

21 JAN. 2000 MW

AK, SN, FN, FB, NM+2, DK
RS, 3 + Lütik

26/1-2000

Antal bilag

Aktør

24

[EMBARGOED FOR: 10 January 2000]

DR Congo (66) Public

amnesty international

DEMOCRATIC REPUBLIC OF CONGO

Government terrorises critics

73

10 January 2000

SUMMARY

AI INDEX: AFR 62/01/00

DISTR: SC/CC/CO/GR

The limited human rights gains that the people of the former Zaire, renamed the Democratic Republic of Congo (DRC) in May 1997, had made since 1990 have been systematically eroded over the past two-and-a-half years that President Laurent-Désiré Kabila has been in power. This was the conclusion of Amnesty International delegates who visited the DRC in August 1999.

Any form of real or suspected dissent is severely repressed with imprisonment, or torture and other forms of cruel, inhuman or degrading treatment. Dozens of leaders and supporters of opposition political parties are routinely detained for periods ranging from a few days to many months. Other government critics being targeted include human rights defenders and journalists. Most of those detained are held without charge or trial, while some are tried and sentenced, usually by a special military court known as the *Cour d'ordre militaire* (COM), Military Order Court, to long prison terms for their non-violent opposition to the government. Those accused of political offences are routinely subjected to beatings at the time of their arrest and in custody. Amnesty International representatives received reports of torture, including rape, of detainees. The authorities have also used the military court to punish people accused of economic crimes, such as fraud or illicit dealing in foreign currency, some of whom have been sentenced to death.

The DRC Government uses the war against the armed opposition as a pretext to subject the Congolese to unwarranted repression. Most of the victims are themselves opposed to the armed conflict. Their crime is to be, or to appear to be, critical of the government or its policies and practices that violate human rights.

The human rights violations described in this report occurred mainly during 1999, after sections of the DRC Government's *Forces armées congolaises* (FAC), Congolese Armed Forces, supported by the armies of Burundi, Rwanda and Uganda started a military offensive in August 1998 to overthrow President Kabila. The DRC Government is supported by forces of the governments of Angola, Namibia and Zimbabwe.

Amnesty International acknowledges that the protection of human rights against a background of armed conflict is very difficult in any country in the world, including the DRC. But that also means that extra vigilance is required on the part of the authorities to ensure that not only national and international human rights laws are adhered to, but also that everyone in the DRC is specifically protected from human rights violations.

The right to freedom of expression and association is at stake in the DRC and the enjoyment of other rights, including the right to life, depend on it. The right to freedom of expression is essential to enable the Congolese to know what is happening in their country and to be able to contribute in a meaningful way to the resolution of its crises. It is this freedom that will enable the people of the DRC to learn about and contribute towards an end to the causes and conduct of the armed conflict. Denial of the right to freedom of expression and association can only serve the interests of those who violate international human rights standards and who survive on the misery of the majority of the people of the DRC.

This report is largely based on information gathered or verified during a visit by Amnesty International representatives to the DRC in August 1999. It also includes information obtained by Amnesty International before and after the visit. In this report, Amnesty International highlights the serious human rights violations to which the Congolese authorities subject the population under its control. By publishing this report, the organization hopes that the authorities will accept recommendations in it and institute measures to prevent further violations by bringing perpetrators to justice. Amnesty International also seeks the support of the international community to put pressure on the DRC authorities to respect international human rights treaties to which the DRC is party.

KEYWORDS: FREEDOM OF EXPRESSION / JOURNALISTS / HUMAN RIGHTS DEFENDERS / ARBITRARY ARREST / MASS ARREST / TORTURE / ILL-TREATMENT / DEATH IN CUSTODY / POLICE / MILITARY / MISSIONS / ICCPR / UN / AGED / WOMEN / PRISON STAFF AS VICTIMS / RELIGIOUS OFFICIALS - CATHOLIC / PHOTOGRAPHS

This report summarizes a 19-page document (7,287 words), *DEMOCRATIC REPUBLIC OF CONGO: Government terrorises critics* (AI Index: AFR 62/01/00) issued by Amnesty International on 10 January 2000. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email: <http://www.amnesty.org/news/emailnws.htm>

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

[EMBARGOED FOR: 10 January 2000]

Public

amnesty international

DEMOCRATIC REPUBLIC OF CONGO

Government terrorises critics



10 January 2000
AI Index: AFR 62/01/00
Distr: SC/CC/CO/GR

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

Cover photo: Members of PALU opposition political party showing the position they adopted to fit in a cramped cell at the GLM building in May 1999 (see Chapter 2).

