some areas up to half of the victims of such violence are children." **[15h] (p8)**

25.19 The USSD 2008 stated: "Child prostitution occurred throughout the country; however, there were no statistics available regarding its prevalence. According to HRW and local NGO, Lazarius, police in Kinshasa extorted sexual services from child prostitutes." **[8b] (Section 5)**

25.20 The USSD 2008 also noted that, "Although authorities made several arrests related to child abandonment and abuse during the year, no cases had been prosecuted by year's end [2008]." **[8b] (Section 5)**

Children accused of 'witchcraft'

25.21 The USSD 2008 recorded: "The constitution prohibits parental abandonment of children for alleged sorcery; in practice such allegations led to abandonment and abuse." Further, "Many churches in Kinshasa conducted exorcisms of children involving isolation, beating and whipping, starvation, and forced ingestion of purgatives." **[8b] (Section 5)**

25.22 The concluding observations of the UN CRC, released in January 2009, recorded:

"While the Committee notes that awareness-raising and rehabilitation activities for children accused of witchcraft have been developed, however remains concerned that a large number of children are labeled as witches and consequently suffer serious stigmatization. The Committee is also concerned that violence against children accused of witchcraft is increasing, and that

children are being kept as prisoners in religious buildings where they are exposed to torture and ill-treatment or even killed under the pretext of exorcism." **[15h] (p18)**

CHILD LABOUR

25.23 The USSD 2008 recorded: "Although the minimum age for full-time employment without parental consent is 18 years, employers may legally hire minors between the ages of 15 and 18 with the consent of a parent or guardian. Those under age 16 may work a maximum of four hours per day. All minors are restricted from transporting heavy items." **[8b] (Section 6d)**

25.24 The UN CRC's concluding observations of January 2009 stated:

"The Committee notes with appreciation that the 2002 Labour Code raises the minimum age for employment to 16, addresses the worst forms of child labour and calls for the creation of a National Committee to combat the worst forms of child labour. Nevertheless, the Committee is concerned that child labour persists, noting with particular concern the presence of child workers as young as five years old, working in dangerous conditions in the mining industry, particularly in the Katanga region." **[15h] (p18)**

25.25 UNICEF's undated 'Background Information' reported: "Child labour is commonplace: More than a quarter of children ages 5 to 14 are working." **[26a]** USSD 2008 added:

"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, and there continued to be reports of forced child labor. Although there were no reports of large enterprises using child labor, it was 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." **[8b] (Section 6d)**

25.26 The USSD 2008 noted: "Government agencies responsible for combating child labor included the Ministry of Labor, the Ministry of Women and Youth, 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 [2008]." **[8b] (Section 6d)**

The mining industry

25.27 The USSD 2008 reported:

"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, Oriental, and North and South Kivu, children performed dangerous mine work, often underground. In many areas of the country, children ages five to 12 years broke rocks to make gravel for a small wage.

"In November 2007 a UNJHRO field team in Misisi, South Kivu Province, observed several children working in illegal gold mines for FARDC soldiers of the 115th Battalion. No action was taken against the soldiers by year's end [2008]. …

"According to a June 2007 Save the Children report, 12,000 children in Kasai Oriental Province 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 Province, girls around the age of 12 worked as prostitutes. … No action was taken against mine operators and supervisors." **[8b] (Section 6d)**

"Security forces and armed groups also used children, including child soldiers, for forced labor in mines." **[8b] (Section 6d)**

See also Section 8: Security situation; Section 9: Abuses by the security forces; Section 11: Abuses by Non-government armed forces & Arbitrary arrest and detention / kidnapping; Section 24: Violence against women; Section 26: Trafficking and Section 34: Employment rights

CHILD SOLDIERS

25.28 The USSD 2008 stated: "All parties to the conflict in the east were involved in the use of child soldiers." **[8b] (Section 5)** The Coalition to stop the use of child soldiers' Global Report 2008 recorded "An estimated 7,000 child soldiers remained in government forces and armed groups, including foreign armed groups mostly to be found in the eastern provinces of Equateur, Ituri, Katanga, North and South Kivu, and Maniema. They were used as combatants, porters, guards and sexual slaves. Children were recruited from refugee camps in Rwanda and used by armed groups in North Kivu." **[18a]**

The Child Soldiers Global Report 2008 extensively documented the situation of child soldiers in the Democratic Republic of Congo, including the practices of government and non-government armed groups, impunity, and the progress of the disarmament, demobilization and reintegration (DDR) process. **[18a]**

25.29 Amnesty International's Annual Report 2008, covering events in 2007, recorded:

"Many hundreds of children remained in the ranks of Congolese and foreign armed groups and some army units. A government programme to identify the children and separate them from the armed forces was largely inoperative by the year's end. Programmes for reintegrating former child soldiers into civilian life remained weak in many areas of the country. Around 5,000 former child soldiers were awaiting reintegration assistance at the end of 2007." **[12a] (Child soldiers)**

25.30 UNICEF's undated 'Background Information' reported that: "UNICEF worked with several local organizations to begin the process of disarming and reintegrating nearly 3,000 child soldiers." **[26a]** The summary of the November 2008 United Nations Secretary-General's report on children and armed conflict in the Democratic Republic of the Congo stated:

"The report notes the decrease in the number of allegations of grave violations against children in the reporting period, while indicating that children are still the primary victims of the ongoing conflict in affected areas. It stresses the continued recruitment and use of children by armed forces and groups, particularly in connection with outbreaks of hostilities in some areas. The

report also raises concerns about the re-recruitment of children, due in part to insufficient support from earlier disarmament, demobilization and reintegration processes." **[9b]**

The report went on to detail the situation regarding the recruitment and use of children in armed forces and groups in Ituri, the Kivus and North Katanga. **[9b] (p5-7)**

25.31 Amnesty International's Annual Report 2008 recorded:

"In North-Kivu, Laurent Nkunda's armed group and opposing mayi-mayi militia recruited large numbers of children, many of them by force. Nkunda's forces allegedly targeted schools for forced recruitment. Insecurity in North-Kivu undermined NGO programmes aimed at unifying families and reintroducing former child soldiers into the community. Former child soldiers who had been reunited with their families were among those taken by armed groups." **[12a] (Child soldiers)**

25.32 The United Nations Representative of the Secretary-General on the human rights of internally displaced persons reported in May 2008 he was:

"… particularly concerned at reports of the forcible recruitment of children and young people by armed groups. He himself spoke to two young teenagers he met in Bohimba camp, near Goma, who told him how members of the group led by the dissident general Nkunda had surrounded a school for the purpose of forcibly recruiting the pupils. During the attack, some of them were killed and others wounded." **[15b] (p20)**

25.33 In November 2008, Save the Children reported on two known incidents of schools being targeted by armed groups for recruitment; it stated that: "There has been an explosion in the number of children being recruited since the latest violence began and the attacks on schoolchildren are a disturbing development," said Ishbel Matheson, Save the Children spokesperson in eastern DRC." **[46a]**

25.34 Human Rights Watch's (HRW) October 2007 report, 'Renewed Crisis in North Kivu', noted an increase in recruitment in Congo and Rwanda by forces loyal to Nkunda in early 2007; "A group known as the Association of Young Congolese Refugees, organized in mid-2006 and active in the camps, actively encouraged Congolese refugee children to return to Congo. Some of these children, like Rwandan adults recruited outside the camps, believed that they were going to North Kivu to take up well-paying civilian jobs." **[13b] (p50)** The report also recorded the obstruction of the removal of children from military service by Nkunda-affiliated officers. **[13b] (p51-54)** Further:

"With international attention to the problem of child soldiers growing, FARDC [Congolese Armed Forces] then Chief of Staff General Kisempia, Land Forces Commander Gen. Gabriel Amisi, then Air Force Commander Gen. John Numbi, and then Commander of the 8th military region Gen. Ngizo Siatilo Louis on February 14, 2007, informed all officers of the mixed brigades that they would be held responsible for the continued military service of any children and that the presence of children in their ranks was illegal. The order was not widely obeyed." **[13b] (p54)**

In April 2009, the UN Integrated Regional Information Network (IRIN) reported "About 1,200 children have been released from various militias since January. However, any that have joined specially designated brigades within the national army will not be allowed to stay. 'The new Congolese army cannot afford to have children in its ranks and the integration process is a unique opportunity to identify and release them,' [the special representative of the Secretary-General for children and armed conflict] said." **[38e]**

25.35 With reference to female child soldiers, HRW's October 2007 report noted: "It is estimated that approximately one in three child soldiers in Congo is female." **[13b] (p48)** The Child Soldiers Global Report 2008 stated:

"Thousands of girls were recruited and used by armed forces and groups during and after the armed conflict, and girls continued to be associated with armed forces and groups in the eastern DRC. They performed combat duties and portering, provided medical assistance and carried out domestic labour. Thousands were raped, resulting in serious and permanent injuries; many had children as a result of rape. Girl soldiers were initially largely overlooked by the government and the donor community. Most girls did not enter the official DDR program, fearing stigmatization by their communities if they were identified as child soldiers. Others remained with their military 'husbands' for fear of violence and recrimination if they left. Only 12 per cent of formally demobilized children were girls, despite estimates that girls might have comprised up to 40 per cent of the total number of child soldiers during the armed conflict. CONADER [Commission Nationale de Désarmement, Démobilisation et Réinsertion] reported in May 2006 that of the 18,500 demobilized children at that date, only 2,900 (15 per cent) were girls." **[18a] (Disarmament, demobilization and reintegration (DDR))**

See also Section 8: Security situation; Section 10: Forced recruitment; Section 11: Forced conscription / recruitment and Section 26: Trafficking

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TRAFFICKING

26.01 The Country Narratives A through G chapter of the US Department of State (USSD) Trafficking in Persons Report 2008, released on 4 June 2008, recorded:

"The Democratic Republic of the Congo (DRC) is a source and destination country for men, women, and children trafficked for the purposes of forced labor and sexual exploitation. Much of this trafficking occurs within the country's unstable eastern provinces and is perpetrated by armed groups outside government control. Indigenous and foreign armed militia groups, notably, the Democratic Forces for the Liberation of Rwanda (FDLR), the National Congress for the Defense of the People (CNDP) and various local militia (Mai-Mai), continue to abduct and forcibly recruit Congolese men, women, and children, as well as smaller numbers of Rwandan and Ugandan children, to serve as laborers (including in mines), porters, domestics, combatants, and sex slaves." **[8d] (Congo, Democratic Republic of the)**

PROSECUTION, PROTECTION AND PREVENTION

26.02 The Country Narratives chapter of the USSD Trafficking Report 2008 noted:

"The government's efforts in prosecuting trafficking crimes were limited during the reporting period. Existing laws do not prohibit all forms of labor trafficking; however, the July 2006 sexual violence statute, Law 6/018, specifically prohibits and prescribes penalties of 10 to 20 years' imprisonment for sex trafficking, child and forced prostitution, and pimping. In addition, the constitution forbids involuntary servitude and child soldiering. During the reporting period, the government made modest efforts to address trafficking crimes committed by armed groups. … These efforts notwithstanding, the government's capacity to apprehend, convict, or imprison traffickers remained weak." **[8d] (Congo, Democratic Republic of the-Prosecution)**

26.03 The report continued, "NGOs provided legal, medical, and psychological services to trafficking victims and potential trafficking victims, including child soldiers and children in prostitution. … The government had little capacity to encourage victims to participate in investigations or prosecutions of trafficking offenders." (USSD 2008) **[8d] (Congo, Democratic Republic of the-Protection)**

"During the reporting period, a working group comprised of the Ministries of Interior and Justice, the national police, the European Police Mission, international donors, and civil society organizations drafted, and continued to review, text for legislation addressing respect for and protection of human rights by police, as well as the prosecution of military deserters. … The government did not conduct other public awareness campaigns related to trafficking during the reporting period. During the reporting period, the government's Military Integration Structure (SMI) and the UN Mission to the DRC (MONUC) conducted joint training on child protection, respect of human rights, and gender-based violence as part of the retraining of FARDC soldiers and officers at brassage centers." **[8d] (Congo, Democratic Republic of the-Prevention)**

See also Section 10: Forced conscription; Section 11: Forced conscription / recruitment and Section 25: Child soldiers

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MEDICAL ISSUES

27.01 The International Rescue Committee's (IRC) January 2008 publication, 'Mortality in the Democratic Republic of Congo – An ongoing crisis', recorded:

"While insecurity persists in the eastern provinces, only 0.4 percent of all deaths across DR Congo were attributed directly to violence. As with previous IRC studies in DR Congo, the majority of deaths have been due to infectious diseases, malnutrition and neonatal- and pregnancy-related conditions. Increased rates of disease are likely related to the social and economic disturbances caused by conflict, including disruption of health services, poor food security, deterioration of infrastructure and population displacement. Children, who are particularly susceptible to these easily preventable and treatable conditions, accounted for 47 percent of deaths, even though they constituted only 19 percent of the total population." **[49b] (Executive summary)**

