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Issue Paper DEMOCRATIC REPUBLIC OF CONGO (RDC) STATE PROTECTION (JUNE 2003-NOVEMBER 2004) February 2005

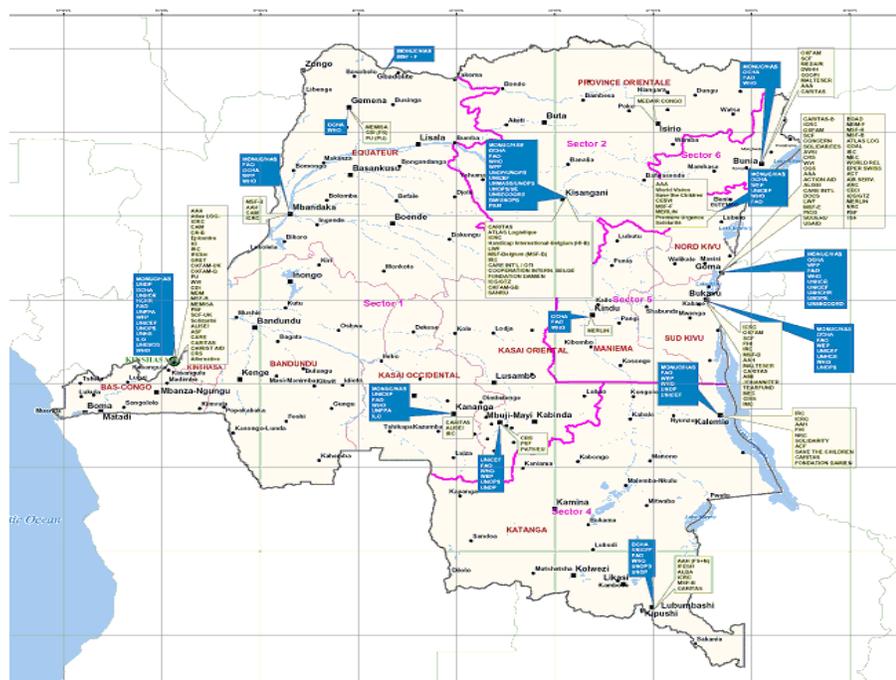
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Source: United Nations. 20 October 2004. UN Mission in the Democratic Republic of the Congo (MONUC). "Humanitarian Presence in DRC." <http://www.monuc.org/downloads/Humanitarian_Presence_30x24.pdf> [Accessed 4 Oct. 2004]

GLOSSARY

FAP

Forces d'autodéfense populaire (Popular Self-Defence Forces)

FARDC

Forces armées de la République démocratique du Congo (Armed Forces of the Democratic Republic of Congo)

GNT

Gouvernement national de transition (Government of National Transition)

MLC

Mouvement de libération du Congo (Movement for the Liberation of Congo)

MONUC

United Nations Organization Mission in the Democratic Republic of the Congo

PNC

Police nationale congolaise (Congolese National Police)

RCD-Goma

Rassemblement congolais pour la démocratie - Goma (Congolese Rally for Democracy - Goma)

RCD-ML

Rassemblement congolais pour la démocratie - Mouvement de libération (Congolese Rally for Democracy - Liberation Movement)

1. INTRODUCTION

This Issue Paper addresses state protection available in the Democratic Republic of Congo (RDC) since 30 June 2003, when the current transitional government was established (United Kingdom Oct. 2004, Sec. 4.26; United Nations 5 Oct. 2004, 5; *ibid.* 16 Aug. 2004, 13). It focuses on government institutions, particularly with regard to governance, the justice system, the police and the army. It also provides information on the current situation of women, Congolese citizens of Rwandan origin, and political opponents. With regard to this last group, this Issue Paper updates a previous document titled *Democratic Republic of Congo: The August 1998 Rebellion and Affected Groups*, published in December 1998 and available on the Immigration and Refugee Board (IRB) Website at the following address: <<http://www.irb-cisr.gc.ca>>.

2. GENERAL BACKGROUND

The wars fought during the last few years in the RDC, particularly the 1996-1997 war (United Kingdom Oct. 2004, Sec. 4.7-4.9; Freedom House 14 Sept. 2004; AFP 26 Oct. 1997; ICTJ Oct. 2004, viii) and the 1998-2003 war (UNIFEM 7 Oct. 2004; MRG/RAPY 6 July 2004, 6; Freedom House 14 Sept. 2004; AFP 17 Oct. 2004; HRW Jan. 2004), have been deadly and devastating (MRG/RAPY 6 July 2004, 2; AI 26 Oct. 2004; United Nations 22 Sept. 2004; GTZ June 2004; HRW Jan. 2004).

It is estimated that more than 3 million people have died either directly from warfare or from its effects (United States 20 Aug. 2004; BBC 16 July 2004; MRG/RAPY 6 July 2004, 6; Canada 24 Mar. 2004; AI 27 Nov. 2003; Princeton University Oct. 2003, i) and that 3 million more have been displaced (AI 27 Nov. 2003; United States 24 May 2004; MRG/RAPY 6 July 2004, 6; OSAR 28 May 2004, 18; United Kingdom Oct. 2004, Sec. 6.140).

Although estimates vary among the sources, tens of thousands of women and children are reported to have been raped by soldiers (AI 26 Oct. 2004; *ibid.* 27 Nov. 2003; *Libération* 6 Oct. 2004; UNIFEM 7 Oct. 2004; HRW Jan. 2004). According to Amnesty International, approximately 40,000 rape cases have been documented (26 Oct. 2004; see also UNIFEM 7 Oct. 2004).

Watchlist on Children and Armed Conflict, a network of local, regional and international partners that work together to protect children in armed conflicts (Watchlist n.d.), estimated that [Watchlist English version] "tens of thousands of child soldiers [were] recruited" by the various forces involved (*ibid.* June 2003, 2). A report published by Princeton University indicated that "as many as 50,000 [children] have been forced to serve as soldiers, porters, and concubines in combatant groups" (Oct. 2003, 1).

For more information on the situation of children in the RDC, see the Issue Paper titled *Democratic Republic of Congo: Situation of Children*, published by the Research Directorate in March 2004 and available on the IRB Website at the following address: <<http://www.irb-cisr.gc.ca>>.

Sources also indicated that war crimes and crimes against humanity have been committed in the

RDC (MRG 6 July 2004, 2; HRW Jan. 2004; AI 26 Oct. 2004; Princeton University Oct. 2003, i), and that armed groups committed these offences against civilians with total impunity (MRG 6 July 2004, 2; HRW Jan. 2004; AI 26 Oct. 2004).

Moreover, the socio-economic situation has deteriorated considerably (GTZ June 2004; United Nations 22 Mar. 2004). Natural resources have been pillaged (MRG/RAPY 6 July 2004, 8) or exploited illegally (United Nations 16 Aug. 2004, 38; AI 27 Nov. 2003; Freedom House 14 Sept. 2004; Watchlist June 2003, 8); and sanitary, social, road and other infrastructures are lacking or very poor (AI 26 Oct. 2004; United Nations 16 Aug. 2004, 2; UNDP 2004; *Country Reports 2003* 25 Feb. 2004, intro.; Freedom House 14 Sept. 2004; Watchlist June 2003, 11, 17; OSAR 28 May 2004, 10; Global Witness June 2004, 7). The population lives in extreme poverty (United States 24 May 2004; Watchlist June 2003, 20; United Nations 22 Sept. 2004; AI 26 Oct. 2004).

According to sources, the gross domestic product (GDP) per capita varies between US\$107 and US\$110 in the RDC (United States 24 May 2004; Watchlist June 2003, 1), and approximately 2.5 million of the 7 million people who live in the city of Kinshasa subsist on less than US\$1 per day (Watchlist June 2003, 1). In some regions of the country, particularly in the east and in the province of Équateur, people live on less than US\$0.50 per day (*ibid.*; United Nations 22 Sept. 2004). According to *Country Reports 2003*, this is the case for 80 per cent of the Congolese population (25 Feb. 2004, intro.).