TABLE OF CONTENTS

1. Introduction	1
2. Repression of freedom of expression and association	4
2.1 Imprisonment of peaceful opponents of the government	5
2.2 Gagging journalists	9
2.3 Persecution of human rights defenders	12
3. Conclusion	16
4. Recommendations	16
To the DRC Government	16
To the governments of Angola, Namibia and Zimbabwe	17
To other governments and intergovernmental organizations	18

DEMOCRATIC REPUBLIC OF CONGO

Government terrorises critics

1. Introduction

President Laurent-Désiré Kabila came to power in May 1997 promising to bring an end to 32 years of dictatorship and human rights violations under former President Mobutu Sese Seko. In reality, the limited human rights gains that the people of the former Zaire, renamed the Democratic Republic of Congo (DRC) in May 1997, had made since 1990 have been systematically eroded over the past two-and-a-half years. This was the conclusion of Amnesty International delegates who visited the DRC in August 1999.

Although security concerns for witnesses and victims of human rights abuses, as well as refusal by the authorities to allow them to visit detention centres, made it difficult to gather information, the organization's representatives reported a state in which the DRC was intolerant of dissent. Even real or suspected peaceful dissent is severely repressed with imprisonment, or torture and other forms of cruel, inhuman or degrading treatment.

Dozens of leaders and supporters of opposition political parties are routinely detained for periods ranging from a few days to many months. Other government critics being targeted include human rights defenders and journalists. Most of those detained are held without charge or trial, while some are tried and sentenced, usually by a special military court known as the *Cour d'ordre militaire* (COM), Military Order Court, to long prison terms for their non-violent opposition to the government. The authorities have also used the military court to punish people accused of economic crimes, such as fraud or illicit dealing in foreign currency, some of whom have been sentenced to death.

Those accused of political offences are routinely subjected to beatings at the time of their arrest and in custody. Amnesty International representatives received reports of torture, including rape, of detainees. The carrying out, condoning or ordering of torture against anyone and under any circumstances, even in times of war, is a violation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which the former Zaire ratified on 18 March 1996. The DRC Government is required under the Convention to prevent torture. Article 2 of the Convention states:

"1 Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture".

The fundamental right to freedom of expression and association is at stake in the DRC and the enjoyment of other rights, including the right to life, depend on it. The UN Special Rapporteur on the right to freedom of expression and opinion has stated that "the right to freedom of expression can be described as an essential test right, the enjoyment of which illustrates the degree of enjoyment of all human rights ..".¹ The right to freedom of expression is essential to enable the Congolese people to know what is happening in their country and to be able to contribute in a meaningful way to the resolution of its crises. It is this freedom that will enable the people of the DRC to learn about and contribute towards an end to the causes and conduct of the armed conflict and issues such as the fueling of the armed conflict and human rights abuses by pervasive plundering of the country's resources by local and foreign political, economic and military elite. Denial of the right to freedom of expression and association can only serve the interests of those who violate international human rights standards and who survive on the misery of the majority of the people of the DRC.

In 1998 Amnesty International received many reports of extrajudicial executions of unarmed civilians or captured combatants by DRC government forces. However, the organization's representatives received much less information on extrajudicial executions or large scale killings in August 1999. The violations that appeared to be most prevalent in government-held territory were related to political repression in an attempt by the authorities to stifle the right to freedom of association and expression. The DRC Government uses the war against the armed opposition, supported by the government forces of Burundi, Rwanda and Uganda, as a pretext to subject the Congolese to unwarranted repression. Most of the victims are themselves opposed to the insurgency. Their crime is to be, or to appear to be, critical of the government or its policies and practices that violate human rights.

Soon after President Kabila assumed power, Amnesty International sought a dialogue with the new authorities to discuss measures that were necessary to break the cycle of human rights abuses and end a culture of impunity. For about two years the government did not allow Amnesty International's representatives into the country, but the organization continued to receive numerous reports of serious human rights abuses by the government

¹ E/CN.4/1997/31

and its armed opponents from contacts inside and outside the country.² In mid-1999, the Congolese authorities consented to a visit by Amnesty International's representatives and the visit took place in August 1999.

The representatives visited the capital, Kinshasa, and Lubumbashi, the capital of Katanga province in southeastern DRC. During their stay in the DRC, the representatives met President Kabila, the Minister for Human Rights, Léonard She Okitundu, and other government officials. This report is largely based on information gathered or verified during the visit, but it also includes information obtained by Amnesty International before and after it. In this report, Amnesty International highlights the serious human rights violations, particularly the right to freedom of expression and association, to which the Congolese authorities subject the population under its control. By publishing this report, the organization hopes that the authorities will accept its recommendations and institute measures to prevent further violations by bringing perpetrators to justice. Amnesty International also seeks the support of the international community to put pressure on the DRC authorities to respect international human rights treaties to which the DRC is party.³

The human rights violations described in this report occurred mainly during 1999, after sections of the DRC Government's *Forces armées congolaises* (FAC), Congolese Armed Forces, supported by the armies of Burundi, Rwanda and Uganda started a military offensive in August 1998 to overthrow President Kabila. Despite a number of attempts to end the armed conflict, including a cease-fire agreement signed by the protagonists in Lusaka, Zambia, in July and August 1999, fighting continues. The fighting pits allies, who together overthrew former President Mobutu, against each other. Uganda supports the *Mouvement pour la libération du Congo* (MLC), Movement for the Liberation of Congo, and a faction of the *Rassemblement congolais pour la démocratie* (RCD), Congolese Rally for Democracy, which until September 1999 was based in Oriental province's capital, Kisangani, and is now based in Bunia, near the DRC border with Uganda. Rwanda supports a faction of the RCD based in Goma, the capital of North-Kivu province, which also

² During the same period, Amnesty International published three major reports entitled, *DRC: Deadly alliances in Congolese forests*, AI Index: AFR 62/33/97, published on 3 December 1997, *DRC: A year of dashed hopes*, AI Index: AFR 62/18/98, published on 15 May 1998, and *DRC: War against unarmed civilians*, AI Index: AFR 62/36/99, published on 23 November 1998.