For the full report on the findings of the IRC's Survey of 2006-2007, see http://www.theirc.org/resources/2007/2006-7_congomortalitysurvey.pdf **[49b]**

27.02 The summary record of the 1385th meeting of the UN Committee on the Rights of the Child (UN CRC), dated 30 January 2009, reported:

"The right to health care was severely compromised. More human and financial resources should be allocated to improve health indicators such as infant and maternal mortality, vaccination rates and nutrition. Emphasis should be placed on primary health care, especially in areas affected by the conflict. Minimum standards should be set and enforced for private practitioners. Attention should be given to adolescents and reproductive health rights, with a focus on the correlation between gender-based violence and HIV/AIDS and between children with HIV/AIDS and illiteracy and mother-to-child transmission." **[15i] (p15)**

27.03 Whilst the concluding observations of the Committee, also released in January 2009, expressed its "… grave concern at the current situation in the health services sector, including the following:

"(a) Lack of adequately functioning health centres, particularly in rural areas, and the deplorable conditions and lack of human, medical and financial resources in hospitals;
"(b) High infant, under-five and maternal mortality rates;
"(c) High chronic and acute malnutrition rates, inadequate vaccination rates for childhood illnesses;
"(d) Difficulty for children to access health services due to costs;
"(e) Lack of qualified health practitioners particularly in the east of the country, due mainly to armed conflict in that region; and
"(f) Declining quality of medical and paramedical training in the country." **[15h] (p12)**

For information on the outbreak of epidemics such as plague, meningococcal disease, poliomyelitis and ebola haemorrhagic fever in the Democratic Republic of Congo see the World Health Organisation's (WHO) 'Epidemic and Pandemic Alert and Response' (EPR) http://www.who.int/csr/don/archive/country/cod/en/ **[27f]**

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

27.04 Freedom House's Freedom in the World Survey 2008 reported that: "According to the United Nations, Congolese people on average manage to get access to health care once every seven years, and they are among the poorest and least healthy people on earth. Critical social services are nonexistent, and the country's infrastructure has all but disintegrated." **[14a] (Overview)** The World Health Organisation's (WHO) Country Brief of 2006 recorded the following statistics from 2004 concerning the health system of the Democratic Republic of Congo:

Physicians	5 827		
		Density per 1000	0.11
Nurses	28 789		
		Density per 1000	0.53
Dentists	159		
		Density per 1000	0.00
Pharmacists	1 200		
		Density per 1000	0.02
Lab technicians	512		
		Density per 1000	0.01
Other health workers	1 042		
		Density per 1000	0.02
Health management and support workers	15 013		
		Density per 1000	0.28

Number and density of midwives, public and environmental health workers, Community Health workers and hospital beds marked as data not available or not applicable
[27a] (p5)

27.05 The Economist Intelligence Unit's (EIU) Country Profile 2009 remarked that: "After decades of neglect, the country's transport infrastructure is in a dilapidated state, as are its schools, hospitals and all other public services." **[6b] (p3)** Médecins san Frontières' (MSF) 'Top Ten Humanitarian Crises of 2008' recorded that it was one of the few humanitarian organisations working in the conflict areas of eastern Congo where the continuing fighting and subsequent displacement of civilians severely hampered access to medical help, with some areas completely cut off from any medical or other assistance. **[28b]**

Updates on MSF in the Democratic Republic of Congo can be accessed via http://www.msf.org/msfinternational/countries/africa/democraticrepublicofcongo/index.cfm **[28a]**

27.06 The 2007 Annual Report of the International Committee of the Red Cross (ICRC) recorded:

"In the health centres receiving regular ICRC support (catchment population: 46,000):

- "31,783 people given consultations, including 12,062 attendingante/post-natal consultations and 19,721 attending curative consultations
- "20,043 vaccine doses administered (18,255 to children aged five or under and 40 to women of childbearing age)
- "269 health education sessions held

"In addition:

- "600 unaccompanied children benefited from medical consultations in the centres accommodating them
- "874 victims of sexual violence received at ICRC-supported counselling centres and referred to health facilities where necessary, 99 of whom given post-exposure prophylaxis within 72 hours of being raped." **[29b] (p97)**

27.07 A European Country of Origin Sponsorship (ECS) response compiled by the Belgian CEDOCA recorded: "… there are a number of pharmacies in Kinshasa, but few only are reliable. Some, comparable to our Western pharmacies, do exist. According to the information obtained in Kinshasa, from a medical doctor, in general, all medicines can be ordered in certain pharmacies, for a price going up to 20% the average European price." **[52a] (p2)**

27.08 On 7 May 2009, the Foreign and Commonwealth Office's (FCO) Embassy in Kinshasa provided the following update on cost and access to various treatments in the Democratic Republic of Congo. The FCO confirmed that the following information provided in August 2005 by a doctor practising at a clinic providing affordable healthcare was still accurate **[4d]** "[He] stated doctors, clinics and medical centres exist in Kinshasa, access to them is limited by abject poverty, and only 30 per cent of Kinshasa's population can afford them. The average cost of a consultation started at $20, although the clinic, which was funded by the UK and NGOs, charged $2" **[4f]**

Cancer

27.09 The FCO's Embassy in Kinshasa confirmed in a letter dated 7 May 2009 that, according to their most recent research, the following information provided by the Embassy in August 2006 was still true: "chemotherapy and other related treatments are available (at a cost to the patient and not all of the time) in 5 medical centres, all of which are in Kinshasa. These are: the University Clinics (Cliniques Universitaires), Centre Hospitalier Monkole, Clinique Nganda, Clinic Ngaliema and at the referral hospital, Hôpital Général." **[4d] [4e]**

Diabetes

27.10 On Diabetes treatment, the Embassy reported in May 2009 that the August 2005 statement "treatment is readily available but too costly for the majority of the population. Poor diet is an aggravating complication" **[4f]** was still: "True. Treatment is expensive. Follow up treatment requires iteratives consultations." **[4d]**

Hepatitis B & C

27.11 On Hepatitis B the FCO also provided the following information on 7 May 2009: "It is true that treatment administrated in RDC is symptomatic. But not all patients die because the affection can heal itself spontaneously." And on Hepatitis C:

"Treatment is complex and long. It can be administered by trained doctors. However, molecules are extremely expensive; they are not always available in pharmacies. RIBAVIRINE (1 yr of treatment + medical rest); INTERFERONS : pegylated or hepatic transplantation. HVB: INTERFERON alone or in

bitherapy with RIBAVIRINE. If patients are going to S Africa, it is due to the lack of available molécules. And only those who have the means to pay." **[4d]**

Kidney dialysis

27.12 On dialysis, the Embassy reported that the August 2006 statement "kidney dialysis is not available in the DRC. Most patients who need this treatment (if they can afford it) go to South Africa" **[4e]** was according to Embassy in May 2009 incorrect: "there are 3 places where you can get extrarenal epuration in DRC: Clinique NGANDA, CLINIQUES UNIVERSITAIRES de KIN and Centre Hospitalier SINO CONGOLAIS in Nd'jili. What is true is that not everyone can afford it. To go to S Africa depends on free choice of each person." **[4d]**

Sickle Cell Anaemia

27.13 In August 2005, the Embassy in Kinshasa reported that, regarding Sickle Cell Anaemia: "only one centre is operating at the moment in Kinshasa." **[4f]** In May 2009, the FCO confirmed that: "there are 5 hospitals who deal with this: Centre Hospitalier de Kingasani (BDOM); Centre KIKIMI(BDOM); CEMMAS de Yolo; Centre Hospitalier Monkole, supported by PAFOVED project (Diagnostic Néonatal des drépanocytaires et Prise en charge vaccinale)- nearly 32.500 samples analysed by end 2008." **[4d]**

TUBERCULOSIS

27.14 The WHO Global Tuberculosis Database Country Profile of 2009 provided information on the prevalence and treatment of Tuberculosis (TB), noting that: "The case notification rate increased in 2007 following intensive efforts to implement the Stop TB Strategy. Treatment success rates are above target at 86%. Major efforts are required to expand collaborative TB/HIV activities and diagnosis and treatment of MDR-TB [Multi Drug Resistant TB]." **[27d] (p1)**

27.15 The FCO's Embassy in Kinshasa provided the following information on 7 May 2009: "In 1987, there were 15000 new cases of TB+; in 2003, there were 58619 cases of TB+ Thanks to PNT, the coverage is extensive and the medicines always available. 155000 cases recovered fully in 2006. However, we should fear a multi-resistant strain of TB (TB-MDR) as well as the aggravation of TB with the co-infection of HIV/TB. In any case, there is treatment available." **[4d]**

27.16 On Tuberculosis (TB) and HIV/AIDS patients, the WHO Global Tuberculosis Database Country Profile of 2009 stated: "The proportion of TB patients screened for HIV has increased steadily over the past three years but remains low." **[27d] (p3)** Further, "The proportion of patients receiving ART has declined by two thirds from 2006 to 2007 while the provision of CPT [Cotrimoxazole preventive therapy] has steadily increased." **[27d] (p3)** An IRIN PlusNews article of March 2008 noted:

"Efforts to combat the spread of tuberculosis in the Democratic Republic of Congo (DRC) have been slowed down by the problem of TB patients also infected with HIV, local health officials said. … Minister of Health Makwenge Kaput said close to 100,000 cases of TB were recorded in DRC in 2006, ranking the country 11th of the 22 states most affected by tuberculosis in the

world, and 4th in Africa. 'TB is still a serious public health problem despite the policy of free medication available across the country,' said Makwenge." **[38b]**

HIV / AIDS

27.17 The United Nations Integrated Regional Information Networks (IRIN) PlusNews' undated HIV/AIDS Country Profile reported:

"The Democratic Republic of the Congo is facing a large-scale growing HIV/AIDS epidemic, with an estimated national average adult prevalence of 4% and 1.19 million people living with HIV/AIDS at the end of 2005. The principal mode of transmission is heterosexual. The most severely affected age groups are 20–29 years among women and 30–39 years among men. The epidemic has severely affected children – an estimated 770,000 children younger than 17 years had lost one or both parents to AIDS at the end of 2003. Data available from isolated surveillance activities conducted in the eastern part of the country suggest that the prevalence of HIV infection is higher there than in the west. The epidemic has been worsened by large-scale population movements resulting from the armed conflict and political instability of the mid-1990s, the related economic crisis, high levels of untreated sexually transmitted infections and weak health system infrastructure." **[38a]**
(Epidemiological Assessment)

27.18 The undated UNAIDS country fact sheet on HIV/AIDS prevalence and treatment, accessed 7 April 2009, provided limited information and data from 2003, 2005 & 2007 on the situation in the country. **[39a]** Although the fact sheet provided the following statistical information on the prevalence and treatment of HIV/AIDS, no data was available regarding the at risk groups, men who have sex with men and injecting drugs users. **[39a]**

- The percentage of adults and children with advanced HIV infection receiving antiretrovirals in 2007 was approximately 30 per cent
- The percentage of adults and children with HIV known to be on treatment 12 months after initiation of antiretroviral therapy in 2007 was 70 per cent
- The percentage of HIV-positive pregnant women who received antiretroviral therapy to reduce the risk of mother-to-child transmission was approximately 10 per cent
- The percentage of donated blood units screened for HIV in a quality assured manner in 2007 was 46.83 per cent
- The percentage of estimated HIV–positive incident TB cases that received treatment for TB and HIV was 0.13 per cent **[39a]**

27.19 The FCO's Embassy in Kinshasa provided the following information on 7 May 2009:

"The annual cost of first line ARV treatment was [US]$348, or [US]$29 per month for an individual; except in North Kivu where it cost nearly [US]$720 per year, or $60 per month per person. The current cover across the country is wide. But there was a shortage of stock in the first trimester of this year. Within the combination of stavudine+lamivudine+nevirapine ou efavirenz, stavudine has been replaced by zidovudine. 45-55% of those living with HIV are taking ARV." **[4d]**

27.20 A June 2008 joint report by the Network for Therapeutic Solidarity in Hospitals (ESTHER), UNICEF and WHO found the following purchase price for available adult dosage ART drugs and combinations:

Drug – Generic / Brand (Abbr.)	Dosage	Number in pack	Delivered Duty Paid (DDP) Price (in USD)
Efavirenz / Sustiva (EFZ)	600 mg	30 capsules (cp)	30.26
EFZ	200 mg	90 cp	-
Nevirapine / Viramune (NVP)	200 mg	60 cp	10.33
Abacavir / Ziagen (ABC)	300 mg	60 cp	50.26
Didanosine / Videx (ddl)	250 mg	30 cp	-
ddl	200 mg	60 cp	-
ddl	400 mg	30 gel	33.21
Lamivudine / Epivir (3TC)	150 mg	60 cp	9.44
Stavudine / Zerit (d4T)	30 mg	60 cp	3.22
Zidovudine / Retrovir (AZT)	300 mg	60 cp	22.14
Zidovudine+Lamivudine / Combivir (AZT/3TC)	300+ 150 mg	60 cp	14.15
Stavudine+Lamivudine / Lamivir (d4T/3TC)	30+ 150 mg	60 cp	6.17
Stavudine+Lamivudine+Nevirapine / Triomune (d4T/3TC/NPV)	30+150+ 200 mg	60 cp	-
Cotrimoxazole	480 mg	1000 cp	13.63

[22a] (p42; Table 11)

MENTAL HEALTH

27.21 The WHO's Mental Health Atlas of 2005 recorded that, despite the existence of a mental health policy, programme and legislation, which were all formulated between 1998 and 2000, no budget was allocated specifically to mental health. **[27b] (p1)** Further, "The primary source of mental health financing is out of pocket expenditure by the patient or family. The cost of psychiatric treatment is considered to be high by the average earning capacity. The country does not have disability benefits for persons with mental disorders." **[27b] (p2)** In terms of facilities, WHO recorded:

"Mental health is a part of primary health care system. Actual treatment of severe mental disorders is available at the primary level. … Regular training of primary care professionals is carried out in the field of mental health. The Government also partially supports some charitable organisations like the Soins de Santé Mentale (SOSAME) that provide mental health services.