In addition, the government has no authority in certain areas of the country (GTZ June 2004; AI 26 Oct. 2004), particularly in the Ituri district (ICG 26 Aug. 2004). *The Globe and Mail* reported that "the authority of the central government does not extend more than a few hundred kilometres from the capital, Kinshasa" (29 Nov. 2004, A9). According to Human Rights Watch (HRW), the justice system has suffered a [HRW English version] "breakdown" (HRW Jan. 2004; see also GTZ June 2004; OSAR 28 May 2004, 10).

However, some progress was made on the political scene with the negotiation of a peace accord known as the Global and All-Inclusive Agreement [or Sun City Accord] (United Nations 16 Aug. 2004, 13; *ibid.* n.d.; UNDP 2004; MRG/RAPY 6 July 2004, 7; Freedom House 14 Sept. 2004). This agreement was signed in December 2002 (*ibid.*; United Nations n.d.; UNDP 2004; MRG/RAPY 6 July 2004, 7; United Kingdom Oct. 2004, Sec. 4.23) and ratified on 2 April 2003 by delegates from the government, rebel movements, political opposition parties, and representatives of civil society (*ibid.*, Sec. 4.24; Canada 24 Mar. 2004). According to a report from the United Nations, the signing of this accord "marked a new chapter in the conflict and peace process in the Democratic Republic of the Congo" (UNIFEM 7 Oct. 2004).

On another note, foreign troops, particularly from Rwanda and Uganda, who were involved in the conflict have officially withdrawn from the RDC (United States 24 May 2004; AI 26 Oct. 2004; OSAR 28 May 2004, 1; United Kingdom Oct. 2004, Sec. 4.21; AI 27 Nov. 2003; Freedom House 14 Sept. 2004).

It was in this context that the transitional institutions—such as the National Assembly, the Senate and the current Government of National Transition (Gouvernement national de transition, GNT)—were established (Global Witness June 2004, 15; Canada 24 Mar. 2004; United Kingdom Oct. 2004, Sec. 4.27). The GNT was set up on 30 June 2003 (*ibid.*, Sec. 4.26; United Nations 5 Oct. 2004, 5; *ibid.* 16 Aug. 2004, 13; OSAR 28 May 2004, 2; MRG/RAPY 6 July 2004, 2), [UN English version] "paving the way for a new era in the country" (United Nations n.d.).

3. GOVERNMENT INSTITUTIONS

3.1. Governance

Under the peace agreement, power is shared between designated government representatives from the previous administration, the Movement for the Liberation of Congo (Mouvement de libération du Congo, MLC), the Congolese Rally for Democracy - Goma (Rassemblement congolais pour la démocratie-Goma, RCD-Goma), the Congolese Rally for Democracy - Liberation Movement (Rassemblement congolais pour la démocratie - Mouvement de libération, RCD-ML), the Mayi-Mayi militia, and the unarmed political opposition (AI 26 Oct. 2004; Global Witness June 2004, 15; OSAR 28 May 2004, 2; United Kingdom Oct. 2004, Sec. 4.26)

Composed of approximately 60 ministers and deputy ministers from the various parties that signed the peace accord (ibid.; United Nations 22 Mar. 2004; Global Witness June 2004, 15; OSAR 28 May 2004, 2), the GNT is expected to hold national elections in June 2005 (ibid.; Global Witness Sept. 2004, 7; ibid. June 2004, 15; AI 26 Oct. 2004; *L'Afrique des Grands Lacs* 2004, 133).

The GNT is headed by President Joseph Kabila (MRG/RAPY 6 July 2004, 6; Global Witness June 2004, 15), who is also the leader of the armed forces (United Kingdom Oct. 2004, Sec. 5.8; Global Witness Sept. 2004, 7; ibid. June 2004, 15). President Kabila is surrounded by four vice-presidents (AI 26 Oct. 2004) from the previous administration, the MLC, the RCD-Goma and the political opposition (Global Witness June 2004, 15; United Kingdom Oct. 2004, Sec. 4.26). Like the GNT, the 500 members of the National Assembly and the 120 members of the Senate were not elected but appointed (ibid., Sec. 5.9; *Le Potentiel* n.d.; Freedom House 14 Sept. 2004). According to Freedom House, the people of the RDC "have never been able to choose or change their government through democratic and peaceful means" (14 Sept. 2004).

Under the Global and All-Inclusive Agreement, the GNT's mandate is to re-establish government authority; create a new, integrated national armed forces (Forces armées de la République démocratique du Congo, FARDC); develop a justice system and establish institutions supporting democracy; and organize the elections scheduled for June 2005 (ASADHO June 2004, 4-5; Canada 24 Mar. 2004; AI 26 Oct. 2004; ibid. 27 Nov. 2003; OSAR 28 May 2004, 2; United Nations 16 Aug. 2004, 14-15, 17; Global Witness Sept. 2004, 7; *L'Afrique des Grands Lacs* 2004, 127).

In practice, however, after one year in power, the GNT has been unable to establish its authority nationwide (United Nations 16 Aug. 2004, 3; United States 20 Aug. 2004; Global Witness Sept. 2004, 8; *Country Reports 2003* 25 Feb. 2004, intro.). Government authority is [UN English version] "weak or absent" in many regions of the country (United Nations 16 Aug. 2004, 3; see also GTZ June 2004; OSAR 28 May 2004, 1), particularly in many parts of eastern RDC, including North and South Kivu (ibid.; BBC 1 Oct. 2004; ICTJ Oct. 2004, 18), and the Ituri district (ibid.; ICG 26 Aug. 2004), where the government has no control and armed groups still exercise their influence (ICTJ Oct. 2004, 18; United Nations 16 Aug. 2004, 3; AI 27 Nov. 2003; HRW Jan. 2004).

In the province of South Kivu alone, reports have indicated the presence of the Mayi-Mayi militia, the Democratic Liberation Forces of Rwanda (Forces démocratiques de libération du Rwanda, FDLR) (the Rwandan Interahamwe militia), and the Burundian National Liberation Front (Front national de libération, FNL) (United Nations 5 Oct. 2004, 6; ibid. 16 Aug. 2004, 23; United Kingdom Oct. 2004, Sec. 6.118).

Filip Reyntjens, a professor of law at the University of Antwerp and the Free University of Brussels and an expert on the African Great Lakes region, said that foreign troops from Rwanda, Burundi and Uganda have remained in North and South Kivu despite the official announcement of their withdrawal (19 Nov. 2004).

Although provincial governors have been appointed (United Kingdom Oct. 2004, Sec. 5.11; *L'Afrique des Grands Lacs* 2004, 120), parallel administrations still exist in certain regions (United Nations 16 Aug. 2004, 3; AI 26 Oct. 2004), and various armed factions continue to violate human rights (ibid.; United Nations 16 Aug. 2004, 33; Princeton University Oct. 2003, 1) with total impunity (ibid.; OSAR 28 May 2004, 2; AI 26 Oct. 2004; HRW Jan. 2004). These regions include, more specifically, eastern RDC (AI 26 Oct. 2004; ibid. 27 Nov. 2003; ASADHO Mar. 2004, 3; United States 20 Aug. 2004; HRW Jan. 2004; United Kingdom Oct. 2004, Sec. 6.117), the Ituri district (ibid.; ASADHO Mar. 2004, 3; OSAR 28 May 2004, 6; AI 27 Nov. 2003; HRW Jan. 2004), the province of Katanga (ibid.; ASADHO Mar. 2004, 3; OSAR 28 May 2004, 9; Global Witness Sept. 2004, 8), and the province of Équateur (OSAR 28 May 2004, 9; United Nations 23 Sept. 2004; United Kingdom Oct. 2004, Sec. 6.117).