³ The DRC is party to a number of human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocol, the African Charter on Human and Peoples' Rights (ACHPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention relating to the Status of Refugees and its Protocol, and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

cooperates with Burundi government troops. Uganda and Rwanda say they are fighting President Kabila's government because he supports their armed opponents based in the DRC. Burundi denies involvement in the armed conflict, despite mounting evidence affirming that Burundian troops are participating in the fighting and have been responsible for violations of human rights, particularly in South-Kivu region. The governments of Angola, Namibia and Zimbabwe say their armed forces are supporting the DRC Government to safeguard the territorial integrity and sovereignty of the DRC. Chad, which supported the DRC Government, withdrew its troops in mid-1999. A cocktail of armed groups from Burundi, Uganda and Rwanda are also involved to oppose the forces seeking to overthrow President Kabila. The fighting started after President Kabila announced in July 1998 the expulsion of all foreign forces.

Amnesty International has also been gathering information about the human rights situation in parts of the DRC controlled by the armed opposition. Amnesty International sent one team to Tanzania and Zambia in August and September 1999 and another team to eastern DRC in November 1999. The organization plans to publish a report which includes the human rights situation in eastern DRC at the end of the first quarter of the year 2000.

2. Repression of freedom of expression and association

The DRC Government continues to persecute members of opposition political parties which have not used or advocated violence in their political activities. This persecution contravenes the rights to freedom of expression and association in international human rights treaties, such as the International Covenant on Civil and Political Rights (ICCPR), to which the DRC is party. The ICCPR's Article 19 states, in part:

- "1. Everyone shall have the right to hold opinions without interference.*
- 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".*

Arbitrary violations of the right to freedom of expression and association also contravene the African Charter on Human and Peoples' Rights, to which the DRC is also a party. For example, the Charter's Article 9 states:

- 1. Every individual shall have the right to receive information.*
- 2. Every individual shall have the right to express and disseminate his opinions within the law.*

Its Article 10 states, in part:

1. Every individual shall have the right to free association provided that he abides by the law.

Human rights violations against those exercising their right to freedom of expression and association also contradict President Kabila's pledge before and after he came to power to uphold the fundamental freedoms denied the people of the DRC for three decades by former President Mobutu. On 29 January 1999 President Kabila signed a decree allowing multiparty politics but the decree imposes conditions which virtually all political parties find unacceptable.

Prominent opposition political party leaders or supporters are often barred from travelling inside or outside the country, and some have had their passports confiscated. Their movements are followed by members of the security forces. Political activists, journalists, human rights defenders and trade unionists all work under the threat of intimidation, harassment, arrest or torture.

The authorities use a variety of security forces to clamp down on the right to freedom of expression and association. They include the *Agence nationale de renseignements* (ANR), National Intelligence Agency, the *Conseil national de sécurité* (CNS), National Security Council, and the *Comité de sécurité de l'Etat* (CSE), State Security Committee. Others are military security services known as the *Détection militaire des activités anti-patrie* (DEMIAP), Military Detection of Unpatriotic Activities, and the *Groupe spécial de sécurité présidentielle* (GSSP), Special Presidential Security Group. A paramilitary police force known as the *Police d'intervention rapide* (PIR), Rapid Intervention Police, is also often used to arrest dissidents. These security forces usually have no known powers under Congolese or any other law to carry out arrests or detentions. In cases of arrest, members of these security forces usually neither reveal their identity nor the place where they are taking their victims, leaving relatives unsure who is responsible for the arrests or where the arrested persons are to be detained. These security forces are not answerable to the judiciary and are only responsible to the Presidency, whose powers are unquestionable under the DRC's current transitional constitution. This makes it virtually impossible for ordinary people to challenge the legal basis for any arrests or initiate legal action to protect potential or actual victims from human rights violations.

2.1 Imprisonment of peaceful opponents of the government

Most of the arbitrary imprisonment of leaders and supporters of opposition political parties has taken place in Kinshasa. For example, Stéphane Ibanga and Mutua Ngwefa, two

elderly men from Bandundu province, were picked up by police on 17 May 1999 in a random swoop on the side of a busy street in Kinshasa. They were arrested with five others, all of them accused of being sympathisers of an opposition political party known as the *Parti lumumbiste unifié* (PALU), Unified Lumumbiste Party, and taken to a detention centre known as the GLM⁴ building. There they were held in cramped, dirty and unlit cells and subjected to a daily regime of beatings with rifle butts and military belts, while forced to lie in muddy water, by members of the GSSP. They were released two weeks later without appearing before a judicial official or being charged with any offence. Stéphane Ibanga claimed that he was so severely tortured that at the time of his release he could not walk and left the detention centre crawling on his hands and knees.