"There are no community care facilities for patients with mental disorders. There is one mental health care centre." **[27b] (p2)**

Total psychiatric beds per 10 000 population	0.17
Psychiatric beds in mental hospitals per 10 000 population	0.15
Psychiatric beds in general hospitals per 10 000 population	0.009
Psychiatric beds in other settings per 10 000 population	0.009
Number of psychiatrists per 100 000 population	0.04
Number of neurosurgeons per 100 000 population	0.004
Number of psychiatric nurses per 100 000 population	0.03
Number of neurologists per 100 000 population	0.01
Number of psychologists per 100 000 population	0.01
One occupational therapist is present	

[27b] (p2-3)

27.22 On the availability of therapeutic drugs, the WHO Mental Health Atlas of 2005 noted that the country's essential list of drugs was revised in 2001 and

reported that the following list of drugs were generally available at the primary care level:

Carbamazepine	Phenobarbital
Phenytoin sodium	Amitriptyline
Chlorpromazine	Diazepam
Haloperidol	Levodopa

"The drugs mentioned are dispensed by the private sector and not by the Government." **[27b] (p3)**

27.23 The FCO's update of 7 May 2009 **[4d]** stated that the following information originally provided in August 2005 by the Embassy in Kinshasa was still accurate: "Hypertension: treatment is available from most medical centres/hospitals or clinics in Kinshasa." **[4f]** As was the following information, originally provided in April 2006; treatment was available for manic-depressive psychosis and bipolar affective disorder in Kinshasa for those who have the funds to pay for it. It also said the drugs Risperdal, Clopixol and Tegrettol were available. **[4g]**

However, when updating the following information of August 2005: "CNPP [Centre Neuro-Psycho-Pathologique] at the university of Kinshasa and centre TELEMA run by Catholic nuns are two well-known centres providing psychiatric care but they lack the specialists to treat schizophrenia and stress related depression" **[4f]** the Embassy in Kinshasa noted, according to their latest research, "There are specialists for neuropsychiatric care but the medicines are not always available, or too expensive for the patient; or perhaps suffer from shortages." **[4d]**

27.24 The International Committee of the Red Cross' (ICRC) undated web page on the Democratic Republic of Congo reported: "With DRC Red Cross/ICRC backing, 34 counselling centres provide medical and psychological support to victims of sexual violence, while several hospitals and community health centres throughout the [Kivu] region receive medicines and other materials." **[29a]** The British Broadcasting Corporation (BBC) released a photo article in March 2009 on the 'Centre Sosame', "one of the few mental health clinics in the region"; "The clinic can accommodate 100 in-patients and it is normally full." **[37h]**

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HUMANITARIAN ISSUES

28.01 The International Crisis Group's undated web page on the Democratic Republic of Congo stated:

"The Democratic Republic of Congo (DRC) is the site of one of the world's worst ongoing humanitarian crises. Although the country emerged from what has been called 'Africa's first world war' in 2003 when the former warring belligerents came together to form a transitional government, credible mortality studies estimate that up to 1,200 people continue to die each day from conflict-related causes, mostly disease and malnutrition but ongoing violence as well." **[34a]**

28.02 The US Department of State's (USSD) Country Reports on Human Rights 2008, released on 25 February 2009, recorded: "Fighting between the FARDC and armed groups continued to displace populations and limit humanitarian access to conflict areas. According to the Office of the UN High Commissioner for Refugees (UNHCR), at year's end [2008] there were more than 1.4 million internally displaced persons, including 1 million in North Kivu Province and more than 100,000 in Orientale Province." **[8b] (Section 1g)**

28.03 Freedom House's survey Freedom in the World 2008 reported:

"At least 4 million people have died since the conflict began, and humanitarian groups estimate that 1,000 people continue to die daily from hunger, disease, and other effects of the war. According to the United Nations, Congolese people on average manage to get access to health care once every seven years, and they are among the poorest and least healthy people on earth. Critical social services are nonexistent, and the country's infrastructure has all but disintegrated. Congo ranked 168 out of 177 countries on the 2007 UN Human Development Index." **[14a] (Overview)**

28.03 The Human Rights Watch (HRW) report 'Renewed Crisis in Kivu' of October 2007 noted that: "Since the growing humanitarian crisis attracted the attention of the donor community and of the UN, diplomats of several countries, most notably Belgium and the United States, have stepped up efforts to find a longer-term political resolution to the current crisis, including the development of a roadmap as described above [in the HRW report]." **[13b] (The Donor Community)**

28.04 The UN Office for the Coordination of Humanitarian Affairs (OCHA) reported in April 2009:

"Tensions were running high on 29 April ahead of a new planned operation in South Kivu province by the Congolese Army, les Forces Armées de la République Démocratique du Congo (FARDC), against les Forces Democratiques pour la Libération du Rwanda (FDLR), according to an OCHA press release . Under-Secretary-General and Emergency Relief Coordinator, John Holmes, warns that "hundred of thousands of people in the province are at risk of further displacement and abuse because of renewed fighting." **[57b]**

28.05 The 2007 Annual Report of the International Committee of the Red Cross (ICRC) detailed how the organisation assisted internally displaced people, detainees, people separated from their families, and the wounded and sick.

http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/7EUD7N/$FILE/icrc_ar_07_drc.pdf?OpenElement **[29b]**

The ICRC in the Democratic Republic of the Congo webpage http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/congo_kinshasa?opendocument&link=home **[29a]** and the UN Office for the Coordination of Humanitarian Affairs' (OCHA) webpage, 'Humanitarian Crisis in the Democratic Republic of the Congo' http://ochaonline.un.org/News/DRCUpdate/tabid/5117/language/en-US/Default.aspx **[57a]** provided regular updates on the humanitarian situation in the country.

See also Section 8: Security situation; Section 14: Prison conditions; Section 27: Medical issues; Section 29: Freedom of movement and Section 30: Internally displaced people (IDPs)

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FREEDOM OF MOVEMENT

29.01 In terms of the state of transport in the Democratic Republic of Congo, the Economist Intelligence Unit's (EIU) Country Profile 2009, dated 19 September 2008, remarked:

"Transport infrastructure has been hugely neglected since independence, and most of it is worse now than it was then. Road and rail networks and capacity have both shrunk over the past 48 years, and although there are more internal flights today than at independence, the country has a poor record of air safety. The government has plans to spend billions of dollars on the road and rail network, if the loans can be secured from Chinese banks." **[6b] (p13)**

29.02 The US Department of State Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, stated: "The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government sometimes restricted these rights." **[8b] (Section 2d)** Further, "The law requires a married woman to have her husband's permission to travel outside the country." **[8b] (Section 2d)**

An information response by the Canadian Immigration and Refugee Board's (IRB) Research Directorate, dated 20 March 2007 noted that: "According to the President of JED [Congolese NGO, Journalists in Danger], all citizens, including those who served under former president Mobutu, can obtain a regular passport, but [translation] 'the more prominent ones and those who have problems with the government cannot easily obtain a passport.'" **[19d]**

29.03 The security situation in some parts of the country limited freedom of movement; "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." (USSD 2008) **[8b] (Section 2d)**

CHECKPOINTS, DOCUMENTS AND CORRUPTION

29.04 Freedom House's Freedom in the World Survey 2008 reported: "Although the law provides for freedom of movement, it is restricted by security forces seeking bribes or travel permits, and foreigners must regularly submit to immigration controls when traveling internally." **[14a] (Political Rights and Civil Liberties)** The USSD 2008 concurred:

"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 [Congolese Armed Forces] soldiers extorting fees from persons taking goods to market or traveling between towns. There were reports of attempts by DGM [Directorate General of Migration] officials to demand that foreigners

not carrying passports during the year [2008] 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. …

"Passport issuance was irregular and often required payment of substantial bribes." **[8b] (Section 2d)**

See also Section 32: Passports

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INTERNALLY DISPLACED PEOPLE (IDPS)

30.01 Amnesty International's Annual Report 2008, covering events in 2007, noted: "More than 170,000 people were displaced by the fighting in North-Kivu between August and December, adding to around 200,000 displaced by insecurity there since the end of 2006. Overall, more than 1.4 million people were internally displaced in the DRC, while 322,000 were living as refugees in neighbouring countries." **[12a] (Internally displaced people)** The US Department of State Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, concurred; "There were approximately 1.4 million IDPs in the country as a whole; one million of whom were in North Kivu." **[8b] (Section 2d)** In November 2008, the Internal Displacement Monitoring Centre (IDMC) reported:

"At least 250,000 people have left their homes or places of displacement in North Kivu since the end of August 2008, following large-scale fighting between the forces of rebel leader Laurent Nkunda and the Congolese army and other armed groups. People have had to be constantly on the move, and many families have been separated, due to the heavy fighting, but also looting, destruction of homes and camps, killings, looting and rapes." **[30a]**

30.02 A Refugees International report of March 2009 added:

"The escalation in fighting in North Kivu between Laurent Nkunda's CNDP rebel group and the Congolese national army (FARDC) in late 2008 was but another wave in a long cycle of violence that continues to force people to flee their homes.

"In January 2009 the security situation for local people shifted once again with the arrest of Nkunda in Rwanda and the entry of the Rwandan national army (RDF) into North Kivu to root out the FDLR rebel group in joint operations with the FARDC. This change, while having serious security implications for local people, also means a new opportunity for humanitarian organizations to take advantage of increased access and assist those in need." **[31a] (Take Hold of New Opportunities in North Kivu)**

30.03 The United Nations Representative of the Secretary-General on the human rights of internally displaced persons carried out an official mission to the Democratic Republic of the Congo in February 2008, at the invitation of the government; his report of May 2008 stated:

"The situation in which displaced persons are living gives cause for great concern. According to information received by the Representative, most of the displaced persons are living with host families and, to a lesser degree, in informal camps or sites mostly located in North Kivu. The displaced persons are living in absolute poverty, in many cases having lost their homes, without access to drinking water or health care or education for their children. In many cases they are suffering from considerable food insecurity. A large number of them have lost the voters' cards which serve as identity cards in the Democratic Republic of the Congo, and this increases their vulnerability." **[15b] (p2)**

30.04 The USSD 2008 concurred, stating:

"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, limited access and lack of security 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.

Further, "IDPs in North Kivu were victims of abuses by all factions engaged in fighting, including the FARDC [Congolese Armed Forces], 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 the UN Children's Fund (UNICEF), one third of the more than 1,000 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." (USSD Reports on HR Practices 2008) **[8b] (Section 2d)**

30.05 The Refugees International report of March 2009 specifically discussed the conditions and difficulties experienced by IDPs in Masisi, Rutshuru, and South Kivu. http://www.refugeesinternational.org/policy/field-report/dr-congo-adapt-strategies-assist-vulnerable-people **[31a] (Masisi; Rutshuru; Strengthen Emergency Response Capacity in South Kivu)** Whilst the International Committee of the Red Cross (ICRC) noted "Insecurity in the Haut Uélé district of Oriental Province has driven thousands of people out of their villages towards urban areas, where they lack survival means and need shelter urgently. The ICRC has opened an office in Dungu to assist them." **[29a]**

The IDMC regularly collects and collates information on the situation of IDPs from a variety of sources, which are incorporated into the IDMC's Internal Displacement Profile http://www.internal-displacement.org/8025708F004CE90B/(httpCountries)/554559DA500C8588802570A7004A96C7?OpenDocument **[30a]** and/or made available on the IDMC's New Documents page in their original format. http://www.internal-displacement.org/8025708F004CE90B/httpCountry_NewDocuments?ReadForm&country=Democratic%20Republic%20of%20the%20Congo&count=10000 **[30b]**

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FOREIGN REFUGEES

31.01 The US Department of State Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, noted:

"The law provides for the granting of asylum or refugee status in accordance with the 1951 UN 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.