Although the Swiss Refugee Council (Organisation suisse d'aide aux réfugiés, OSAR) noted a relatively calm spell in western RDC (28 May 2004, 3), other sources indicated that the city of Kinshasa and the province of Bas-Congo were still [translation] "red zones" and that [translation] "violence, human rights abuses, massacres, looting, and assassinations are common" in those areas (ASADHO Mar. 2004, 3; see also United Nations 10 Mar. 2004b).

According to Amnesty International, the GNT is taking too long to reform and establish various state institutions (AI 26 Oct. 2004), and especially to integrate the various armed groups into one national army (ibid.; United Nations 5 Oct. 2004, 6; OSAR 28 May 2004, 5; AFP 17 Oct. 2004; ICG 22 July 2004). Moreover, the GNT has still not drawn up a new constitution (Global Witness Sept. 2004, 7; United Nations 16 Aug. 2004, 1) or a new nationality law (ibid.; AI 26 Oct. 2004; *The Economist* 19 Aug. 2004; *Le Potentiel* 13 Oct. 2004; ICTJ Oct. 2004, x), nor has it reformed the justice system (AI 26 Oct. 2004; HRW Jan. 2004; ASADHO June 2004, 13).

According to Amnesty International, the current situation in the RDC is [AI English version] "neither war nor peace" (AI 26 Oct. 2004), and a recent report from the United Nations indicated that the various forms of violence against women in the RDC are a result of [translation] "poor governance" (United Nations 22 Mar. 2004). During his visit to the African Great Lakes region in October 2004, the Belgian Minister of Foreign Affairs is reported to have said that there is "no real government in the [RDC]" (IRIN 22 Oct. 2004). According to certain sources, the GNT has not been able to guarantee public security because it is either incompetent (Global Witness Sept. 2004, 2; GTZ June 2004; ASADHO Mar. 2004, 2) or negligent (ibid.).

Furthermore, many observers believe that the structure of the government itself (the size of the Cabinet and the many entities that form it) is cumbersome and seriously limits its functioning (AI 26 Oct. 2004; Global Witness Sept. 2004, 7). According to Filip Reyntjens, because members of the GNT represent different organizations with different interests, the government lacks cohesion, which seriously limits its activities (19 Nov. 2004).

3.2. Justice system

The Congolese justice system is based on Belgian law (OSAR 28 May 2004, 10; *CIA World*

Factbook 30 Nov. 2004; *Country Reports 2003* 25 Feb. 2004, Sec. 1.e) and on tribal law (*ibid.*; *CIA World Factbook* 30 Nov. 2004). The system consists of various courts, including superior courts of law and military courts (Mission conjointe multibailleurs May 2004, 9; *Country Reports 2003* 25 Feb. 2004, Sec. 1.e).

According to Ellysé Dimandja, a member of the RDC's National Assembly and Vice-President of Women as Partners for Peace in Africa (WOPPA), there are also legally recognized tribal courts (14 Oct. 2004; see also UNHCHR n.d.; Mission conjointe multibailleurs May 2004, 17).

However, despite the advantages they offer, particularly their being more accessible to the population (Princeton University Oct. 2003, 20; Mission conjointe multibailleurs May 2004, 75)—they cover 80 per cent of the country (*ibid.*)—the tribal courts are often under the control of local chieftains (*ibid.*; Dimandja 14 Oct. 2004; Princeton University Oct. 2003, 20-21) and, according to some observers, certain customs linked to these courts are [translation] "retrograde" (Mission conjointe multibailleurs May 2004, 76; see also United Nations 22 Mar. 2004) and discriminatory toward women (Dimandja 14 Oct. 2004; United Nations 22 Mar. 2004; AI 26 Oct. 2004; Mission conjointe multibailleurs May 2004, 76). A report published by Princeton University cited the example of a villager found guilty of rape and noted that, as punishment, village council members in North Kivu would most likely "order the perpetrator to award his victim a pig or cow as compensation" (Oct. 2003, 21).

In theory, the Congolese constitution guarantees impartial justice (OSAR 28 May 2004, 10) and "the law provides for an independent judiciary" (*Country Reports 2003* 25 Feb. 2004, intro.; see also Freedom House 14 Sept. 2004). Defendants also have the right to appeal in most cases (*Country Reports 2003* 25 Feb. 2004, Sec. 1.e; OSAR 28 May 2004, 10), and the right to defence is recognized by all courts (*ibid.*).

Some sources, however, have reported that, in practice, the Congolese justice system is [AI English version] "incapacitated" (AI 26 Oct. 2004) and has suffered a "breakdown" (HRW Jan. 2004), [translation] "destruction" (GTZ June 2004) and [translation] "total collapse" (Mission conjointe multibailleurs May 2004, 9). The justice system not only lacks material and human resources (HRW Jan. 2004; *Country Reports 2003* 25 Feb. 2004, Sec. 1.e; AI 26 Oct. 2004; *ibid.* 27 Nov. 2003; Princeton University Oct. 2003, 17), but it is also underfunded (*ibid.*; Mission conjointe multibailleurs May 2004, 27; *Country Reports 2003* 25 Feb. 2004, intro.; HRW Jan. 2004; OSAR 28 May 2004, 10; AI 27 Nov. 2003; *ibid.* 26 Oct. 2004).

Moreover, the justice system is ineffective and corrupt, and lacks independence (*ibid.*; *ibid.* 27 Nov. 2003; ASADHO June 2004, 9; HRW Jan. 2004; *Country Reports 2003* 25 Feb. 2004, intro., Sec. 1.e; ICTJ Oct. 2004, 25; Mission conjointe multibailleurs May 2004, 9, 37; Freedom House 14 Sept. 2004). Sources also indicated that the Congolese judiciary fails to protect fair trial standards (HRW Jan. 2004; *Country Reports 2003* 25 Feb. 2004, Sec. 1.e; Mission conjointe multibailleurs May 2004, 38; AI 27 Nov. 2003).

RDC military courts, which include a supreme military court, military tribunals, operational military courts, garrison military courts and military police courts (Mission conjointe multibailleurs May 2004, 18), "have no appeal process" (United Kingdom Oct. 2004, Sec. 5.21; see also BBC 6 Oct. 2004; OSAR 28 May 2004, 10). In addition, death sentences are still handed down by both military courts (BBC 6 Oct. 2004; Mission conjointe multibailleurs May 2004, 36; ICTJ Oct. 2004, 31) and civilian courts of law (Mission conjointe multibailleurs May 2004, 10; AI 9 June 2004)

In some regions, particularly in eastern RDC, many people are arrested arbitrarily and the law is

left in the hands of various armed groups that control a large portion of the country, despite the existence of the GNT (OSAR 28 May 2004, 10; AI 26 Oct. 2004; United Nations 16 Aug. 2004, 33). In addition, because they mistrust the Congolese justice system (AI 26 Oct. 2004; ICTJ Oct. 2004, 18), [HRW English version] "victims of human rights abuses are generally reluctant to utilize judicial mechanisms for redress" (HRW Jan. 2004; see also ASADHO June 2004, 9; ICTJ Oct. 2004, 18; AI 26 Oct. 2004).

In general, Congolese citizens have very limited access to the judiciary (Princeton University Oct. 2003, 18; AI 26 Oct. 2004; ICTJ Oct. 2004, 25). The International Center for Transitional Justice (ICTJ), an American non-governmental organization (NGO) that "assists countries pursuing accountability for past mass atrocity or human rights abuse" (ICTJ n.d.), estimates that [ICTJ English version] "only 20 percent of Congolese citizens have access to the formal justice system" (Oct. 2004, 25). Based on interviews conducted in 2004, the ICTJ also confirmed that [ICTJ English version] "in the entire [RDC], there is no ongoing trial in civilian courts for conflict-related mass human rights violations;" the same source added, however, that [ICTJ English version] "one trial for human rights abuse is currently under way in a military court" (ICTJ Oct. 2004, 19-20).