At least 76 other members of PALU were arrested during the month of July 1999 and held in detention centres around Kinshasa. Seventy-two of them, including 70-year-old Albert Mputucieli, 67-year-old Louis Nkwese and Alexandre Tata, were still being held in November 1999 at Kinshasa's former Makala central prison known as the *Centre pénitentiaire et de rééducation de Kinshasa* (CPRK), Kinshasa Penitentiary and Reeducation Centre. They had not been tried and it was unclear whether they had been charged with any offence. One of them, Nsangu Matembi, died in prison on 11 October 1999 reportedly as a result of harsh detention conditions, including being denied medical care for an illness he suffered from before his arrest. About 15 other members of PALU, including Urbain Nkwesandi and Henri Mindele from Kinshasa's Kimbanseke suburb, were arrested on 26 September while attending a local party meeting in Kinshasa's Ngiri-Ngiri commune.

Godelieve Mesa, a 38-year-old mother of seven children, was arrested on 17 July 1999 by police officers at her residence, which is also the PALU party headquarters for Mbanza-Lemba commune in Kinshasa. The PALU party flag was flying in the courtyard and Godelieve Mesa tried to stop the police from tearing it down. The police officers reportedly beat her and forced her to strip naked, then made her walk down the street to the communal police post. The police then returned to the house, where they arrested three more PALU members; the detainees claim to have been blindfolded and beaten with rifle butts before they were thrown in the same cell as Godelieve Mesa. All four detainees were beaten and forced to sing and dance in praise of the government. Godelieve Mesa was kept

⁴ GLM is an abbreviation for Groupe Litho Moboti, named after former President Mobutu's relative who built it. The premises are now used as headquarters and an unofficial detention centre of the *Groupe spécial de sécurité présidentielle* (GSSP), where detainees are often tortured.



Figure 1 Godelieve Mesa



Figure 2 Hassan Lubambala Kabengele

naked for two days before being released without charge. The three men were released two days later.

Members of the *Union pour la démocratie et le progrès social* (UDPS), Union for Democracy and Social Progress, have faced as much repression as they did under former President Mobutu since the party was formed at the start of the 1980s. Those imprisoned in recent months include Hassan Kabengele Lubambala and 11 other members of the Kimbanseke communal section of the UDPS in Kinshasa who were arrested by the police on 28 May 1999 during a local party meeting. The police unsuccessfully incited local residents to stone them. They were then made to take their shirts off, which were then used to tie them together before they were marched to the communal police post. The police forced them to strip naked as a way of humiliating them in front of a crowd. Later they were transferred to the *Inspectorat de police de Kinshasa* (IPK), Police Inspectorate of Kinshasa (formerly known as “Circo” - *Circonscription militaire*), where they were threatened with beatings and whippings.

The group was transferred to several detention centres, where they reportedly witnessed beatings of other inmates. They were released without charge on 1 July 1999.

Professor Alidor Muamba Ntita, Raymond Kabala and two other members of the UDPS were arrested in May 1999 and held incommunicado in Kinshasa's main military barracks known as *Camp Kokolo*. Two of them were released without charge in August, but Alidor Muamba Ntita and Raymond Kabala were later transferred into the custody of the ANR at the start of September. On 12 September, they were transferred to the detention centre of the DEMIAP where they were still held incommunicado in November 1999. Others arrested include Christophe Lutundula Apala Pen'Apala who was arrested by armed men on 25 July 1999. He was released without charge on 17 September.



Figure 3 Tabu Kalala Mwin Dilemb

At the end of July 1999, several UDPS leaders in Lubumbashi were arrested and at least one, Raymond Kabalu Kadima, fled the country fearing arrest, because they were linked to documents criticising the government. Professor Kambaji wa Kambaji, a lecturer of Sociology at the University of Lubumbashi, was arrested on 30 July and detained at the ANR in Lubumbashi. Tabu Kalala Mwin Dilemb, the President of the UDPS for the province of Katanga, was also detained after interrogation by the ANR on 10 August. A third UDPS member, Tshiwadi Shamuyi, was arrested on 16 August. All three men were held incommunicado, before being transferred to the ANR detention at Binza in Kinshasa where they were still being held at the end of November 1999.

The arbitrary arrests and unlawful detention of leaders and members of opposition political parties are in violation of the DRC's obligation under Article 9 of the ICCPR and Article 6 of the African Charter.

2.2 Gagging journalists

Dozens of journalists have been arrested, interrogated, intimidated and harassed, often because articles they write or newspapers they publish have been critical of the government or its policies. In some cases, journalists have been forced to flee the country fearing for their safety. The repression against them has drastically increased since August 1998.