"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." **[8b] (Section 2d)**

31.02 The United States Committee for Refugees and Immigrants (USCRI) World Refugee Survey 2008 reported: "In November [2007], Congolese authorities reportedly arrested four refugees from the Cabinda ethnic group in Seke-Zola refugee camp and handed them over to the Angolan Government. They were reportedly the third group of Cabindan separatists arrested by Congolese authorities in 2007." **[32a] (*Refoulement*/Physical Protection)** The Survey noted: "At year's end [2007], the Democratic Republic of Congo (Congo-Kinshasa) hosted around 177,500 refugees and asylum seekers mostly from Angola, Rwanda, Burundi, Uganda, Sudan, and the Republic of Congo (Congo-Brazzaville)." **[32a] (Introduction)**

31.03 The USCRI Survey 2008 recorded the existence of national legislation concerning the determination of refugee status in the form of a 2002 Refugee Law, which created the National Commission for Refugees (CNR) in the Ministry of Interior (MOI); "However, in practice, the CNR did not implement the refugee status determination (RSD) procedures prescribed by the 2002 Law, and the Permanent Secretary of the CNR did not transmit any cases to the Eligibility Commission. UNHCR was in effect the only body that conducted RSDs. There was no fixed date for the transfer of RSD responsibilities to the CNR." **[32a] (*Refoulement*/Physical Protection)** The USSD 2008 also noted:

"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." **[8b] (Section 2d)**

31.04 USCRI recorded that refugees had the right to work, apart from some professions reserved for nationals, the right to own property, access to social services and primary education – although "many could not afford to pay school tuition, and suffered harassment from peers and teachers for their identity as foreigners. Refugees continued to receive medical care, while asylum seekers received it only in rare cases as they were not entitled to it." (World Refugee Survey 2008) **[32a] (Right to Earn a Livelihood; Public Relief and Education)**

31.05 The USCRI Survey 2008 recorded: "Congo-Kinshasa detained 30 refugees and asylum seekers for lack of documentation, alleged membership in armed groups, espionage, rape, and defamation. Military intelligence agents reportedly detained Rwandan and Brazzaville Congolese refugees in military prisons, often because of their nationality." **[32a] (Detention/Access to Courts)** Whilst the USSD Reports on Human Rights Practices reported that "Government authorities did not provide adequate security to refugees." **[8b] (Section 2d)**

"The UNHCR received reports that CNDP elements were recruiting children for forced labor or child soldiering in the country from a camp in Rwanda for Congolese refugees." (USSD 2008) **[8b] (Section 2d)**

IDENTITY AND OTHER DOCUMENTS

31.06 The USCRI World Refugee Survey 2008 recorded:

"The 2002 Law mandated that the MOI, through UNHCR, issue free refugee identity cards, equivalent to residence cards for immigrants that were valid for two years and renewable. In practice, UNHCR issued refugee attestations rather than cards, with the photographs of each adult refugee. The photos of minor children were included on the same document as that of either parent. … The Refugee Law also entitled refugees and their family members to birth, death, and marriage certificates on par with nationals." **[32a] (Detention/Access to Courts)**

31.07 On travel documents, the Survey stated: "The Refugee Law required the Government to issue free, renewable international travel documents to refugees who asked for them. Applicants had to demonstrate specific reasons for travel, such as resettlement offers, need for medical evacuation, enrollment plans at an educational institution, or evidence of imminent plans for travel, such as airplane tickets. The authorities issued no travel documents to refugees in 2007." **[32a] (Freedom of Movement and Residence)**

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CITIZENSHIP AND NATIONALITY

32.01 An untranslated copy of the November 2004 Nationality law was available from the European Country of Origin Information (ECOI) Network. **[10c]**

32.02 Refugees International's March 2009 report, 'Nationality Rights for All: A Progress Report and Global Survey on Statelessness', stated "Despite a 2004 citizenship law granting citizenship to the Banyamulenge community, it is unclear whether the 300,000 to 400,000 of them living in Congo can obtain nationality documents or their rights as citizens in the ongoing conflict in eastern Congo." **[31b] (p29)** The concluding observations of the United Nations Committee on the Elimination of Racial Discrimination, published on 17 August 2007, concurred:

"While welcoming the adoption of the Act of 12 November 2004, granting the Banyarwanda Congolese nationality, the Committee is concerned to note that in practice Congolese nationality is particularly difficult to acquire by members of this group. The Committee also notes that, according to article 10 of the Constitution and article 14 of the 2004 Act, Congolese nationality is one and exclusive." **[15f] (p4)**

See also Section 21: Ethnic groups

OFFICIAL DOCUMENTS

32.03 Extensive information on the registration of births, deaths and marriages – including late registration of births, marriage contracts, marriage by proxy, and divorce – is available in the March 2007 report of the Danish-Norwegian fact-finding mission to Kinshasa, DRC of January 2007 (English translation available from the COI Service). **[47a]**

Passports

32.04 An information response by the Canadian Immigration and Refugee Board's (IRB) Research Directorate, dated 20 March 2007, recorded the following information provided by the President of Journalists in Danger (JED), a Congolese non-governmental organisation based in Kinshasa:

"The DRC issues three types of passports: a regular passport, a duty passport and a diplomatic passport. Passports are issued by the Ministry of Foreign Affairs and International Cooperation (ministère des Affaires étrangères et de la coopération internationale).

"The regular passport is dark blue and issued to all Congolese citizens who apply for one. Since the Ministry of Foreign Affairs and International Cooperation is based in Kinshasa, Congolese citizens who want to obtain a regular passport must either go to Kinshasa themselves or authorize a friend or relative there to act on their behalf. All applications must include a duly completed passport application form, a certificate of nationality, four passport-size photographs (sometimes two are sufficient) of the applicant, and USD 50. The passports are signed by ministry employees [translation] 'who are often as high up as a counsellor of embassy, etc.' A regular passport is valid for three years but can be extended." **[19d]**

The IRB response also provided information on the green duty passport, "… issued to government employees …" and the red diplomatic passport, "…issued to members of the government and their families, to government employees with the rank of minister and their families, and to diplomats and their families." **[19b]**

32.05 The US Department of State Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, noted: "Passport issuance was irregular and often required payment of substantial bribes." **[8b] (Section 2d)**

FORGED AND FRAUDULENTLY OBTAINED DOCUMENTS

33.01 The IRB's response of March 2007 recorded the President of the JED as stating:

"[translation] in practice, you complete a regular passport application form (a friend or a government employee can even do it for you and sign it). You provide two photographs and USD 150 or USD 200. The officer at the Ministry of Foreign Affairs puts USD 50 in the government's coffers and pockets the difference, which he shares with his bosses who sign the passport. At that price, you get your passport in one or two days at most. It is not necessary to go in person." **[19d]**

The IRB response noted: "The information on corruption provided by the President of JED is corroborated by *Documents d'identité*, a [July 2004] report from a joint mission to the Democratic Republic of Congo …" by the Belgian, French and Swiss offices for refugees and stateless persons. **[19b]** "The authors of the report note that Congolese passports are obtained, in most cases, through corruption and that the official procedures with the Ministry of Foreign Affairs are [translation] 'often circumvented'. More specifically, the report explains that

"'[translation] a person simply has to go to the ministry with four photographs and approximately 150 dollars to obtain a passport in whatever name the person wants. With more money, one can also obtain a few extra stamps. A fake [passport] enables one to obtain an authentic passport (the same goes for diplomatic passports). The authenticity of a passport does not reflect reality, in the sense that a person can obtain an authentic document but have someone else's photograph or a fake name inserted'." **[19b]**

33.02 An e-mail from the British Embassy in Kinshasa via the FCO dated 11 October 2007 stated that at a meeting with a Policy Officer of the Asylum and Migration Affairs Division of the Netherlands MFA, the officer told them that he had spent a week talking to NGOs, international organisations and Embassies. He stated that he had heard about an upsurge in cases of organised illegal migration, with potential migrants paying around US$7,000 to be given false papers, placed on an aeroplane etc. **[4c]**

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EXIT / ENTRY PROCEDURES

34.01 In April 2006, the United Nations High Commissioner for Refugees (UNHCR) responded to a request for verification of a December 2005 British Broadcasting Corporation (BBC) news report **[37c]** on the ill-treatment of failed asylum seekers returned to the Democratic Republic of Congo. **[48a]** UNHCR found that:

"According to the DGM [Congolese Immigration authorities] and CNR [National Committee for Refugees], the usual procedure for any person returning through the Kinshasa airport in case they do not hold proper documentation, including current DRC passports, and/or when they have been absent for a long time, is to be interrogated by immigration officials at the airport. In the best case scenario, they are freed within one to three hours. In the worst case, they are sent to a detention facility in the center of town, and released after further verification." **[48a] (p1)**

TREATMENT OF FAILED ASYLUM SEEKERS ON RETURN

34.02 The UNHCR response on the ill-treatment of failed asylum seekers returned to the Democratic Republic of Congo noted:

"The Congolese human rights NGO 'Voix des Sans Voix' informed the office that rejected asylum-seekers are received upon arrival at the airport by agents of DGM, who question them why they left and applied for asylum. The NGO had an office at the airport and are closely monitoring the situation. They mentioned that there were many failed asylum-seekers who are sent back by western European countries, but they are not aware of any of these persons detained and/or tortured upon return. They reported that some of the failed asylum-seekers had to pay some money to the police (5 to 10 USD)." **[48a] (p1)**

34.03 UNHCR's response also recorded that the International Office for Migration (IOM) Kinshasa, the Mission of the United Nations in the Democratic Republic of Congo (MONUC), the Association Africaine de Defense des Droits de l'Homme (ASADOH) and UNHCR staff who were "… at times present at the airport [in Kinshasa] …" did not hold the information to confirm the existence of instances of the detention, abuse or torture of failed asylum-seekers. **[48a] (p2)** The UNHCR response concluded "With the limited information available to UNHCR, it does not have evidence that there is a systematic abuse, including detention and mistreatment, of failed asylum-seekers returned to the DRC through Kinshasa airport." **[48a] (p2)**

34.04 An e-mail from the British Embassy in Kinshasa via the FCO dated 11 October 2007 stated that at a meeting with a Policy Officer of the Asylum and Migration Affairs Division of the Netherlands MFA, the officer told them that he had spent a week talking to NGOs, international organisations and Embassies, he said that MONUC, UNHCR, IOM and all the NGOs he spoke to said that, while there were obviously serious human rights issues in DRC, returned failed asylum seekers were not targeted, nor were they singled out as a particular group by the authorities. All of his interlocutors had said that the stories of abuse that they had heard had all come from Europe, and that their investigations had shown the allegations to be either false, or doubtful due to lack of evidence. **[4c]**

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EMPLOYMENT RIGHTS

35.01 The US Department of State Country Report on Human Rights Practices 2008 (USSD 2008), released on 25 February 2009, recorded:

"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 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. Unlike in the previous year [2007], there were no reports that police arrested union leaders or forcibly dispersed union meetings." **[8b] (Section 6a)**

35.02 Freedom House's Freedom in the World Survey 2008 reported: "Labor unions, though legal, exist only in urban areas and have largely been inactive as a result of the collapse of the country's formal economy. Some unions are affiliated with political parties, and labor leaders and activists have faced harassment." **[14a] (Political Rights and Civil Liberties)**

35.03 The USSD 2008 stated:

"Employers in the informal sector often did not respect the minimum wage law of 500 Congolese francs (approximately $1) 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 $50 to $110) 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." **[8b] (Section 6e)**

35.04 The report continued, "The constitution provides for the right to strike, and workers sometimes exercised it. There were large strikes this year [2008] by teachers, magistrates, and health care workers; most concerned nonpayment of salaries and crippled service delivery for several weeks at a time." **[8b] (Section 6a)** Further, "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." **[8b] (Section 6a)**

35.05 The International Trade Union Confederation (ITUC) Annual Survey of violations of trade union rights 2008 noted that "According to Solidarity Center, most of the 400 unions in the private sector, mainly in the natural resources industry, have no members and have been set up by the employers in an attempt to hoodwink the workers and discourage the creation of genuine unions." **[33a]** Further, "Demands for the payment of wage arrears have repeatedly led to the arrest and detention of trade union officials, sometimes for several weeks. A trade unionist sustained bullet wounds during an industrial dispute in the mining sector." **[33a]**

35.06 The Survey also reported on the arrest and detention of a number of trade unionists in the transport, mining and press sectors during 2007, and the dismissal of nine union representatives from "… the private television channel

Raga, in Kinshasa, … 'for serious misconduct' … The union had recently organised a strike to demand better working conditions." **[33a]** In March 2009, the ICTU reported:

"The International Trade Union Confederation has strongly protested against the arbitrary arrest and judicial harassment of Mr Nginamau Malaba, president of the Congolese trade union centre CCT (one of the ITUC's affiliates in Congo), and two other trade unionists. The three detainees have been tortured and mistreated by the authorities. The trade unionists were arrested in January, after signing a memorandum denouncing the misappropriation of public funds by the Ministry of the National Economy and Trade and demanding the reassignment of bonuses on revenues as well as the payment of incentive bonuses to the staff at the ministry." **[33b]**

FORCED LABOUR

35.07 The USSD 2008 noted: "The constitution prohibits forced or compulsory labor, including by children; however, although no statistics were available, both were practiced throughout the country." **[8b] (Section 6c)** It continued: "Government security forces continued to force men, women, and children, including IDPs, to serve as porters, mine workers, and domestic laborers. The military took no action against FARDC [Congolese Armed Forces] soldiers who used forced labor and abducted civilians for forced labor in 2007 and 2006." **[8b] (Section 6c)**

35.08 The same report stated that: "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." **[8b] (Section 6c)**

Further, "Armed groups operating outside central government control subjected civilians, including children, to forced labor, including sexual slavery." **[8b] (Section 6c)**

See also Section 8: Security situation; Section 10: Forced recruitment; Section 11: Forced recruitment; Section 24: Violence against women; Section 25: Violence against children & Child labour, and Section 26: Trafficking

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Annex A: Chronology of events

Taken from the British Broadcasting Corporation's (BBC) Timeline, last updated on 28 January 2009. **[37b]**

1960 **June -** Congo becomes independent.