The Mission conjointe multibailleurs, a mission organized with the support of the European Commission and other partners, reviewed the RDC's court system and reported that the system

[translation]

cannot protect all the legitimate concerns of persons on trial. Citizens are confronted with an opaque system that depends on its institutional capacity, which is very limited. It is a system in which legal decisions favour the better litigator and which fails to ensure both legal security and fairness (May 2004, 28).

In particular, Congolese criminal justice is characterized by [translation] "deviant practices," such as

[translation]

the police's lack of minimum respect for a person's dignity and human rights; the failure to observe time limits on police custody and preventive detention; investigations that are carried out exclusively by the prosecutor's office with no monitoring; decisions that are arbitrary, abusive and sometimes without any basis in law; deplorable prison conditions; and a failure to carry out the decisions handed down by the courts, including orders of release not established by law. The minister of justice can intervene at any time in the process and with complete disregard for procedure and the chain of command (Mission conjointe multibailleurs May 2004, 10).

According to a report from the United Nations High Commissioner for Human Rights (UNHCHR), [translation] "the Congolese legislative framework is characterized by a bulk of legal and statutory texts that are incoherent, antiquated and contradictory, because they were adopted in various historical, political, ideological and socio-economical contexts, and based on different principles" (UNHCHR n.d.).

3.3. Police and security forces

The RDC has many security services, such as the Special Group for Presidential Security (Groupe spécial de sécurité présidentielle, GSSP), the National Intelligence Agency (Agence nationale des

renseignements, ANR), the Office for the Military Detection of Anti-Patriotic Activities (Détection militaire des activités antipatriotiques, DEMIAP), the armed forces and the national police force (*Country Reports 2003* 25 Feb. 2004, intro.). Poorly trained, poorly paid and often undisciplined, the security forces generally escape the control of civilian authorities, commit human rights abuses (ibid.) and [UN English version] "operate outside the purview of the justice system" (United Nations 16 Aug. 2004, 33; see also *Country Reports 2003* 25 Feb. 2004, intro.).

This Issue Paper focuses on the Congolese National Police (Police nationale congolaise, PNC), which, according to Amigo Ngonde Funsu, President of the African Association for the Defence of Human Rights in Congo/Kinshasa (Association congolaise de défense des droits de l'homme, ASADHO), falls under the jurisdiction of the Ministry of the Interior (14 Oct. 2004; see also *Country Reports 2003* 25 Feb. 2004, intro.).

In theory, the PNC's mission is to [translation] "prevent offences, investigate them, apprehend perpetrators in the manner prescribed by law, ensure that the RDC's laws and regulations are respected and enforced, perform identification checks at the border . . . question people who are in the country illegally and direct them to the appropriate authority, and ensure public security" (Mission conjointe multibailleurs May 2004, 52).

Made up of a total of 70,000 to 90,000 police officers (United Nations 16 Aug. 2004, 6; Mission conjointe multibailleurs May 2004, 52), the PNC comprises the Communal Police (Police communale, PC), the Rapid Intervention Police (Police d'intervention rapide, PIR), the Internal Police (Police des polices, PP), and the Special Transport Police (Police spéciale de roulage, PSR) (United Kingdom Oct. 2004, Sec. 5.34). There are approximately an additional 800 officers with the Judiciary Prosecution Police (Police judiciaire des parquets, PJP) (Mission conjointe multibailleurs May 2004, 11) who, under the jurisdiction of the Ministry of Justice (ibid.; Funsu 14 Oct. 2004), have the specific mandate to record offences, gather evidence, apprehend perpetrators and bring them to trial (Mission conjointe multibailleurs May 2004, 20; see also *Country Reports 2003* 25 Feb. 2004, Sec. 1.d). However, the PJP is reported to be present only in the part of the country which was under the control of the former administration before the signing of the peace accord (Mission conjointe multibailleurs May 2004, 11).

Although integration of the various police forces is vital to ensure public security (AI 26 Oct. 2004; ibid. 27 Nov. 2003), the GNT has only appointed the police high command (United Nations 16 Aug. 2004, 6). According to the United Nations, approximately 6,000 police officers are being trained in preparation for their integration, and certain countries, such as France and the United Kingdom, have agreed to participate in the training, reorganization and integration of PNC police officers (ibid.).

Despite these accomplishments, the former rebel groups still have their own security services (*Country Reports 2003* 25 Feb. 2004, intro.; Funsu 14 Oct. 2004; Mission conjointe multibailleurs May 2004, 52); and the police have often used excessive force to disperse demonstrations (CADHOK 3 June 2004; ASADHO 27 Apr. 2004; *Country Reports 2003* 25 Feb. 2004, Sec. 1.c), arbitrarily arrested and detained people (ibid., Sec. 1.d; Mission conjointe multibailleurs 25 May 2004, 11), and "robbed and extorted money from civilians" (*Country Reports 2003* 25 Feb. 2004, Sec. 1.d).

In certain areas, including the city of Kinshasa (ibid., Sec. 2.b; ASADHO Mar. 2004) and the provinces of Équateur (United Nations 23 Sept. 2004; ibid. 22 Sept. 2004) and Katanga (CADHOK 3 June 2004; ASADHO Mar. 2004), the police were often the perpetrators of human rights abuses (ibid.; United Nations 22 Sept. 2004).

A report from the United Nations indicated that, in the province of Équateur, police officers and

soldiers were frequently involved in crimes against civilians, including rape, illegal detention, and destruction of property, such as fields and houses (22 Mar. 2004). In a 27 April 2004 press release, ASADHO expressed concern regarding the behaviour of certain PIR members who used extreme violence to disperse a student demonstration at the National Pedagogical Institute (Institut pédagogique national, IPN) in Kinshasa. The same document indicated that many students have been raped and [translation] "tortured" by police officers (ASADHO 27 Apr. 2004).

In Lubumbashi, Katanga, [translation] "the police shot at students" during a peaceful demonstration on 3 June 2004 in front of the MONUC offices (CADHOK 3 June 2004). A press release from the Dialogue of Associations of Human Rights Defence in Katanga (Concertation des associations de défense des droits de l'homme du Katanga, CADHOK) provided the names of 20 students who were injured during the police raid (3 June 2004). ASADHO indicated in its June 2004 report that, in general, [translation] "women are still subject to sexual violence and other abuses at the hands of the police, the military, and civilians who are close to soldiers" (14).

In its report on the review of the justice system in the RDC, the Mission conjointe multibailleurs indicated that members of the PNC were [translation] "politicized; poorly trained; corrupt; poorly supervised; short of resources, particularly infrastructure and adapted resources; [and that they were] demobilized and destabilized in their function by the corruption of the legal system" (May 2004, 11).

3.4. Army

The disarmament, demobilization and reintegration of soldiers (AI 26 Oct. 2004; United Nations 5 Oct. 2004, 5) and the creation of a new, integrated national army are both key steps to establishing national security (AI 26 Oct. 2004; *ibid.* 27 Nov. 2003; United Nations 5 Oct. 2004, 5; *ibid.* 16 Aug. 2004, 4; ASADHO June 2004, 2; Canada 24 Mar. 2004). These reforms were among the priorities of the Global and All-Inclusive Agreement (United Nations 5 Oct. 2004, 5; ICG 22 July 2004; ASADHO June 2004, 4; *L'Afrique des Grands Lacs* 2004, 127).