Amnesty International recognizes that in situations of armed conflict or national emergencies certain specific restrictions on the freedom of expression are allowed under international law, particularly the ICCPR. For example, ICCPR's Article 19, paragraph 3, states:

"3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals".

However, the DRC authorities have failed to demonstrate that they had arrested, detained or convicted journalists or others "for respect of the rights or reputations of others" or "for the protection of national security or public order". Moreover, the authorities have not published any laws which, in the context of the armed conflict, would specify to journalists and others what information would be lawfully considered as endangering national security. Hence, any claims by the DRC Government that journalists and political activists are detained because they have endangered national security appear arbitrary and inconsistent.

One of the journalists who has been most targeted is **Bonsange Yema**, Editor of *l'Alarme* newspaper. His colleagues and family have all suffered human rights violations in a campaign orchestrated by the authorities to silence the newspaper. In 1997 Bonsange Yema was arrested in Kisangani and accused of giving information to a UN team investigating massacres there. In February 1998 he was rearrested and sentenced in June 1998 to one year's imprisonment by the State Security Court which found him guilty of endangering the security of the state because he published an article in *l'Alarme* criticizing the authorities for the arrest of opposition leader **Joseph Olengha Nkoy**. Joseph Olengha

Nkoy was himself sentenced in May 1998 by the *Cour d'ordre militaire* (COM),⁵ Military Order Court, to 15 years' imprisonment for his political activities but released in June 1999 following a presidential amnesty. In February 1999, shortly after Bonsange Yema was released, he went into hiding fearing rearrest and several members of his family were arrested in his place, some of whom were tortured in order to reveal his whereabouts. Several other family members also went into hiding.

Clearly, the investigation of or reporting on human rights violations is not a national security issue or offence and should not have been grounds for the arrest and imprisonment of Bonsange Yema. A set of Principles⁶ adopted in Johannesburg on 1 October 1995 by a group of experts in international law, national security and human rights make clear that gathering or disseminating information about human rights should not be one of the restricted rights to protect national security. Principle 19 States, in part:

"Any restriction on the free flow of information may not be of such a nature as to thwart the purposes of human rights and humanitarian law. In particular, Governments may not prevent journalists or representatives of intergovernmental or non-governmental organizations ... from entering areas where there are reasonable grounds to believe that violations of human rights or humanitarian law are being, or have been, committed".

Since February 1999, soldiers of the 50th Brigade who were reportedly led by a Zimbabwean military officer have regularly visited the newspaper office and Bonsange Yema's residence, confiscating not only office equipment but furniture and other goods from the family home. Members of the security forces also targeted other *L'Alarme* newspaper journalists. The newspaper's director, Clovis Kadda, was arrested on 22 September 1999 and taken for questioning at the military headquarters. After the authorities established that he was a relative of one of the armed opposition commanders, they accused him of complicity with the enemy and he was severely beaten by members of the security forces. Four members of the security forces reportedly administered 57 lashes in turns to Clovis Kadda, apparently as a punishment for his connection to an armed opposition leader.

⁵ The court was set up by Presidential decree in August 1997 to try soldiers accused of disciplinary and other offences. However, it has increasingly been used for political repression and trials of civilians, including for non-violent opposition to the government. In many cases, defendants have no access to legal counsel and, when they do, lawyers do not have sufficient time to examine the evidence, interview witnesses and adequately prepare the defence. The decree setting up the court specifically denies defendants the right to appeal to a higher jurisdiction, in contravention of international law.

⁶ The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, which were annexed to the report of the UN Special Rapporteur on freedom of expression and opinion in March 1996 (E/CN.4/1996/39).



Figure 4 Feu d'Or
Bonsange

Soon after his release a day after his arrest, Clovis Kadda went into hiding fearing rearrest and further torture. In late 1999 he was suffering from severe pain to the buttocks and back. In the early hours of 27 September 1999, Feu d'Or Bonsange, Bonsange Yema's son and the newspaper's music editor, and Kala Bongamba, a production worker, were arrested by soldiers of the 50th Brigade and were held at the GLM building. They were released two days later without charge.

In some cases, the DRC Government has used the military court to punish journalists and frighten others into towing the government line. Government and security officials have powers, which cannot be challenged before any other jurisdiction, to refer cases to the COM. Only the President, who holds executive, legislative and judicial powers in the DRC, can reverse or question decisions of the COM. The court's military judges are appointed by the President and subject to military discipline, bringing their independence and impartiality into question.

In addition to the general international standards for fair trial, trials of journalists by the COM also contravene the Article 22 of the Johannesburg Principles. It states:

"(a) At the option of the accused, a criminal prosecution of a security-related crime should be tried by a jury where that institution exists or else by judges who are genuinely independent. The trial of persons accused of security-related crimes by judges without security of tenure constitutes prima facie a violation of the right to be tried by an independent tribunal.

(b) In no case may a civilian be tried for a security-related crime by a military court or tribunal".