1965 President Kasavubu and Prime Minister Tshombe ousted in a coup led by Joseph Mobutu.

1971 Joseph Mobutu renames the country Zaire and himself Mobutu Sese Seko; also Katanga becomes Shaba and the river Congo becomes the river Zaire.

1990 Mobutu agrees to end the ban on multiparty politics and appoints a transitional government, but retains substantial powers.

1991 Following riots in Kinshasa by unpaid soldiers, Mobutu agrees to a coalition government with opposition leaders, but retains control of the security apparatus and important ministries.

1993 Rival pro- and anti-Mobutu governments created.

1996-97 Tutsi rebels capture much of eastern Zaire while Mobutu is abroad for medical treatment.

1997 **May -** Tutsi and other anti-Mobutu rebels, aided principally by Rwanda, capture the capital, Kinshasa; Zaire is renamed the Democratic Republic of Congo; Laurent-Desire Kabila installed as president.

1998 **August -** Rebels backed by Rwanda and Uganda rise up against Kabila and advance on Kinshasa. Zimbabwe, Namibia send troops to repel them. Angolan troops also side with Kabila. The rebels take control of much of the east of DR Congo.

1999 Rifts emerge between Congolese Liberation Movement (MLC) rebels supported by Uganda and Rally for Congolese Democracy (RCD) rebels backed by Rwanda.

1999 **July -** The six African countries involved in the war sign a ceasefire accord in Lusaka. The following month the MLC and RCD rebel groups sign the accord.

2000 UN Security Council authorises a 5,500-strong UN force to monitor the ceasefire but fighting continues between rebels and government forces, and between Rwandan and Ugandan forces.

2001 **January -** President Laurent Kabila is shot dead by a bodyguard. Joseph Kabila succeeds his father.

2001 **February -** Kabila meets Rwandan President Paul Kagame in Washington. Rwanda, Uganda and the rebels agree to a UN pull-out plan. Uganda, Rwanda begin pulling troops back from the frontline.

2001 **May -** US refugee agency says the war has killed 2.5 million people, directly or indirectly, since August 1998. Later, a UN panel says the warring parties are deliberately prolonging the conflict to plunder gold, diamonds, timber and coltan, used in the making of mobile phones.

2002 **April -** Peace talks in South Africa: Kinshasa signs a power-sharing deal with Ugandan-backed rebels, under which the MLC leader would be premier. Rwandan-backed RCD rebels reject the deal.

2002 **July -** Presidents of DR Congo and Rwanda sign a peace deal under which Rwanda will withdraw troops from the east and DR Congo will disarm and arrest Rwandan Hutu gunmen blamed for the killing of the Tutsi minority in Rwanda's 1994 genocide.

2002 **September -** Presidents of DR Congo and Uganda sign peace accord under which Ugandan troops will leave DR Congo.

2002 **September/October -** Uganda, Rwanda say they have withdrawn most of their forces from the east. UN-sponsored power-sharing talks begin in South Africa.

2002 **December -** Peace deal signed in South Africa between Kinshasa government and main rebel groups. Under the deal rebels and opposition members are to be given portfolios in an interim government.

2003 **April -** President Kabila signs a transitional constitution, under which an interim government will rule pending elections.

2003 **May -** Last Ugandan troops leave eastern DR Congo.

2003 **June -** French soldiers arrive in Bunia, spearheading an UN-mandated rapid-reaction force.

President Kabila names a transitional government to lead until elections in two years time. Leaders of main former rebel groups are sworn in as vice-presidents in **July**.

2003 **August -** Interim parliament inaugurated.

2004 **March -** Gunmen attack military bases in Kinshasa in an apparent coup attempt.

2004 **June -** Reported coup attempt by rebel guards is said to have been neutralised.

2004 **December -** Fighting in the east between the Congolese army and renegade soldiers from a former pro-Rwanda rebel group. Rwanda denies being behind the mutiny.

2005 **May -** New constitution, with text agreed by former warring factions, is adopted by parliament.

2005 **September -** Uganda warns that its troops may re-enter DR Congo after a group of Ugandan Lord's Resistance Army rebels enter via Sudan.

2005 **November -** A first wave of soldiers from the former Zairean army returns after almost eight years of exile in the neighbouring Republic of Congo.

2005 **December -** Voters back a new constitution, already approved by parliament, paving the way for elections in 2006.

International Court of Justice rules that Uganda must compensate DR Congo for rights abuses and the plundering of resources in the five years up to 2003.

2006 **February -** New constitution comes into force; new national flag is adopted.

2006 **March -** Warlord Thomas Lubanga becomes first war crimes suspect to face charges at the International Criminal Court in The Hague. He is accused of forcing children into active combat.

2006 **May -** Thousands are displaced in the north-east as the army and UN peacekeepers step up their drive to disarm irregular forces ahead of the elections.

2006 **July -** Presidential and parliamentary polls are held - the first free elections in four decades. With no clear winner in the presidential vote, incumbent leader Joseph Kabila and opposition candidate Jean-Pierre Bemba prepare to contest a run-off poll on **29 October**. Forces loyal to the two candidates clash in the capital.

2006 **November -** Joseph Kabila is declared winner of **October**'s run-off presidential election. The poll has the general approval of international monitors.

2006 **December -** Forces of renegade General Laurent Nkunda and the UN-backed army clash in North Kivu province, prompting some 50,000 people to flee. The UN Security Council expresses concern about the fighting.

2007 **March -** Government troops and forces loyal to opposition leader Jean-Pierre Bemba clash in Kinshasa.

2007 **April -** Jean-Pierre Bemba leaves for Portugal, ending a three-week political stalemate in Kinshasa, during which he sheltered in the South African embassy.

2007 **May -** The UN investigates allegations of gold and arms trafficking by UN peacekeepers in Ituri region.

2007 **June -** Radio Okapi broadcaster Serge Maheshe is shot dead in Bukavu, the third journalist killed in the country since 2005.

2007 **August -** Uganda and DRCongo agree to try defuse a border dispute.

Aid agencies report a big increase in refugees fleeing instability in North Kivu which is blamed on dissident general Nkunda.

2008 **January -** The government and rebel militia, including renegade Gen Nkunda, sign a peace pact aimed at ending years of conflict in the east.

2008 **April -** Army troops clash with Rwandan Hutu militias with whom they were formerly allied in eastern Congo, leaving thousands of people displaced.

2008 **August -** Heavy clashes erupt in the east of the country between army troops and fighters loyal to rebel leader Laurent Nkunda.

2008 **October -** Rebel forces capture major army base of Rumangabo; the Congolese government accuses Rwanda of backing General Nkunda, a claim Rwanda denies.

Thousands of people, including Congolese troops, flee as clashes in eastern DR Congo intensify. Chaos grips the provincial capital Goma as rebel forces advance. UN peacekeepers engage the rebels in an attempt to support Congolese troops.

2008 **November -** General Dieudonne Kayembe dismissed as armed forces chief over war in east. Replaced by navy chief General Didier Etumba Longomba.

2009 **January -** Congolese and Rwandan troops begin a joint operation against Hutu rebels in eastern DR Congo.

The Congolese Tutsi rebel leader Gen Laurent Nkunda is arrested after crossing into Rwanda to escape a government offensive against his group.

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Annex B: Political organisations

Freedom House's Freedom in the World Survey 2008 noted: "Of the approximately 247 registered political parties, only a dozen have broad representation." **[14a] (Political Rights and Civil Liberties)**

Presidential Majority Alliance (AMP)
Pro-government alliance comprised of the Parti Lumumbiste Unifié (PPRD) and the Union des Démocrates Mobutistes (UDEMO) with more than 300 National Assembly seats in support of President Kabila; it won 56 seats in the January 2007 Senate elections and AMP-affiliated candidates won 10 governorships. **[14a] (Overview)**

Bundu Dia Kongo (BDK)
Spiritual leader: Ne Muanda Nsemi **[13a] (Threats to Journalists and Human Rights Defenders)**
"Bundu dia Kongo (Kikongo, meaning The Church or Assembly of the Kongo) is a religious movement founded in 1986 by Ne Muanda Nsemi, a former chemist turned spiritual leader. The BDK advocates a return to African authenticity and bases its teachings on visions revealed to Nsemi by the spirits of his people." **[13c] (p68)**

"BDK followers worship in a temple, known as a *zikua*, the first of which was established in Kinshasa and served as the original center for recruiting adepts, who are known as *makesa* (disciples or warriors). Despite government claims that the BDK are armed, they ordinarily carry only sticks and other wooden weapons, not firearms. The BDK claims to have thousands of supporters but the number of members has not been independently verified." **[13c] (p68-69)**

"Although BDK ideology and practice contains spiritual elements, the BDK is primarily a political organization and was registered as a nonprofit rather than religious organization." **[8c] (Section II. Status of Freedom of Religion)** "On March 21, the government revoked the authorization of the BDK to operate as a social and cultural organization, effectively making it illegal." **[13a] (Violence in Bas Congo)**

Camp de la patrie
Leader: Arthur Z'ahidi Ngoma. Kinshasa **[1c]**

Coalition des Democrates Congolais (CODECO)
[4a] (Country Facts)
Leader: Pierre wa Syakassighe Pay-Pay; founded 2006. **[1c]**

Congrès national pour la défense du people (CNDP)
Secretary General: Kambasu Ngeve; founded 2006. Bukavu **[1c]**

Convention des démocrates chrétiens
Leader Florentin Mokonda Bonza; Kinshasa. **[1c]**

Démocratie chrétienne féderaliste—Convention des fédéralistes pour la démocratie chrétienne (DCF—COFEDEC)
Leader: Venant Tshipasa Vangi; Kinshasa-Gombe. **[1c]**

Forces du Futur (FDF)
[8a] (Government)

Forces du Renouveau

[4a] (Country Facts)
Leader: Antipas Mbusa Nyamwisi; Kinshasa. **[1c]**

Forces Novatrices pour l'Union et la Solidarite (FONUS)
[8a] (Government)
President: Joseph Olenghankoy; Secretary-General John Kwet; Kinshasa. Founded 2004; advocates political pluralism. **[1c]**

Mouvement de Libération du Congo (MLC)
Leader: Senator Jean-Pierre Bemba Gombo; Secretary-General François Muamba; **[1c]** other leading members: Daniel Botethi **[13a]** Founded 1998 **[1c]** Former rebel movement **[8a] (Government)** "Brought under the auspices of the Armed Forces during the transition (July 2003-August 2006) … 20,000". (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