There are some 300,000 to 400,000 Congolese soldiers in the RDC (AI 26 Oct. 2004; ICG 22 July 2004; AFP 21 Aug. 2004; *The Globe and Mail* 29 Nov. 2004, A9). Approximately 200,000 of them must be demobilized. (*ibid.*; AI 26 Oct. 2004). In addition to the Congolese soldiers, there are also some 8,000 to 13,000 members of militias and foreign troops from Rwanda, Uganda and Burundi (ICG 22 July 2004).

More than a year after the current government was established, a unified army—the FARDC—has not yet been created (ASADHO June 2004, 4; AI 26 Oct. 2004; United Nations 5 Oct. 2004, 5; *ibid.* 16 Aug. 2004, 4; AFP 21 Aug. 2004; *ibid.* 17 Oct. 2004). According to Agence France Presse, the integration was formalized on paper, but almost all of the soldiers have remained loyal to their factions (17 Oct. 2004). According to OSAR, the [translation] "struggles for power" and the mistrust that some superior officers have for an integrated army have considerably delayed the creation of a new army (28 May 2004). Corroborating sources indicated that only the command structure, which includes the appointment of headquarters staff and regional commanders, has been established (ASADHO June 2004, 4; AI 26 Oct. 2004; *ibid.* 27 Nov. 2003; United Nations 16 Aug. 2004, 4; Global Witness June 2004; Freedom House 14 Sept. 2004), and only one brigade has been created and integrated (United Nations 16 Aug. 2004, 4; AFP 21 Aug. 2004; ICG 22 July 2004).

Apart from these achievements, it seems that the former military structures of the various rebel groups have remained intact (ASADHO June 2004, 14), and that the troops seem to obey their former

political and military leaders more than they do the current government authority (ibid.; AI 26 Oct. 2004; ibid. 27 Nov. 2003; United Nations 16 Aug. 2004, 4; AFP 17 Oct. 2004; ICTJ Oct. 2004, 18).

According to some observers, the proliferation of uncontrollable armed groups in the RDC (ASADHO June 2004, 16; AI 26 Oct. 2004; United Nations 6 Nov. 2004) and the fact that soldiers are not paid (ibid. 16 Aug. 2004, 4; OSAR 28 May 2004, 9) are part of the reasons for the lack of security and the human rights abuses of civilians (ibid.; ASADHO June 2004, 16).

In eastern RDC, particularly in the Ituri district, armed groups use rape as a weapon of warfare, and thereby commit serious offences against human rights (AI 26 Oct. 2004; United Nations 5 Oct. 2004, 6; ibid. 16 Aug. 2004, 10; ASADHO June 2004, 14; OSAR 28 May 2004, 6-8). In early June 2004, in Bukavu, South Kivu, soldiers not only pillaged (United Nations 5 Oct. 2004, 6; ibid. 16 Aug. 2004, 10), but also raped women and young girls (ibid.; ibid. 5 Oct. 2004, 6; ASADHO June 2004, 14).

Sources reported that men in uniform attacked civilians in the province of Katanga (OSAR 28 May 2004, 9; ASADHO Mar. 2004), in Kinshasa (ibid. June 2004, 14), and in the province of Équateur (United Nations 23 Sept. 2004; ibid. 22 Sept. 2004; OSAR 28 May 2004, 9). For example, in Katanga, the Mayi-Mayi militia (ibid.; United Nations 16 Aug. 2004, 33), the FARDC and the Popular Self-Defence Forces (Forces d'autodéfense populaire, FAP) often attacked—and sometimes killed—civilians (ibid.; OSAR 28 May 2004, 9). In the province of Équateur, soldiers raped women and young girls (ibid.; United Nations 16 Aug. 2004, 33; ibid. 22 Mar. 2004).

To illustrate the plethora of armed groups in the RDC, ASADHO listed, but did not provide details on, the following groups:

The Congolese Armed Forces (Forces armées congolaises, FAC), the Congolese National Police (Police nationale congolaise, PNC), the Congolese National Army (Armée nationale congolaise, ANC), the Congolese Liberation Army (Armée de libération du Congo, MLC), the Congolese People's Army (Armée du peuple congolais, APC), the Popular Self-Defense Forces (Forces d'autodéfense populaire, FAP), the "Local Defense," the Mayi-Mayi, Congolese Patriotic Union Forces (Forces de l'union des patriotes congolais, FUPC), the Eastern Congolese Liberation Forces (Forces de libération de l'est du Congo, FLEC), the Nationalist and Integrationalist Forces (Forces nationalistes et intégrationnistes, FNI), the former Rwandan Armed Forces (Forces armées rwandaises, FAR) and the Interahamwe, the Forces for Defence of Democracy (Forces pour la défense et la démocratie, FDD), the Rwandan Patriotic Army (Armée patriotique rwandaise, APR), the Uganda People's Defence Forces (UPDF), the National Army for the Liberation of Uganda (NALU), and the United Nations Mission in the Democratic Republic of the Congo (MONUC) (June 2004, 16).

3.5. Other institutions

The Global and All-Inclusive Agreement provides for the establishment of institutions supporting democracy (Canada 24 Mar. 2004; UNDP 2004; UNHCHR 21 Sept. 2004, 17; RDC n.d.; France n.d.). These institutions are the Independent Electoral Commission (Commission électorale indépendante, CEI), the High Authority for the Media (Haute autorité des médias, HAM), the Truth and Reconciliation Commission (Commission vérité et réconciliation, CVR), the Ethics Commission for the Fight Against Corruption (Commission de l'éthique et de la lutte contre la corruption, CELC), and the National Observatory for Human Rights (Observatoire national des droits de l'homme, ONDH) (ibid.; Canada 24 Mar. 2004; UNDP 2004; UNHCHR 21 Sept. 2004, 17).

Despite the considerable delay in establishing the legislative framework that will govern these institutions (*ibid.*; ASADHO June 2004, 3; Canada 24 Mar. 2004; *L'Observateur* 16 June 2004), a 21 September 2004 report from the UNHCHR stated that the 2004 promulgation of organic laws defining these institutions' organizational framework, duties and operations was [translation] "significant progress" (17).

According to Ellysé Dimandja, a member of the Congolese transitional parliament, it is too soon to measure the effectiveness of the institutions supporting democracy (14 Oct. 2004). According to her, these institutions do not have sufficient financial and logistic means to fulfill their missions (Dimandja 14 Oct. 2004; see also ASADHO June 2004, 4).

With regard to the National Observatory for Human Rights (ONDH), its mandate consists of monitoring the human rights situation and investigating and remedying human rights abuses (AI 27 Nov. 2003). However, the ONDH's independence has reportedly already been compromised because the members of its plenary assembly were appointed by the various parties that participated in the Inter-Congolese Dialogue (ASADHO June 2004, 4) and because the members of its executive committee were "nominated by the political groupings and armed forces responsible for human rights abuses" (AI 27 Nov. 2003).

3.6. Non-governmental organizations

A multitude of local NGOs are working in the RDC (Funsu 14 Oct. 2004; GTZ June 2004; Dimandja 14 Oct. 2004). The database of NGOs available on the RDC civil society's Website alone contains 376 names (*societecivile.cd n.d.a*).

There are a reported 12,000 national NGOs (GTZ June 2004). The main NGOs in the RDC are ASADHO, Voix des sans voix (VSV), the Committee of Human Rights Observers (*Comité des observateurs des droits de l'Homme, CODHO*), and the Groupe Jérémie (*Country Reports 2003* 25 Feb. 2004, Sec. 3; Global Security 19 May 2004; see also Funsu 14 Oct. 2004). Most of these NGOs organize awareness activities (*Asylum Aid* Mar. 2002, 17), promote human rights, and monitor and publish reports on human rights abuses against the population (Dimandja 14 Oct. 2004; Funsu 14 Oct. 2004). However, despite their dedicated efforts to meet the needs of victims of violence (AI 26 Oct. 2004), local NGOs generally lack the infrastructure and financial means to extend their assistance to taking in victims (*ibid.*; Dimandja 14 Oct. 2004; Funsu 14 Oct. 2004). Moreover, in regions where the GNT still has no authority, NGOs operate under difficult conditions and are often attacked by the forces present (AI 26 Oct. 2004).