At least three journalists were tried by the COM during 1999. For example, Thierry Kyalumba, editor of *La Vision* newspaper, was tried by the court simply because his newspaper published an article that refuted a government claim that an armed opposition leader was dead. The COM found him guilty of divulging state secrets and sentenced him to four years' imprisonment. Thierry Kyalumba was repeatedly beaten during five days in custody at the CNS - before being transferred to the CPRK. In June the governor of Katanga province brought before the COM a case against editor Ngoy Kikungula and publications director Bella Mako of the Lubumbashi-based *Le Lushois* newspaper. *Le Lushois* had published an article critical of the regional authorities. On 18 June 1999, the COM sentenced the two journalists to eight months' imprisonment. In both cases, it is clear that

the journalists were targeted because they caused embarrassment to the authorities and that there was no national security or any other legitimate concern at stake.

At least one journalist from Bas-Congo province was detained because he covered the occupation of the province by the armed opposition. **Mbakulu Pambu Diambu**, President of the local division of the *Union de la presse du Congo* (UPC), Congolese Press Union, and journalist with a private television station known as *Radio-télévision Matadi* (RTM) was arrested by the ANR in Matadi, the capital of Bas-Congo at the end of November 1998. He was subsequently transferred to the CPRK. He is accused of having hosted a television program on which representatives of the armed opposition appeared. Although a year later he had not been formally charged with any offence, it is feared that he may eventually be tried by the COM. Amnesty International considers him to be a prisoner of conscience imprisoned for exercising his right to freedom of expression in accordance with international law, particularly Article 19 of the ICCPR and Article 9 of the African Charter.

2.3 Persecution of human rights defenders

Human rights defenders, including trades unionists, have also been targeted by the authorities for demanding respect for the rights of ordinary Congolese citizens. Many human rights defenders are frequently threatened with arrest and in some cases have had documents relating to human rights confiscated by members of the security forces. One of the country's prominent human rights groups known as the *Association africaine des droits de l'homme* (ASADHO), African Association for Human Rights, is not legally registered by the authorities and most of its members live in exile after threats made against them and their families. ASADHO is the new name for the *Association zairoise des droits de l'homme* which was banned by the DRC Government in April 1998 because it published reports critical of the government's human rights record.

Targeting human rights defenders because of their work contravenes the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the UN General Assembly in December 1998. Article 1 of the Declaration states:

"Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels".

Its Article 2 states:

"1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed".

La Voix des sans voix (VSV), Voice of the Voiceless, is another prominent human rights group whose members have been repeatedly harassed and arrested for their human rights work. In December 1998, the group's president **Floribert Chebeya Bahizire** was summoned by the GSSP at the GLM building to explain the work of the organization. In January 1999, he received several similar summons from the DEMIAP. **Floribert Chebeya Bahizire** and his colleague, **Olivier Kungwa**, responded to the summons. On arrival at DEMIAP, they were held for several hours, threatened with death and other physical violence, apparently because of letters they had written to the authorities requesting information about detainees. On 16 February, **Justin Chiba Sengey**, a member of the VSV, was detained for 14 hours at the GLM building after he tried to deliver a letter inquiring about detainees held there.

Members of the VSV continued to be targeted for intimidation and arrest in subsequent months. In June 1999, members of the security forces demanded that the organization retract a statement that **Richard-Etienne Mbaya**, a former government minister, was being held at Kokolo barracks. When the organization refused to retract the statement, sources close to the security forces informed **Floribert Chebeya Bahizire** that he was about to be arrested, leading the VSV to close its office for several days. On 9 July, responding to a summons by the CSE, **Micheline Mapangala**, the VSV's secretary, was arrested and reportedly threatened with beatings and rape. However, she was released later the same day with a message that **Floribert Chebeya Bahizire** should present himself in person on 12 July. **Floribert Chebeya Bahizire** was in fact arrested by two policemen on the same day, 9 July, while addressing a press conference with a colleague, **Dolly Ibefo Mbunga**, at VSV's office. They were released on the same day without charge, but **Floribert Chebeya Bahizire** was ordered to report weekly to the Procuracy. Fearing arrest, he left the country for several months. On 27 July, **Honoré Kapuku Mushila** and **Timothé Dikuiza Benze** were arrested

by the ANR, apparently after the ANR intercepted a VSV parcel at the offices of an international courier service. They were released without charge on 4 August.

On 12 January 1999, Christophe Bintu and Bienvenue Kasole, members of the *Collectif des organisations et associations des jeunes du Sud-Kivu* (COJESKI), Collective of South-Kivu Youth Organizations and Associations, were arrested together with 25 Tutsi in Kinshasa. The human rights defenders had sought refuge in Kinshasa, fleeing persecution in eastern DRC. The human rights defenders were arrested at the Centre Bethanie, a Roman Catholic church centre, where the 25 Tutsi had sought refuge after hundreds of Tutsi accused by the authorities of supporting the armed opposition were detained and many others killed or "disappeared" in late 1998. The victims were detained in Kokolo barracks, where the COJESKI members were reportedly intimidated and beaten because of their human rights activities. The two human rights defenders were released without charge on 20 January, but the Tutsi remained in custody.