> "The Mouvement de Libération du Congo was founded by former businessman Jean-Pierre Bemba in 1999 and was supported, armed and trained by Uganda. The MLC was highly valued by the Ugandans as it was considered to be self-financing through taxes on the economy of occupied Equateur province and because of its success in attracting new recruits. Late in 2000 the MLC enjoyed considerable success on the northern front, successfully attacking towns on the Congo river's northern shore and pushing back allied forces over 700 km in some places. In January 2001 its forces were on the outskirts of Mbandaka, just 450 km north of Kinshasa along the Congo river, and Bemba proved reluctant to withdraw them in the initial months of the ceasefire.
>
> "In January 2001 Uganda finally succeeded in merging all the forces it supported, effectively allowing the MLC to take over the ineffective Rassemblement Congolais pour la Démocratie-Mouvement de Libération (RCD-ML), under the leadership of Bemba in the Front de Liberation du Congo (FLC). This alliance collapsed later in 2001 through personal rivalry between Bemba and RCD-ML leaders and as Bemba appeared to distance himself from the Ugandan leadership. The MLC exercised de facto control over a huge swathe of the Democratic Republic of Congo from Isiro to Mbandaka, and expanded its influence through alliance with the RCD-Nationale, elements of the RCD-ML that opted to remain with Bemba. However, the Bemba family's connections to Mobutu may have made the MLC less popular outside his home province (Equateur). The MLC command was headquartered in Gbadolite on the riverine border of the Central African Republic; this was Mobutu's home village and equipped by him for statecraft and military reinforcement and includes a full-size runway.
>
> "The MLC subsequently participated in the transitional government from 2003, with the MLC converting itself into a political party. As of February 2006, it was reported that between 1,000 and 1,500 MLC troops remained in formed units in Equateur, with the rest of their troops either awaiting demobilisation or army integration. Bemba was the runner-up in the 2006 presidential elections." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Mouvement National Congolais-Lumumba / Congolese National Movement-Lumumba (MNC/L)
[8a] (Government)

Mouvement populaire de la révolution (MPR)
Leader: Professor Vundwawe te Pemako; Secretary-General Kithima bin Ramazani. Kinshasa-Gombe
Founded 1966 by Pres. Mobutu; sole legal political party until Nov. 1990; advocates national unity and opposes tribalism. **[1c]**

Mouvement Populaire de la Révolution-Fait Prive (MPR-FP)
[8a] (Government)

Mouvement Social Démocratie et Développement (MSDD)
[8a] (Government)

Mouvement Social pour la Renouveau (MSR)
[4a] (Country Facts)
Leader Pierre Lumbi; Kinshasa.
Founded 2006 **[1c]**

Parti Chrétien Républicain (PCR)
Leader: Gilbert Kiakwama **[13c] (Threats against Other Politicians from Bas Congo)**

Parti démocrate chrétien
Leader: José Endundo Bononge **[1c]**

Parti Democrate Social Chrétien / Democratic Social Christian Party (PDSC)
[8a] (Government)
President: André Boboliko; Secretary-General: Tuyaba Lewula; Kinshasa
Founded 1990; centrist. **[1c]**

Parti Lumumbiste Unifié (PPRD) / Parti Unifié Lumumbiste (PALU)
[14a] (Overview) [4a] (Country Facts)
Leader: Antoine Gizenga; Kinshasa **[1c]**

Parti du peuple pour la reconstruction et la démocratie / People's Party for Reconstruction and Democracy (PPPR)
Secretary-General: Vital Kamerhe; Kinshasa-Gombe
Founded March 2002 by President Joseph Kabila **[1c]**
The transitional government group, created by the Sun City Peace Agreement of December 2002, which included former rebel leaders, opposition representatives, and Kabila supporters. **[14a] (Overview)**

Rassemblement Congolais pour la Démocratie (RCD)
Former rebel movement **[8a] (Government)**

Rassemblement Congolais pour la Démocratie / Congolese Rally for Democracy-Goma (RCD–Goma / RCD-G / RCD/G)
Leader: Azarias Ruberwa; Secretary-General: Francis Bedy Makhubu Mabele.
Founded 1998; rebel movement until December 2002 peace agreement; included in Government in July 2003; main Ilunga faction; supported by Rwanda. **[1c]**
Splinter group of the former rebel movement, Rassemblement Congolais pour la Démocratie (RCD). **[8a] (Government) [13b]** "Brought under the auspices of the Armed Forces during the transition (July 2003-August 2006) … 14,500-25,500 … (MONUC estimate, 2006); 3,500 fully integrated in reformed brigades." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Rassemblement Congolais pour la Démocratie-Mouvement de Libération / Congolese Rally for Democracy-Liberation Movement (RCD/ML)
President: Mbusa Nyamwisi; Lingwala
Broke away from main RCD in 1999; supported by Uganda. **[1c]**
Splinter group of the former rebel movement, Rassemblement Congolais pour la Démocratie (RCD). **[8a] (Government)** "Brought under the auspices of the Armed Forces during the transition (July 2003-August 2006) … 3,000". (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Rassemblement Congolais pour la Démocratie-Nationale / Congolese Rally for Democracy-National (RCD-Nationale / RCD-N)
Leader: Roger Lumbala; Haut-Uélé (Isiro)
Broke away from RCD—ML in October 2000. **[1c]**
Splinter group of the former rebel movement, Rassemblement Congolais pour la Démocratie (RCD). **[8a] (Government)** "Brought under the auspices of the Armed Forces during the transition (July 2003-August 2006) … [number] Unknown". (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Rassemblement des forces sociales et fédéralistes (RSF)
Leader: Vincent de Paul Lunda Bululu; Kimbanseke **[1c]**

Rassemblement pour une nouvelle société (RNS)
Leader Dr Alafuele M. Kalala; C/Bandalungwa **[1c]**

Union des Démocrates Mobutistes (UDEMO)
[14a] (Overview)
Leader: François Joseph Mobutu Nzanga Ngbangawe.
Founded by son of former President Mobutu **[1c]**

Union des Nationalistes et des Fédéralistes Congolais (UNAFEC)
[8a] (Government)
Leader: Gabriel Kyunga wa Kumwanza; Kinshasa-Gombe **[1c]**

Union des Patriotes Congolais/Union of Congolese Patriots (UPC)
Former Chief of Military Operations: Bosco Ntaganda (USSD Reports on HR Practices 2008) **[8b] (Section 1g)**
Bunia; rebel group of Hema ethnic group, formerly in conflict with Lendu in north-east; registered as political organisation 2004, after peace agreement with Goverment. **[1c]**

> "… was an ethnic Hema-dominated militia operating around the town of Bunia in Ituri region, near the Ugandan border, since at least mid-2002. It fell outside the mainstream conflict, being concerned with the localised ethnic conflict between Hema and Lendu groups in an area historically behind Ugandan lines. Its leader, Thomas Lubanga, was arrested in 2005 for alleged war crimes and is standing trial before the International Criminal Court.
>
> "The groups came to prominence in August 2002, when Ugandan troops turned against the RCD-ML and forced it out of its Bunia headquarters, installing the UPC in its place. Thereafter, the UPC was engaged in constant conflict with the RCD-ML and various Lendu militias. By early 2003, two factions in the UPC had reportedly emerged, with Lubanga facing a challenge from Chief Kahwa Mandro and a Hema sub-clan, backed by Uganda and Rwanda respectively.

> "Ugandan withdrawal from Bunia in early May 2003 allowed the UPC to be overthrown by a Lendu militia, although the UPC subsequently retook the town. Ugandan troops were reported to have distributed their heavy weapons to one UPC faction, but which is unclear. Lubanga was long an impediment to national peace agreements since the UPC was not represented in the Inter-Congolese dialogue. However, with Lubanga effectively neutralised, the UPC were co-opted and became a political party." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Union pour la Démocratie et le Progrès Social (UDPS)
[8a] (Government)
Leader: Dr Etienne Tshisekedi Wa Mulumba; Secretary-General Rémy Massamba. Kinshasa; founded 1982 **[1c]**

Union pour la Nation (UpN)
Opposition alliance comprised of parties that supported former vice president Bemba in his presidential bid, including the Liberation of Congo (MLC), and a number of former presidential candidates with some 116 National Assembly seats; it won 18 seats in the January 2007 Senate elections and an UpN affiliated candidate won the Governship of Equatorial Province. **[14a] (Overview)**

Union pour la reconstruction du Congo (UREC)
Leader: Oscar Lukumwena Kashala. **[1c]**

Union pour la République (UPR)
Leader: Boboy Nyabaka; Kinshasa-Gombe
Founded 1997; by former members of the MPR. **[1c]**

Union pour la République—Mouvement National (UNIR—MN)
President: Frédéric Boyenga-Bofala; Kinshasa
Founded 2001; officially registered as a political party in 2005. **[1c]**

ARMED GROUPS

Coalition of Congolese Patriotic Resistance (PARECO)
Claims to unite non-Rwandaphone peoples as well as some Rwandaphone Hutu of North Kivu. **[13b] (VIII. The political challenge in the Kivus)**

The National Congress for the Defense of the People (CNDP)
Leader: General Laurent Nkunda
Chief of Staff: Bosco Ntaganda (USSD Reports on HR Practices 2008) **[8b] (Section 1g)**
Operates in eastern Congo, primarily North Kivu **[13b]**

"Forces loyal to former FARDC [Congolese Armed Forces] general [Laurent] Nkunda, believed to number between 4,000 and 7,000 combatants … On October 2 [2008], Nkunda publicly announced that the CNDP had organized itself as the Movement of Total Liberation of the Republic and withdrew from the Amani process while declaring it dead." (USSD Reports on HR Practices 2008) **[8b] (Section 1g)**

> Mixed Brigades
> "In January 2007, [President Joseph] Kabila struck a controversial deal allowing thousands of Nkunda fighters to be inducted into special mixed-army brigades, ostensibly to break down Nkunda's command structure. The mixed brigades were to pursue Rwandan Hutu rebels whose disarmament and

> repatriation had been a condition for the withdrawal of Rwandan troops. But the operations against the rebels deteriorated into a campaign of terror against civilians that forced more than 200,000 Congolese (the largest new displacement since 2003) to flee their homes. By March 2007, the campaign was called off, leaving Nkunda stronger than before." **[14a] (Overview)**

General Laurent Nkunda was arrested in Rwanda in January 2009, shortly after the declaration of Bosco Ntaganda, formerly the military chief of staff for the rebel National Congress for the Defense of the People (CNDP), that he had supplanted Laurent Nkunda as the head of the group. **[13f] [37d]**

> "On January 16, in a joint news conference with the Congolese minister of the interior and the head of the police, he [Ntaganda] declared that instead of waging war on the Congolese national army, he would join its troops in fighting the Democratic Forces for the Liberation of Rwanda (FDLR), a group with some leaders who participated in the genocide in Rwanda in 1994 that has been operating in eastern Congo." (HRW, 2 February 2009) **[13f]**

Ituri District militia groups

The Congolese Revolutionary Movement **[8b] (Section 1g)**

Forces Armées Populaires du Congo (FAPC)

"… a breakaway Hema faction of the UPC led by Jerome Kakawavu Bakonde and active between Aru and Lake Albert in northern Ituri". (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Forces Populaires pour la Democratie au Congo (FPDC)

"… a mainly Alur and Lugbara militia led by Thomas Unen Chen and active in northern Ituri. Close to Uganda and formerly linked with Hema militias against UPC domination." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

The Front for National Integration / Front des Nationalistes Integrationnistes (FNI)

Known former senior FNI commanders: Mathieu Ngudjolo (USSD Reports on HR Practices 2008) **[8b] (Section 1g)**

"… a composite Lendu militia led by Floribert Ndjabu Ngabu and based in Bunia and central/northern Ituri. Close to RCD-ML and Kinshasa". (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

The Front for Patriotic Resistance in Ituri (FRPI) / Force Patriotique de la Résistance a l'Ituri (FPRI)

Known (former) leading members: Germain Katanga (USSD Reports on HR Practices 2008) **[8b] (Section 1g)**

"… a Ngiti militia based in Beni and close to the RCD-ML and FNI". (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Parti pour l'Unité et la Sauvegarde de l'Integrite du Congo (PUSIC)

Leader: Robert Pimbu; Bunia

Coalition of four tribal militia groups, led by Hema. **[1c]**

"… a breakaway Hema militia from the UPC, led by Chief Kawha Panga Mandro and active in southern Ituri. Believed to be close to Kampala and Kinshasa". (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

The Popular Front for Justice in Congo (FPJC)
"In October [2008] the FRPI commanders contacted MONUC to announce that they and combatants from the FNI had begun fighting under the banner of a new group, the Popular Front for Justice in Congo (FPJC). The FPJC reportedly incorporated a broader ethnic composition, as compared to the FRPI, which was closely identified with the Ngiti ethnic group." (USSD Reports on HR Practices 2008) **[8b] (Section 1g)**

Mai Mai community militia groups

"Various Mai-Mai community-based militia groups in the provinces of South Kivu, North Kivu, and Katanga …". (USSD Reports on HR Practices 2008) **[8b] (Section 1g)**