International organizations also operate in the RDC, such as the United Nations Mission in the Democratic Republic of the Congo (MONUC), which consists of 16,700 members (IRIN 4 Oct. 2004) and had a budget of US\$608.23 million for the period of 1 July 2003 to 30 June 2004 (United Nations 30 Mar. 2004). The MONUC's mission includes providing advice and assistance to the transitional government, particularly with regard to the establishment of rule of law and the electoral process (IRIN 4 Oct. 2004). [AI English version] "[i]n the Ituri district and Kivu provinces of eastern [RDC], MONUC operates under a Chapter VII mandate, which authorizes peacekeepers to use armed force to protect civilian life" (AI 26 Oct. 2004; see also *ibid.* 27 Nov. 2003).

However, some constraints—such as the MONUC's March 2005 expiry date (IRIN 4 Oct. 2004), the size of the RDC and the complexity of its problems (AI 26 Oct. 2004)—limit the MONUC's area of operation, and, according to some sources, this organization seems to lack the human resources to

fulfill its mission (*ibid.*; Global Witness Sept. 2004, 8; see also ICG 26 Aug. 2004).

For information on other international humanitarian organizations in the RDC and their respective areas of operation, please consult the map on page iv of this Issue Paper.

4. SITUATION OF CERTAIN GROUPS

4.1. Women

The RDC has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (MRG 2004, 25; Watchlist June 2003, 3; UNHCHR n.d.; Asylum Aid Mar. 2002, 9). Article 51 of the Congolese Transitional Constitution stipulates that [translation] "the State shall have the duty to ensure the elimination of all forms of discrimination against women [and to] ensure the respect and promotion of their rights ... [and that] women shall have the right to significant representation in national, provincial and local institutions" (RDC 4 Apr. 2003; see also United Nations 22 Mar. 2004).

In practice, however, Congolese women are still excluded (AI 26 Oct. 2004; United Nations 22 Mar. 2004; UNHCHR n.d.; United Kingdom Oct. 2004, Sec. 6.78) and considered [translation] "second-class" citizens (United Nations 22 Mar. 2004).

Corroborating sources indicated that Congolese women represent 51 per cent of the population (*CIA World Factbook* 30 Nov. 2004), but that they are under-represented in the transitional institutions (United Kingdom Oct. 2004, Sec. 6.77; AI 26 Oct. 2004; UNHCHR n.d.; United Nations 22 Mar. 2004; UNDP 8 Mar. 2004; Dimandja 14 Oct. 2004). Congolese women account for 10 to 15 per cent of the National Assembly (Dimandja 14 Oct. 2004; United Nations 22 Mar. 2004; UNDP 8 Mar. 2004; United Kingdom Oct. 2004, Sec. 6.77), approximately 10 per cent of the GNT (AI 26 Oct. 2004; Dimandja 14 Oct. 2004; United Nations 22 Mar. 2004; UNDP 8 Mar. 2004; UNIFEM 7 Oct. 2004) and less than 5 per cent of the Senate (*ibid.*; United Nations 22 Mar. 2004; AI 26 Oct. 2004; Dimandja 14 Oct. 2004; United Kingdom Oct. 2004, Sec. 6.77).

Various sources noted that certain provisions of Congolese law discriminate against women (AI 26 Oct. 2004; Mission conjointe multibailleurs May 2004; MRG 2004, 32; UNHCHR n.d.; United Nations 22 Mar. 2004). The Family Code confers legal incapacity to married women (*ibid.*, 11; UNHCHR n.d.; MRG 2004, 32; Dimandja 14 Oct. 2004). In fact, according to this code, women must obtain their husband's permission in order to travel, acquire property or sign contracts (*ibid.*; *Country Reports 2003* 25 Feb. 2004, Sec. 5; MRG 2004, 32; see also Mission conjointe multibailleurs 2004, 68). Women also require this permission to take cases to court (AI 26 Oct. 2006; Dimandja 14 Oct. 2004), including cases in which they are abused by their husband (*ibid.*). Moreover, according to some observers, various customs are often prejudicial to women (AI 26 Oct. 2004; United Nations 22 Mar. 2004; Mission conjointe multibailleurs May 2004, 70), for example, by giving the husband the right to punish his wife (Dimandja 14 Oct. 2004; Asylum Aid Mar. 2002, 15).

Following a divorce or separation, a husband is usually granted custody of any children (*ibid.*; *Country Reports 2003* 25 Feb. 2004, Sec. 5; MRG 2004, 32). Husbands also control all family property, regardless of whether it was acquired jointly or independently (*ibid.*; AI 26 Oct. 2004).

According to Ellysé Dimandja, early and forced marriages are widespread (14 Oct. 2004; see also UNHCHR n.d.; Asylum Aid Mar. 2002, 10). Sources also reported that the legal age for marriage is 14 or 15 years for women, while it is 18 for men (Dimandja 14 Oct. 2004; UNHCHR n.d.; United Nations 22 Mar. 2004; AI 26 Oct. 2004).

Corroborating sources indicated that, when a husband dies, his widow generally has no right to inherit any family property and is often driven away by the dead husband's family (United Nations 22 Mar. 2004; Dimandja 14 Oct. 2004; Asylum Aid Mar. 2002, 10). In the case of adultery, the law prescribes more serious punishment for women than for men (AI 26 Oct. 2004; MRG 2004, 32). According to Minority Rights Group International (MRG), when conflicts arise in the home, the husband's position predominates under the law (2004, 32).

Rape is considered an offence under the Congolese Criminal Code, but it is unclear whether rape committed in the conjugal home is a crime (Asylum Aid Mar. 2002, 14). Corroborating sources stated that police rarely intervene in cases of domestic violence (Asylum Aid Mar. 2002, 15; *Country Reports 2003* 25 Feb. 2004, Sec. 5), which is widespread in the RDC (ibid.; United Nations 22 Mar. 2004; Dimandja 14 Oct. 2004).

The United Nations reported that sexual violence had increased because of the armed conflict (United Nations 22 Mar. 2004; see also AI 26 Oct. 2004; OSAR 28 May 2004, 14; HRW Jan. 2004). Approximately 40,000 women are reported to have been raped in the RDC during the conflict of the last few years (AI 26 Oct. 2004; UNIFEM 7 Oct. 2004). Some 25,000 rapes were committed in South Kivu; 11,350 in the province of Maniema; 1,625 in Goma, the capital of North Kivu; and 3,250 in Kalemie, Katanga province (ibid.; AI 26 Oct. 2004).

Some of these rape victims were infected with HIV/AIDS (ibid.; UNIFEM 7 Oct. 2004; MRG/RAPY 6 July 2004, 6) and, in some cases, the perpetrators inserted sharp objects into women's genitals (AI 26 Oct. 2004; UNIFEM 7 Oct. 2004; OSAR 28 May 2004, 14; HRW Jan. 2004; *Country Reports 2003* 25 Feb. 2004, Sec. 5). In addition to the physical pain they suffer, these victims endure psychological trauma because, in the RDC, raped women are often "rejected" or "abandoned" by their husbands and family (ibid.; see also AI 26 Oct. 2004; *Libération* 6 Oct. 2004; HRW Jan. 2004).

Some Congolese NGOs have tried to help the victims of such violent acts (AI 26 Oct. 2004; United Nations 22 Mar. 2004; *Libération* 6 Oct. 2004). However, according to Amnesty International, [AI English version] "[r]are are the Congolese NGOs who have the necessary professional and technical skills or the material resources to enable them to fully achieve their aims" (26 Oct. 2004). Among the factors preventing female victims of sexual violence from seeking justice and redress, Amnesty International cited [AI English version] "fear of reprisals" when identifying perpetrators, because of [AI English version] "the total absence of protection for victims and witnesses," as well as financial factors (26 Oct. 2004).