Laurent Kantu Lumpungu, a prison officer, was arrested on 29 May 1999 at the CPRK where he worked, a few days after he had, in an interview with the Voice of America radio, complained about harsh prison conditions at the CPRK. He was held incommunicado at the ANR where he was denied visits from family, colleagues, medical personnel or legal professionals. He was transferred to the CPRK on 27 August. Although his case was transferred to the COM, he had not appeared before it by November. When the *Ligue des électeurs*, Electorate's League, human rights organization protested in May about the arrest of Laurent Kantu Lumpungu, the house and office of its President, Paul Nsapu, were searched by members of the security services. A number of documents and equipment were confiscated and were not returned.

On 8 September 1999, a member of the GSSP arrested Wetemwami Katembo Merikas, another COJESKI member, simply because his identity papers revealed that he is from South-Kivu province which is controlled by the armed opposition. The GSSP reportedly accused COJESKI of being a political organization. Wetemwami Katembo Merikas was accused of collaborating with the enemy, apparently because he had a report that COJESKI had compiled about violations of human rights and international humanitarian law carried out by the Burundian armed forces in South-Kivu. He was detained for four hours at Gombe police station (*Police sous-communale de Gombe*) where he was beaten by several officers. He was later transferred to the GLM building. In custody, Wetemwami Katembo Merikas was reportedly whipped daily and subjected to other forms of torture. He reportedly bears scars from having his genitals pulled. He was released without charge on 17 September.

Human rights defender Charles Mfwamba Mukendi and businesswoman Masengo wa Kabamba were arrested in late October 1999 by the ANR in Mbuji-Mayi because they

were found in possession of human rights documents. Charles Mfwamba Mukendi is the director of a human rights organization known as the *Centre d'études et de formation populaires Kasai* (CEFOP-K), Centre for Popular Studies and Training in Kasai. He was first arrested by ANR officials on 22 October and taken for questioning about a report which the ANR had reportedly intercepted at the airport in Kinshasa. ANR officials searched his house at dawn, apparently looking for documents considered a threat to state security. They confiscated a human rights report and personal items. He was accused of being a rebel sympathiser but released later that day, only to be rearrested and detained on 25 October. Masengo wa Kabamba was arrested on 23 October, at Mbuji-Mayi's airport, reportedly because she was found to be carrying a report published by a local human rights group about the situation in Kasai. In November she was being held in the same cell as Charles Mfwamba Mukendi.

Sister Antoinette Fari, a Roman Catholic nun and prison humanitarian worker, was arrested by the ANR in Lubumbashi on 5 November 1999. She was transferred to Kinshasa on 6 November and was still being held at the end of November 1999. Before her arrest, she was questioned by the ANR for two hours on 4 November about her work with prisoners at Buluo prison. The following day she was again taken for questioning and later detained. Inmates at the prison are denied visits from their families and most humanitarian organizations. She had been visiting prisons in the province for many years and assisted inmates, many of whom have no contact with their families, lawyers or humanitarian agencies, and who rely on her and her colleagues for basic needs such as food, clothes and medicines.

Trade unionists have been subjected to human rights violations for demanding that the government pay salary arrears to government employees they represent. Some government employees have not been paid for many months. Thirteen members of the student union at the University of Lubumbashi, including Ilunga Kabeya and Tumba Betu (a woman), were arrested on 5 November 1998 for demanding their allowances. They were detained for several days by the ANR. They were reportedly so severely tortured that one woman detainee, Manuunga, who was pregnant at the time, reportedly suffered a miscarriage as a result of rape.

Mukalay Hanga Kolwa, Secretary general of the *Conscience des travailleurs paysans du Congo*, (CTP), Conscience of Peasant Workers of Congo, was arrested in April 1999 by the ANR in Lubumbashi after demanding that Gecamines, a state mining company, pay workers' nine-month salary arrears. He was released a few days later without charge.

At least nine members of the *Intersyndicale de l'Administration publique* accused of organizing a workers' strike were arrested on 3 August 1999 by members of the PIR in

Kinshasa. The victims include Celestin Mayala, the union's spokesman, and Malu Tshisongo, the General Rapporteur. They were held at the headquarters of the *Police provinciale de Kinshasa*, Kinshasa Provincial Police, where they were reportedly beaten before their release two days later without charge.

3. Conclusion

Amnesty International acknowledges that the protection of human rights against a background of armed conflict is very difficult in any country in the world, including the DRC. But that also means that extra vigilance is required on the part of the authorities to ensure that not only national and international human rights laws are adhered to, but also that everyone in the DRC is specifically protected from human rights violations.