Zaïrean Armed Forces / Forces Armées Zaïroises (FAZ)
"Some troops of the former Zaïrean Armed Forces (Forces Armées Zaïroises: FAZ) loyal to the late president Mobutu adopted similar bandit and mercenary professions [to irregular forces from Congo-Brazzaville and the Central African Republic] in the lawless northeastern provinces rather than surrender to Laurent-Désiré Kabila in 1997. Some may still exist in the jungle as autonomous militias but none has played a significant role in the conflict." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

FOREIGN FORCES

Jane's Sentinel Country Risk Assessments, updated in March 2009, reported:

> "In addition to the main insurgent armies and militias engaged in the primary conflict, a large number of other armed groups have operated on Congolese territory, mostly using the security vacuum of Mobutu and Laurent-Désiré Kabila's shell-state as a refuge to attack neighbouring states. It was partly to end this destabilisation that Uganda and Angola began their interventions in the Democratic Republic of Congo in 1997. The 1999 Lusaka Accords recognised this factor in identifying a number of these groups alongside the Rwandan and Burundian rebels as 'negative forces'. Moreover, insecurity in the Democratic Republic of Congo and currently neutral states play off each other and could lead to future destabilisation." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Angola

União Nacional para a Independência Total de Angola (UNITA)
"[UNITA] guerrillas frequently used Zaïre as a rear supply base under Mobutu and sought to do so again under Kabila. Numerous links were established between them and Rwanda and Uganda, but their role as a fighting force in the Democratic Republic of Congo was minimal. UNITA was comprehensively disarmed within Angola in mid-2002." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

The Cabindan liberation movement, the Cabinda Enclave Liberation Front (FLEC)
"… also used Bas-Congo as a rear supply base under Mobutu but their supply lines in both the Democratic Republic of Congo and Congo-Brazzaville have been interdicted by Angolan deployments in both countries since 1998. There were reports of banditry in Bas-Congo province in early 2002 that implicated Cabindan guerrillas."
(Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Burundi

The National Liberation Forces

"… originally the armed branch of the Party for the Liberation of the Hutu People (Partie pour la Libération du Peuple Hutu: Palipehutu) in Burundi, which was thought to have maintained approximately 10,000 regular cadres in the border area between Rwanda, Burundi and the Democratic Republic of Congo during 1999. In February 2001, the armed force definitively broke under the leadership of its operation commander, Agathon Rwasa. Thereafter FNL attacks were stepped up in the Rusizi Plain, bordering the Democratic Republic of Congo, and in the adjacent Burundian province of Bujumbura Rurale. These operations were often launched from the Congolese province of South Kivu. Although Rwasa's dominant FNL faction began talks with the Burundi transitional government in January 2004, it continued its attacks within Burundi, remaining outside the peace process as a rebel force into 2005, with fresh peace talks launched in 2006. These talks were marred by deadlock and walkouts, although the Burundian government and the FNL again committed to implementation of a 2006 ceasefire agreement following a regional summit tackling outstanding issues in December 2008." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Central African Republic

"The presence of irregular forces from … the Central African Republic has been sporadically reported in the Democratic Republic of Congo. These are the remnants of forces previously opposed to the Patassé (Central African Republic) governments and have effectively operated as mercenaries and bandits. In June 2001, several thousand members of the Yakoma ethnic group from the Central African Republic crossed into northwestern Democratic Republic of Congo to escape reprisals following the failed coup attempt in Bangui, but appeared to be of much less concern there than in Bangui. These Yakoma included some 800 to 1,000 soldiers loyal to André Kolingba, who had deserted the Central African Republican army. Following Patassé's overthrow and the pardoning of Kolingba, these soldiers returned peacefully to the Central African Republic in the third quarter of 2003." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Republic of Congo

"The presence of irregular forces from Congo-Brazzaville … has been sporadically reported in the Democratic Republic of Congo. These are the remnants of forces previously opposed to the Sassou-Nguesso (Congo-Brazzaville) … governments and have effectively operated as mercenaries and bandits." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Rwanda

The Democratic Forces for the Liberation of Rwanda (FDLR)

"The Interahamwe and former Rwandan Armed Forces (ex-FAR) were respectively anti-Tutsi militias and security forces driven out of Rwanda by the Rwandan Patriotic Army (RPA) in 1994 because of their organisation and execution of the Tutsi genocide campaign there. These militias gained

protection under Mobutu and, after 1998, were allied with Kinshasa in a broad anti-Tutsi alliance. Elimination or prosecution of these groups was the primary motivation for Rwandan involvement in the Democratic Republic of Congo and, as such, the wider conflict constituted a continuation of the Rwandan civil war on Congolese territory. Since 1994 the Interahamwe and the ex-FAR merged into a single force, often referred to as the Armée de Libération du Rwanda (ALiR) and latterly as the Forces Democratiques de Liberation du Rwanda (FDLR)." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

"The FDLR continued to be led by individuals responsible for fo[r]menting 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, 1,367 FDLR members opted to voluntarily demobilize and return to Rwanda in 2008, representing a sizable increase over the 800 who did so in 2007. According to the December report by the UN Group of Experts, there was strong evidence that the FARDC collaborated with the FDLR, including through the provision of military equipment and in joint operations against the CNDP, despite the November 2007 Nairobi communique signed by the Congolese and Rwandan governments, which called for military engagement against the FDLR by September." (USSD Reports on HR Practices 2008) **[8b] (Section 1g)**

"In a surprise development in January 2009, Congolese authorities allowed Rwandan troops onto its territory in January 2009 to start a joint offensive against the FDLR. However, while both sides appeared positive about the progress of the operation at the point of Rwanda's withdrawal in late February, the FDLR had not yet been neutralised. Indeed, it will prove very difficult to dislodge the remaining hard core, which finds sanctuary in the deep forests of North and South Kivu." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Uganda

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

"… Ugandan rebel group active in northern North Kivu Province …". (USSD Reports on HR Practices 2008) **[8b] (Section 1g)** "…defeated in the common border area by Ugandan troops during 2001 but reported to be reorganising near Butembo, North Kivu province, in November 2003." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Former Ugandan National Army (FUNA)

"… not believed to be operational." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

Front des nationalistes intégrationnistes (FNI)

Leader: Floribert Ndjabu Ngabu; founded 2003 in Uganda. Bunia
Ethnic Lendu rebel group, in conflict with Union des patriotes congolais in north-east. **[1c]**

Lord's Resistance Army (LRA)

"The LRA, which relocated from Uganda to the DRC's Garamba National Park (Orientale Province) in 2005 … continued to seek the overthrow of the Ugandan government." (USSD Reports on HR Practices 2008) **[8b] (Section 1g)**

> "… in September 2005, around 400 fighters from Uganda's Lord's Resistance Army (LRA) sought refuge in the Democratic Republic of Congo. Although peace talks between Uganda and the rebels were launched in mid-2006, facilitated by south Sudan, the negotiations suffered numerous delays and deadlock, and ground to a halt after LRA leader Joseph Kony failed to attend a signing ceremony in April 2008, as well as subsequent meetings. Concerns have grown regionally that the LRA is regrouping, with the rebels accused by local authorities of abducting 90 pupils from schools in northeast Congo in September, for example, as well as of attacks in the Central African Republic in 2008. The rebels' ongoing activity subsequently saw the Congolese, Ugandan and south Sudanese armies launch a joint military operation to flush out the rebels from northeast Congo in December 2008. However, this in turn has been met by further attacks by the rebels." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

> For more information on the Lord's Resistance Army see the detailed study released by Dutch non-governmental organisation, IVK Pax Christi, in April 2009 http://www.reliefweb.int/rw/rwb.nsf/db900sid/FJTC-7R4HPV?OpenDocument **[47a]**

Uganda National Rescue Front II (UNRF II)
"… demobilised in Sudan and Uganda in mid-2002." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

West Nile Bank Front (WNBF)
"… defunct since 1997 but remained present in eastern Democratic Republic of Congo until late 2003, when several hundred accepted an amnesty to be repatriated to Uganda." (Jane's Sentinel Country Risk Assessment, 5 March 2009) **[21a] (Non-state Armed Groups)**

United Nations

United Nations Mission in the Democratic Republic of Congo (MONUC)
http://www.monuc.org/Home.aspx?lang=en

> "The United Nations Security Council established MONUC to facilitate the implementation of the Lusaka Accord signed in 1999. …
>
> "MONUC's mandate can be broken down into four phases: Phase one involved forcibly implementing the ceasefire agreement. Phase two involved its monitoring, and the reporting of any violations through the proper channels. The third phase, still underway, centers on the DDRRR (disarmament, demobilization, repatriation, resettlement and reintegration) process. Phase four, also in progress, includes facilitating the transition towards the organization of credible elections.
>
> "MONUC is placed under Chapter VII of the United Nations Charter. Its mandate authorizes it to use all means deemed necessary, within the limits of its capacities and in the areas of deployment of its armed units, to protect civilians under imminent threat of physical violence; and to contribute to the

improvement of the security conditions." (MONUC, accessed 4 March 2009) **[20a] (Mandate)**

As of October 2008, MONUC's presence incorporated a military contingent of 16,475, military observers numbering 719, and 304 MONUC police. (MONUC, accessed 4 March 2009) **[20a] (Mission staff)** The mission also included a "… Conduct and Discipline Unit (CDU), with responsibility not only for preventing and addressing sexual exploitation and abuse, but to ensure the prevention of any type of personnel misconduct and the compliance to United Nations standards of conduct by all categories of mission personnel." (MONUC, accessed 4 March 2009) **[20a] (Conduct Unit)**

See also Section 4: Recent developments; Section 8: Security situation; Section 11: Abuses by non-Government armed groups and Annex C – Prominent People

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Annex C: Prominent people

Colonel Adémar
Congolese Armed Forces (FARDC) commander convicted of murder in June 2007 for his role in the Kilwa massacre. (UN independent expert on human rights, February 2008) **[15d] (p8)**

> "In its judgement, the Military Court concluded that no massacre had taken place, and that the deaths of the 73 victims had been an accidental consequence of the fighting. In a statement issued on 4 July 2007, the United Nations High Commissioner for Human Rights expressed her concern about the 'court's conclusions that the events in Kilwa were the accidental results of fighting, despite the presence at the trial of substantial eyewitness testimony and material evidence pointing to the commission of serious and deliberate human rights violations'." (UN independent expert on human rights, February 2008) **[15d] (p8)**

Jean-Pierre Bemba (AKA Jean-Pierre Bemba Gombo [1c])
Leader of the Liberation of Congo (MLC); ran against President Joseph Kabila in the 2006 Presidential elections. (USSD Reports on HR Practices 2008) **[8b] (Section 1a)**

> "[Bemba] left the country under MONUC [UN Mission in the Democratic Republic of Congo] escort following March 2007 fighting in Kinshasa with pro-Kabila forces that eliminated his militia as a viable military force, claimed that he was effectively in self-imposed exile. On May 24 [2008], Belgian authorities arrested Bemba, who was transferred in July 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." (USSD Reports on HR Practices 2008) **[8b] (Section 1d)**

André Boboliko
Leader of Parti démocrate et social chrétien **[1c]**

José Endundo Bononge
Leader of Parti démocrate Chrétien **[1c]**

Florentin Mokonda Bonza
Leader of the Convention des démocrates chrétiens **[1c]**

Daniel Botethi
Vice president of the Kinshasa Provincial Assembly and a prominent figure of the opposition party Liberation of Congo (MLC); killed by Kinshasa-based members of the Republican Guard (GR), an elite armed force under the control of President Joseph Kabila on 6 July 2008. (USSD Reports on HR Practices 2008) **[8b] (Section 1a)**

Frédéric Boyenga-Bofala
Leader of Union pour la République—Mouvement National **[1c]**

Vincent de Paul Lunda Bululu
Leader of Rassemblement des forces sociales et fédéralistes **[1c]**

Joseph Endundo
Leader of the Christian Democrat Party **[2a]**

Gideon
"In August 2007 the Kipushi military tribunal in Katanga Province began the trial of Katanga Mai-Mai leader Gideon for war crimes and crimes against humanity. At the end of the year [2008], his trial was still underway. However, according to the UNJHRO, there was a suspension of the trial since his attorneys were boycotting the court to protest the arrest of their colleagues (other defense attorneys) in another case." (USSD Report on HR Practices 2008) **[8b] (Section 1g)**

Antoine Gizenga
"…head of the socialist-leaning Unified Lumumbist Party (PALU), was appointed prime minister in December 2006 by the current president and empowered by the country's National Assembly in February 2007. He served as deputy prime minister of DR Congo's first government after independence from Belgium in 1960 before fleeing the country when prime minister Patrick Lumumba was assassinated."