4.2. Congolese citizens of Rwandan origin

Congolese citizens of Rwandan origin or Banyarwanda (Hutus, Tutsis, Twa) have lived in certain regions of eastern RDC for many generations (United Kingdom Oct. 2004, Sec. 6.66; HRW June 2004; *Dialogue* Aug.-Sept. 1996, 7-14), or even centuries (United Kingdom Oct. 2004, Sec. 6.66). However, other ethnic groups continue to view them as foreigners, particularly as Rwandans (ibid.; AI 26 Oct. 2004; HRW June 2004; United Nations 5 Oct. 2004, 6), and consider them enemies (OSAR 28 May 2004, 13). The Banyarwanda reportedly have no political rights and cannot own land (United Nations 5 Oct. 2004, 6). Recognized by their physical characteristics (United Kingdom Oct. 2004, Sec. 6.71; UNHCHR 21 Sept. 2004, 23; *The Economist* 19 Aug. 2004), Congolese Tutsis represent 5 per cent of the 20 million people in eastern RDC (ibid.) and are the object of resentment (ibid.; OSAR 28 May 2004, 13; AFP 7 Oct. 2004), hostility (HRW June 2004; United Nations 24 Oct. 2004), rejection and exclusion by members of other ethnic groups (ibid. 11 Oct. 2004).

Furthermore, Congolese Tutsis or Banyamulenge are often victims of ill-treatment or looting by various armed groups operating in eastern RDC (ibid. 5 Oct. 2004, 6). During the mutiny that rocked the city of Bukavu, South Kivu, in May and June 2004, the Banyamulenge were the targets of violence, rape and extrajudicial killings at the hands of the government army (ibid.; ibid. 11 Oct. 2004; HRW June 2004; AI 26 Oct. 2004).

Thousands of Congolese Tutsis were forced into exile in neighbouring countries, particularly Burundi (United Nations 5 Oct. 2004, 4; ibid. 11 Oct. 2004; *Le Soir* 23 Sept. 2004; see also United Nations 24 Oct. 2004). More than 150 of them were killed when the Gatumba refugee camp was attacked by armed men (AI 26 Oct. 2004; United Nations 11 Oct. 2004; *The Economist* 19 Aug. 2004; AFP 7 Oct. 2004). A group of United Nations investigators was able to conclude that the Party for the Liberation of the Hutu People - National Forces (Parti pour la libération du peuple hutu - Forces nationales, PALPEHUTU-FNL), a Burundian rebel organization, was behind the massacre, but was unlikely to have committed the act on its own (United Nations 5 Oct. 2004, 4).

In western RDC, the situation of Congolese Tutsis has improved (OSAR 28 May 2004, 13), but some 120 Banyamulenge who feared for their lives sought refuge with the MONUC in northern Katanga (UNHCHR 21 Sept. 2004, 20). In fact, in its 21 September 2004 report, the UNHCHR stated that people with Rwandan physical traits and assimilated Congolese Banyarwanda were the targets of [translation] "torture and cruel, inhumane and degrading treatment, threats, intimidation and harassment" (19).

Moreover, acts of violence against Congolese Tutsis are sometimes committed with the army present (*Numerica* 29 Sept. 2004) or with the encouragement of civil and military authorities (United Nations 24 Oct. 2004). In describing the situation in eastern RDC, where the Congolese Rwandans come from, Amnesty International indicated that [AI English version] "the war has turned [this region] into a widely lawless region, characterized by the almost total degeneration of the Congolese judicial system" (26 Oct. 2004). In reference to this same region, the authors of *Balancing Peace, Justice and Stability: A Great Lakes Regional Justice Commission and a Special Tribunal in the Democratic Republic of the Congo* stated that "[s]ince 1998, most police functions in eastern [RDC] have been fulfilled by rebel forces, while the authority of national police has been seriously eroded" (Princeton University Oct. 2003, 18).

Legally, the Congolese government does not grant citizens of Rwandan origin any right to Congolese citizenship (*Numerica* 12 Oct. 2004; *Dialogue* Aug.-Sept. 1996, 3), despite the fact that they have lived in the RDC for many years (ibid.; *Numerica* 12 Oct. 2004; United Kingdom Oct. 2004, Sec. 6.68; *The Economist* 19 Aug. 2004). A new Congolese law on nationality, prescribed by the Global and All-Inclusive Agreement, has still not been enacted (ibid.; *Le Potentiel* 13 Oct. 2004).

Without specifically mentioning Congolese citizens of Rwandan origin, the ICTJ recommended that the Congolese GNT [ICTJ English version] "adopt a law on nationality that . . . respects international standards on nationality and minority issues" (Oct. 2004, x).

4.3. Political opponents

The RDC ratified the International Covenant on Civil and Political Rights (Watchlist June 2003, 3; AI 26 Oct. 2004) and the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ibid.; Asylum Aid Mar. 2002, 9). Also, articles 27 and 30 (ASADHO June 2004, 6) of the Transitional Constitution guarantee the right of assembly (ibid.; OSAR 28 May 2004, 16) and the right to freedom of expression (ASADHO June 2004, 6; *Country Reports 2003* 25

Feb. 2004, Sec. 2.b).

Law No. 04/002, which determines the organizational and operational framework of political parties, was enacted by presidential decree on 15 March 2004 (United Nations n.d.; *La Référence Plus* 21 Sept. 2004; *L'Afrique des Grands Lacs* 2004, 125). This law gives legal recognition to each political party, including the parties that were registered under former administrations and the political-military parties that signed the Global and All-Inclusive Agreement (*ibid.*; *La Référence Plus* 21 Sept. 2004).

Political party leaders were given six months to register their party with the Ministry of the Interior (*ibid.*). Some 129 to 400 parties are estimated to be on the Congolese political scene (*ibid.*; *L'Afrique des Grands Lacs* 2004, 125)

In practice, political leaders and activists are often arrested and raided by security forces (ASADHO June 2004, 6; OSAR 28 May 2004, 16; *Country Reports 2003* 25 Feb. 2004, Sec. 2.b) under the pretext that their political parties are not registered or that they have not obtained preauthorization (*ibid.*; OSAR 28 May 2004, 16). In 2003 and during the first half of 2004, police crackdowns specifically targeted the Union for Democracy and Social Progress (Union pour la démocratie et le progrès social, UDPS) and its allies (ASADHO 26 May 2004; *Country Reports 2003* 25 Feb. 2004, Sec. 2.b; OSAR 28 May 2004, 16); the UDPS is not represented in the GNT (*ibid.*). This party and its allies, which include the Unified Lumumbist Party (Parti lumumbiste unifié, PALU) and the Patriotic Front (Front patriotique) (doctor Kabamba's wing), are part of a movement called the Coordination of the Congolese People (Coordination du peuple congolais) (ASADHO 26 May 2004). According to ASADHO, only [President Joseph Kabila's] People's Party for Reconstruction and Development (Parti du peuple pour la reconstruction et le développement, PPRD) seems to have the right to hold meetings with its supporters and to take advantage of coverage by state-owned media in Bas-Congo, Katanga and Kinshasa (June 2004, 6).

In the eastern regions of the country, former rebel groups that have become political parties have prohibited any kind of political association and do not tolerate any opposition (OSAR 28 May 2004, 16).

According to Human Rights Watch (HRW), a special tribunal called the State Security Court (Cour de sûreté de l'État) "continues to try members of the opposition, journalists, and union leaders without due process" (Jan. 2004).