The information contained in this report shows that a large number of human rights violations by government forces take place in areas far away from the armed conflict zones. Whereas the authorities have often claimed that they were not aware of specific violations, it is clear that many of the violations were ordered or condoned by government and security officials. Thus, members of the security forces believe that they will continue to enjoy impunity because the human rights violations they commit are no different, either in nature or scope, from those ordered by the authorities. This is especially the case with regard to human rights violations against human rights defenders, journalists and members of opposition political parties. Moreover, these violations, particularly of the right to freedom of expression and association, started long before the armed conflict broke out in August 1998. Armed conflict may have exacerbated the situation, but it is most often used as a pretext to justify an unacceptably widespread scale of human rights violations.

In order to become a respected member of the international community, the DRC Government needs to ensure that it re-establishes the rule of law. People in the DRC, especially in parts of the country where there is little or no armed conflict, need to feel that they can go about their daily business and exercise their fundamental rights without fear of arbitrary arrest, unlawful detention, torture, "disappearance" or execution.

4. Recommendations

To the DRC Government

- Give public instructions to all government officials and members of the security forces that human rights violations will not be tolerated and that judicial and other lawful measures, excluding the death penalty, will be taken against those responsible;

- Ensure that each security force has a legal status and that its statute specifies its powers of arrest and detention. In no circumstances should the security forces be allowed to detain suspects outside the framework of the law or in unofficial detention centres. Establish genuine judicial and administrative control over the security forces to ensure that they act transparently and within the law in order to end impunity. The powers of arrest and detention of the various security forces should be restrained to ensure that they fully conform to internationally recognized human rights and to the demands of international human rights treaties to which the DRC is party. All members of the security services should receive training in international human rights standards and in the provisions of DRC national legislation.
- Announce and implement specific measures to prevent human rights violations, including the setting up of competent, independent and impartial human rights bodies to which victims or witnesses can report allegations of human rights violations, such as arbitrary arrests, unlawful detentions, torture and other forms of cruel, inhuman or degrading treatment, and ensuring that those found responsible are brought to justice;
- End repression against members of Congolese human rights organizations, journalists and other independent human rights observers and allow them to investigate and report on allegations of human rights violations, and ensure that the investigators have unhindered and safe access to all areas under DRC government control;
- Prevent any incitement to violence, discrimination or hatred against any groups or individuals and ensure their protection from human rights violations, regardless of their ethnic, political or other affiliation;
- Release all prisoners of conscience and other detainees held outside the law, prevent any arbitrary arrests, and ensure that humanitarian and human rights organizations, such as the International Committee of the Red Cross (ICRC) and local human rights groups, have full access to and are allowed to visit detainees in all detention centres;

To the governments of Angola, Namibia and Zimbabwe

- Give public instructions to all members of the security forces in the DRC that they have a responsibility to prevent and report on human rights violations in areas where they are deployed, and that violations by them will not be tolerated and that those responsible will be brought to justice;

- Do not supply any weapons and other types of military, security or police equipment, which are likely to be used by the DRC government forces to commit human rights violations or repression against peaceful opponents;
- Encourage and support the DRC Government to implement specific measures to prevent human rights violations, including the setting up of competent, independent and impartial human rights bodies to which victims or witnesses can report allegations of human rights abuses, such as arbitrary arrests, unlawful detentions, torture and other forms of cruel, inhuman or degrading treatment, and ensuring that those found responsible are brought to justice;
- Urge the DRC authorities to end repression against members of Congolese human rights organizations, journalists and other independent human rights observers and allow them to investigate and report on allegations of human rights violations, and ensure that the investigators have unhindered and safe access to all areas under DRC government control;
- Prevent any incitement to violence, discrimination or hatred against any groups or individuals and ensure their protection from human rights violations, regardless of their ethnic, political or other affiliation;
- Urge the DRC authorities to release all prisoners of conscience and other detainees held outside the law, prevent any arbitrary arrests, and ensure that humanitarian organizations, such as the International Committee of the Red Cross (ICRC), have full access to and are allowed to assist detainees in all detention centres;

To other governments and intergovernmental organizations

- Publicly condemn all human rights abuses that have been and are being committed in the DRC, regardless of the identity of the perpetrators or the victims;
- States should not supply light weapons and other types of military, security or police equipment to governments and armed groups implicated in the armed conflict in the DRC, which are likely to be used to commit human rights abuses.
- The UN should strengthen the office of the UN High Commissioner for Human Rights in the DRC, improving its capacity to monitor and report on the human rights situation in the country;

- Provide support to and reaffirm the importance of the mandate of the UN Special Rapporteur on the situation of human rights in the DRC. The Special Rapporteur should be given political and material support to continue visiting the DRC in order to report on the human rights situation there;
- Ask for a reinforcement of the UN human rights field presences in the Great Lakes region, including the deployment of human rights monitors in the DRC;
- The OAU and the SADC should state their commitment and determination to ensuring that impunity is ended in the DRC once and for all in order to ensure lasting protection from human rights abuses in the country. These intergovernmental organizations should recommend measures which should be taken by the DRC Government and the international community to address impunity for past violations and to prevent further human rights abuses in the DRC.