He resigned as Prime Minister on 25 September 2008. **[53a]**

Emile Ilunga
Former leader of RCD-Goma rebel faction until October 1999, when he was replaced by Adolphe Onusumba. **[1a] [45a]**

Joseph Kabila
Leader of Parti du peuple pour la reconstruction et la démocratie **[1c]** and President of the Democratic Republic of Congo since January 2001; he succeeded his father following his assassination in the same month. **[1a]**

Laurent Desire Kabila
Former President of the Democratic Republic of Congo; assassinated in January 2001 and succeeded by his son, Joseph Kabila. **[1a]**

Dr Alafuele M. Kalala
Leader of Rassemblement pour une nouvelle société **[1c]**

Oscar Lukumwena Kashala
Leader of Union pour la reconstruction du Congo **[1c]**

Germain Katanga
"In October 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." (USSD Report on HR Practices 2008) **[8b] (Section 1g)**

Gilbert Kiakwama
Leader of the Christian Democrat Party; "The intense debates in the National Assembly about the police operation [in Bas Congo] were given broad media coverage and highlighted Bas Congo opposition politician Gilbert Kiakwama's role as a leading critic of the government's actions. Supporters saw him as a possible contender for the position of spokesperson of the opposition, should [leader of the Liberation of Congo (MLC), Jean-Pierre] Bemba not return home." (HRW, November 2008) **[13c] (p80-81)**

Gabriel Kyunga wa Kumwanza
Leader of Union des nationalistes fédéralistes du Congo **[1c]**

Fernando Kutino

Archbishop of the World Mission for Message of Life's (MMMV) main branch, Armée de Victoire (Army of Victory Church). **[19b] [19c]** Kutino also founded the political and religious movement, Sauvons le Congo (Save the Congo). (IRB Canada, 25 March 2008) **[19b] [19c]** Currently serving a ten-year prison sentence (reduced on appeal from 20 years); Kutino was arrested after criticising President Kabila in a radio broadcast in 2006. (USSD Report on HR Practices 2008) **[8b] (Section 1e)**

Thomas Lubanga
Leader of Union des patriotes congolais **[1c]**

> "Former Ituri militia leader Thomas Lubanga, whom the government surrendered to the ICC in March 2006, remained in custody during the year. On June 13, the court imposed a stay of the proceedings against him, since the prosecutor did not share confidential information that may have contained exculpatory evidence for the defense. On October 21, the Appeals Chamber confirmed the stay of proceedings, denied Lubanga's appeal and release, and remanded the evidence sharing question back to the Trial Chamber. The Trial Chamber's ruling was pending at year's end [2008]." (USSD Report on HR Practices 2008) **[8b] (Section 1g)**

Roger Lumbala
Leader of Rassemblement congolais pour la démocratie—National **[1c]**

Pierre Lumbi
Leader of Social Movement for Renewal **[1c]**

Yves Kawa Panga Mandro, alias Chief Kawa
"On February 15 [2008], the Kisangani Court of Appeal, citing the 2005 amnesty law, acquitted Yves Kawa Panga Mandro, alias Chief Kawa, a former Ituri militia leader convicted in 2006 for crimes against humanity in 2003. 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 as the military prosecutor-general requested that he be transferred from the MONUC military facility in Bunia to the CPRK prison in Kinshasa while the prosecutor appealed the decision of the appeals court to the High Military Court in Kinshasa." (USSD Report on HR Practices 2008) **[8b] (Section 1g)**

Joseph Desire Mobutu (AKA Mobutu Sese Seko)
Leader of Mouvement populaire de la revolution.
Former President of the Democratic Republic of Congo who seized power in 1965; overthrown by Laurent Kabila in 1997. **[1a]**

Floribert Ndjabu Ngabu
Front des nationalistes intégrationnistes **[1c]**

François Joseph Mobutu Nzanga Ngbangawe
Leader of Union des démocrates mobutistes; son of former President Mobutu **[1c]**

Kambasu Ngeve
Secretary-General of the Congrès national pour la défense du people **[1c]**

Arthur Z'ahidi Ngoma
Leader of Camp de la patrie **[1c]**

Mathieu Ngudjolo

"The UNJHRO reported that on February 6 [2008], authorities arrested Mathieu Ngudjolo, a former senior FNI commander, and transferred him to the International Criminal Court (ICC) in The Hague. His war crimes and crimes against humanity charges included murder, sexual slavery, and using child soldiers in hostilities." (USSD Report on HR Practices 2008) **[8b] (Section 1g)**

General Laurent Nkunda
Leader of the National Congress for the Defense of the People (CNDP), which Nkunda – declared on 2 October 2008 – had organised as the Movement of Total Liberation of the Republic. (USSD Reports on HR Practices 2008) **[8b] (Section 1g)** Former Congolese Armed Forces (FARDC) general; also "… a self-proclaimed defender of the country's Tutsi minority and a former officer of the Rwanda-backed Congolese Rally for Democracy rebel group (RCD)." **[8b] (Section 1g)**

Nkunda was arrested in Rwanda in January 2009, shortly after the declaration of Bosco Ntaganda, formerly the military chief of staff for the rebel National Congress for the Defense of the People (CNDP), that he had supplanted Laurent Nkunda as the head of the group. **[13f] [37d]**

Ne Muanda Nsemi
The spiritual leader of the Bundu Dia Kongo (BDK); BDK was made illegal by a March 2008 government decision to revoke the organisation's authorisation to operate as a social and cultural organization. (HRW World Report 2009) **[13a] (Violence in Bas Congo & Threats to Journalists and Human Rights Defenders)** "… Nsemi, won a seat in the National Assembly in July 2006 with one of the largest majorities in the country." (HRW, November 2008) **[13c] (p66)** "Nsemi writes extensively and has published over 500 booklets since 1986 in both French and Kikongo on the religion, culture, history, and politics of the Bakongo people." (HRW, November 2008) **[13c] (p68)**

Bosco Ntaganda
"The ICC charged him with the enlistment, conscription, and active use of children in hostilities between July 2002 and December 2003 while he was the chief of military operations for the Union of Congolese Patriots. In 2006 he became the chief of staff for the CNDP in North Kivu. Authorities had not arrested him by year's end [2008]." (USSD Report on HR Practices 2008) **[8b] (Section 1g)**

Ntaganda, formerly the military chief of staff for the rebel National Congress for the Defense of the People (CNDP), claimed in January 2009 that he had supplanted General Laurent Nkunda as the head of the group. **[13f] [37d]**

Boboy Nyabaka
Leader of Union pour la République **[1c]**

Antipas Mbusa Nyamwisi
Leader of Forces of Renewal **[1c]**

Mbusa Nyamwisi
Rassemblement congolais pour la démocratie—Mouvement de liberation **[1c]**

Joseph Olenghankoy
Leader of Forces novatrices pour l'union et la solidarité (FONUS) **[1c]**

Pierre wa Syakassighe Pay-Pay
Leader of Coalition des démocrates congolais **[1c]**

Professor Vundwawe te Pemako
Leader of Mouvement populaire de la revolution **[1c]**

Robert Pimbu
Leader of Parti pour l'unité et la sauvegarde de l'intégrité du Congo **[1c]**

Colonel Thomas
"In October 2007 a joint team composed of FARDC, UN, and local officials investigating allegations of mass rape perpetrated in Lieke Lesole, Orientale Province, beginning in late July 2007, determined that a Mai-Mai group led by Colonel Thomas was responsible for 114 cases of rape committed between July and August 2007. … on April 22 [2008], the Kisangani military prosecutor arrested Colonel Thomas for his responsibility in orchestrating the mass rape. … At year's end Thomas and his men remained in detention at the Kisangani Central Prison awaiting a trial date." (USSD Report on HR Practices 2008) **[8b] (Section 1g)**

Tshindja Tshindja (AKA the 'throat-cutter')
"Former Mai-Mai chief … who has been in detention in Kinshasa since February 2005." (UN independent expert on human rights, February 2008) **[15d] (p7-8)**

Etienne Tshisekedi [2a] (AKA Dr Etienne Tshisekedi Wa Mulumba [1c])
Leader of Union for Democracy and Social Progress **[1a] [2a]**

Venant Tshipasa Vangi
Démocratie chrétienne féderaliste—Convention des fédéralistes pour la démocratie chrétienne (DCF—COFEDEC) **[1c]**

See also Section 4: Recent developments; Section 8: Security situation; Section 11: Abuses by Non-government armed forces; Section 16: Opposition groups and political activists and Annex B – Political organisations & Armed groups

LIST OF CABINET MEMBERS

Taken from Europaworld Online, dated January 2009, last accessed on 8 May 2009. **[1c]**

Prime Minister: Adolphe Muzito.
Deputy Prime Minister for Social Needs: François Nzanga Mobutu.
Deputy Prime Minister for Reconstruction: Emile Bongeli.
Deputy Prime Minister for Security and Defence:
Symphorien Mutombo Bakafwasenda.
Minister of the Interior and Security: Célestin Mbuyu.
Minister of National Defence and War Veterans: Charles Mwando Nsimba.
Minister of Foreign Affairs: Alexis Thambwe Mwamba.
Minister of Decentralization and Land Settlement: Antipas Mbusa Nyamuisi.
Minister of International and Regional Co-operation: Raymond Tshibanda.
Minister of Justice: Emmanuel-Janvier Luzolo-Bambi.
Minister of Relations with Parliament: Adolphe Lumanu Mulenda Bwana Sefu.
Minister of Infrastructure and Public Works: Pierre Lumbi Okongo.
Minister of Finance: Athanase Matenda Kyelu.
Minister of Planning: Olivier Kamitatu Etsu.
Minister of the Budget: Michel Lokola.
Minister of the Environment and Tourism: José Endundu Bononge.

Minister of the National Economy and Trade: André Philippe Futa.
Minister without Portfolio: Jeannine Mabunda Lioko.
Minister of Agriculture: Norbert Basengezi.
Minister of Transport and Communication Routes: Matthieu Mpika.
Minister of Mines: Martin Kabwelulu Labilo.
Minister of Energy: Laurent Muzangisa.
Minister of Hydrocarbons: René Isekemanga Nkeka.
Minister of Posts, Telephones and Telecommunications: Louise Munga.
Minister of Industry: Simon Mboso Kiamputu.
Minister of Communications and Media: Lambert Mende.
Minister of Public Health: Mopipi Mukulumanya.
Minister of Primary and Secondary Education and Professional Training: Maker Mwangu Famba.
Minister of Higher and University Education: Mashako Mamba.
Minister of Land Affairs: Kisimba Ngoy Maje.
Minister of Town Planning and Housing: Generose Lushiku Muya.
Minister of Employment, Labour and Social Security: Ferdinand Kambere.
Minister of the Civil Service: Michel Botoro.
Minister of Culture and the Arts: Esdras Kambale.
Minister of Rural Development: Kpaki Adiri.
Minister of Youth and Sports: Patrick Sulubika.
Minister of Small and Medium-sized Enterprises: Claude Batibuye Nyamugabo.
Minister of Scientific Research: Mititiho Apata.
Minister of Human Rights: Upio Kakura Wapol.
Minister of Gender and Family: Marie-Ange Lukiana Munfonkolo.
Minister of Social Affairs: Barthélemy Bostwali.

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Annex D: List of abbreviations

ADF	Allied Democratic Forces
AI	Amnesty International
AMP	Presidential Majority Alliance
ANR	National Intelligence Agency
BDK	Bundu Dia Kongo
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CNDP	National Congress for the Defense of the People
CPJ	Committee to Protect Journalists
CSE	National Security Council
DGM	Directorate General of Migration
DMIAP	Military Directorate on Anti-state Activities
EU	European Union
EBRD	European Bank for Reconstruction and Development
FARDC	Armed Forces of the Democratic Republic of the Congo
FCO	Foreign and Commonwealth Office (UK)
FDLR	Democratic Forces for the Liberation of Rwanda
FGM	Female Genital Mutilation
FH	Freedom House
FIC	Capital Intervention Force
FNI	Front for National Integration
FPRI	Front for Patriotic Resistance in Ituri
FRPI	Popular Front for Justice in Congo
GDP	Gross Domestic Product
GR	Republican Guard
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
LRA	Lord's Resistance Army
MLC	Movement for the Liberaiton of Congo
MONUC	United Nations Mission in the Democratic Republic of Congo
MSF	Médecins sans Frontières
NA	Northern Alliance
NALU	National Army for the Liberation of Uganda
NATO	North Atlantic Treaty Organisation
NGO	Non Governmental Organisation
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organisation of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organisation for Security and Cooperation in Europe
PARECO	Coalition of Congolese Patriotic Resistance
PIR	Rapid Response Police
PNC	Congolese National Police
RCD	Congolese Rally for Democracy

RSF	Reporteurs sans Frontières
STD	Sexually Transmitted Disease
STC	Save The Children
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

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Annex E: Reference to source material

The Home Office is not responsible for the content of external websites.

Numbering of source documents is not always consecutive because some older sources have been removed in the course of updating this document. (If applicable)

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