5. FUTURE CONSIDERATIONS

If everything goes as planned, the Congolese will elect their government representatives in legislative elections in June 2005 (Global Witness Sept. 2004, 7; *ibid.* June 2004, 15; AI 26 Oct. 2004; *The Globe and Mail* 29 Nov. 2004, A9); the president will be elected in July 2005 (United Nations 16 Aug. 2004, 2; *L'Afrique des Grands Lacs* 2004, 133), and local [municipal] elections will be held between February and May 2005 (*ibid.*).

However, according to Claudine Muyala Tayaye Bibi, president of the Programs for the Call to Women's Action (Programme d'appui aux actions féminines, PAAF) and senior lecturer at the University of Kinshasa, the scenario of June and July 2005 elections is unrealistic because of delays in the preparations and other constraints, including the delay in the adoption of a new constitution—a constitution that must be approved by referendum before the elections take place (22 Nov. 2004; see also United Nations 16 Aug. 2004, 2). Moreover, as long as a new law on nationality is not enacted, electoral lists cannot be drawn up (Tataye Bibi 22 Nov. 2004). Also, the fundamental infrastructures required for free and democratic elections are missing (*ibid.*; United Nations 16 Aug. 2004, 2).

In addition to these internal constraints, Filip Reyntjens, a professor at the University of Antwerp and the Free University of Brussels and a specialist in the African Great Lakes region, noted that the interference of foreign countries in the RDC's internal affairs is one of the factors obstructing a smooth transition (19 Nov. 2004). In this regard, when the Research Directorate completed this Issue Paper, corroborating sources reported that the Rwandan army had made incursions into parts of eastern RDC, particularly North Kivu, under the pretext of eliminating the threat that the presence of Rwandan rebels in these regions posed to Rwanda (*Libération* 4 Dec. 2004; BBC 3 Dec. 2004; see also HRW 4 Dec. 2004).

Both Filip Reyntjens and Claudia Muyala Tayaye Bibi believe that it will be difficult to respect the scheduled timeframes for the elections in the RDC (Reyntjens 19 Nov. 2004; Tayaye Bibi 22 Nov. 2004). According to Reyntjens, the Congolese population's ability to elect its own leaders is vital (19 Nov. 2004). However, he explained that, in a country where basic government operations still need to be reorganized, holding free and transparent elections does not guarantee security and protection for the population, but it does provide a starting point for rebuilding the country and its institutions (Reyntjens 19 Nov. 2004).

Claudine Muyala Tayaye Bibi agrees with Filip Reyntjens on this point; in her opinion, future progress with regard to state protection will be measured in terms of the government's ability to carry out institutional reforms, including creating a national army and an integrated police force, and in terms of its ability to re-establish the justice system, particularly by amending the provisions of the Family Code that discriminate against women (22 Nov. 2004). Currently, domestic institutions are incapable of adequately addressing "the grave crimes committed in the [RDC]" (Princeton University Oct. 2003, 17).

NOTES ON SELECTED SOURCES

Dimandja, Ellysé

Ellysé Dimandja is a member of the Congolese Transitional National Assembly in Kinshasa (*Le Potentiel* n.d.; Dimandja 14 Oct. 2004). She is also the regional vice-president of Women as Partners for Peace in Africa (WOPPA) (*societecivile.cd* n.d.a; Dimandja 14 Oct. 2004; HRW Jan. 2004).

Created in 2001 (*societecivile.cd* n.d.b), WOPPA is a regional organization for African women from countries in the African Great Lakes region and southern Africa (*ibid.*). Its objectives include preventing conflicts and promoting peace in those regions by encouraging women to actively participate in [translation] "building" and keeping the peace (*ibid.*).

Funsu, Amigo Ngonde

Amigo Ngonde Funsu has a degree in police science and criminology from the University of Kinshasa (ASADHO n.d.). He was a founding member and is currently the president of the African Association for the Defence of Human Rights in Congo/Kinshasa (Association africaine de défense des droits de l'homme, ASADHO), formerly known as the Zairian Association for the Defense of Human Rights (Association zaïroise de défense des droits de l'homme, AZADHO) (*ibid.*; Funsu 14 Oct. 2004).

ASADHO is a non-governmental human rights organization in the RDC (ASADHO n.d.). Founded in 1991, it publishes documents such as reports and brochures on human rights and freedoms, and provides legal and medical assistance to prisoners (*ibid.*). ASADHO is affiliated with the International Commission of Jurists (ICJ), the World Organisation Against Torture (OMCT), and the International Federation for Human Rights (FIDH) (*ibid.*). For more information on ASADHO and its publications, see

its Website at <<http://www.asadho.net>>.

Mission conjointe multibailleurs

Launched in October 2003 (RDC 24 June 2004, 9) and composed of both international and national experts (United Nations 10 Mar. 2004a, 16; HRW Jan. 2004), the Mission conjointe multibailleurs was an initiative of the European Union (ibid.; United Nations 10 Mar. 2004a, 16; Italy 2003; Mission conjointe multibailleurs May 2004, 8) and other partners, such as France, Belgium, the MONUC, the United Nations High Commissioner for Human Rights (UNHCHR), the United Nations Development Programme (UNDP), and the United Kingdom's Department for International Development (DFID) (ibid.; Italy 2003). The purpose of this mission was to review the Congolese justice system, analyze it and propose solutions (Mission conjointe multibailleurs May 2004, 8; RDC 24 June 2004, 9).

Reyntjens, Filip

According to information available on the Website for the University of Antwerp's Centre for the Study of the African Great Lakes Region (Centre d'étude de la région des Grands Lacs d'Afrique), Filip Reyntjens holds a Ph.D. in law and is a professor of political science and law at the University of Antwerp and a professor of law at the Free University of Brussels (n.d.).

He is president of the Institut politique et de gestion du développement (University of Antwerp), vice-president of the International Third World Legal Studies Association (New York), and vice-rector of the University of Mbuji-Mayi in the RDC (Centre d'étude de la région des Grands Lacs d'Afrique n.d.).

He is also a member of the Centre for African Studies and Documentation (Centre d'études et de documentation africaines, CEDAF) at the African Institute (Institut africain) in Brussels, the Antwerp Tropical Medicine Institute, the scientific committee for the Association for Arbitration in Africa (Africabi), Dialogue International, and the editorial board of *Afrika-Focus*, *Third World Legal Studies* and the *Journal of Legal Pluralism and Unofficial Law* (ibid.). He is a full member of the Royal Academy of Overseas Sciences of Belgium (ibid.).

Filip Reyntjens is the editor of *L'Afrique des Grands Lacs : annuaire*, published regularly by L'Harmattan and the Centre for the Study of the African Great Lakes Region, whose Website can be consulted at the following address: <<http://www.gralac.org>>.

Tayaye Bibi, Claudine Muyala

A senior lecturer at the University of Kinshasa (Tayaye Bibi 22 Nov. 2004; CERTI n.d.; Women Waging Peace Feb. 2004), Claudine Muyala Tayaye Bibi has held many positions, including advisor to the Congolese Minister of Health and Social Affairs (1990-1997), civil society expert for the United Nations Development Fund for Women (UNIFEM) (Harvard University 5 Nov. 2003; Women Waging Peace Feb. 2004) and vice-president of the Federation of Networks of African Women for Peace (ibid.; Harvard University 5 Nov. 2003). She has also participated in many national and international forums, such as the Inter-Congolese Dialogues; she is president of the Programs for the Call to Women's Action (Programme d'appui aux actions féminines, PAAF) (ibid.; Tayaye Bibi 22 Nov. 2004; Women Waging Peace Feb. 2004; CERTI n.d.) and a member of the Truth and Reconciliation Commission (Commission vérité et réconciliation, CVR) (Tayaye Bibi 22 Nov. 2004).

The PAAF is a network of NGOs in the RDC that addresses mainly socio-economic issues; it provides grants and micro-loans to other NGOs and calls for the inclusion of women in peace processes (ibid.; Women Waging Peace Feb. 2004).

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