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**DEMOCRATIC REPUBLIC OF THE CONGO
COUNTRY REPORT**

April 2005

Country Information and Policy Unit

**IMMIGRATION AND NATIONALITY DIRECTORATE
HOME OFFICE, UNITED KINGDOM**

CONTENTS	
1. Scope Of The Document	1.1
2. Geography	2.1
3. Economy	3.1
4. History	
Pre-Independence	4.1
The Mobutu Regime 1960-1997	4.2
The Laurent Kabila Regime 1997	4.8
Rebellion 1998	4.9
Lusaka Peace Accord 1999	4.13
The Joseph Kabila Regime 2001	4.14
Inter-Congolese Dialogue 2001-2002	4.17
Events of 2003 - Transitional National Government	4.20
Events of 2004-2005	4.22
5. State Structures	
The Constitution	5.1
Citizenship and Nationality	5.4
Political System	5.9
Legislature	5.10
Government	5.11
Political Parties	5.23
Judiciary	5.25
Legal Rights/Detention	
Legal Rights	5.31
Detention and Arrest	5.34
Torture	5.40
Death Penalty	5.44
Internal Security	5.47
Prisons and Prison Conditions	5.55
Military Service	5.66
Treatment of Deserters and Conscientious Objectors	5.70
Medical Services	5.73
HIV/AIDS	5.85
Mental Health	5.90
People with Disabilities	5.95
Educational System	5.97
6. Human Rights	

6.A Human Rights Issues	
General	6.1
Freedom of Speech and the Media	6.9
Journalists	6.12
Radio, Television and the Internet	6.20
Newspapers	6.24
Newspaper Articles	6.28
Freedom of Religion	
Legal Framework	6.31
Religious Groups	6.33
Religious Freedom	6.35
Freedom of Association and Assembly	6.38
Political Activists	6.44
Employment Rights	
Trade Unions	6.47
Collective Bargaining	6.51
Strikes	6.52
Equal Employment Rights	6.54
Child Labour	6.56
People Trafficking	6.59
Freedom of Movement	6.63
6.B Human Rights - Specific Groups	
Ethnic Groups	6.68
Ethnic Issues	6.72
Banyamulenge/Tutsis in Eastern DRC	6.77
Tutsis in Kinshasa	6.82
Women	6.89
Children	6.104
Child Soldiers	6.111
Childcare Arrangements	6.119
Homosexuals	6.120
Persons Associated with the Mobutu Regime	6.125
Former Soldiers of Mobutu Regime including FAZ	6.131
6.C Human Rights - Other Issues	
Security Situation - Eastern DRC	6.135
Armed Groups	6.138
Disarmament of Foreign Armed Groups	6.140
Ituri	6.143
North Kivu December 2004	6.153
Bukavu June 2004	6.164
Gatumba Massacre August 2004	6.177
Kilwa October 2004	6.183
Internally Displaced Persons	6.191
Refugee Movement with Neighbouring Countries	6.197
Humanitarian Aid/International Assistance	6.199
Treatment of Non Government Organisations (NGOs)	6.201
Human Rights Activists	6.203
Official Documents	6.206
Birth, Marriage and Death Certificates	6.208
National Identity Cards	6.209
Driving Licences	6.211
Passports	6.212
Arrest, Search and Bail Warrants	6.214
Letters of Support from Opposition Political Parties	6.215
Bundu dia Kongo	6.216
Arrests of July 2002 and Subsequent Events	6.222

Armée de Victoire (Army of Victory Church)	6.231
Events of June 2003 and Subsequently	6.235
Assassination of President Laurent Kabila	6.238
Commission of Inquiry	6.239
Detention of Suspects	6.241
Trial of the Accused	6.243
Post-Trial Situation	6.252
Coup Attempts 2004	6.255
Attempted Coup of 28 March 2004	6.256
Attempted Coup of 11 June 2004	6.261
Treatment of Failed Asylum Seekers Returned to the DRC	6.267
Annexes	
Chronology of Events	Annex A
Political Organisations	Annex B
Armed Forces in the DRC	Annex C
Prominent People	Annex D
Glossary	Annex E
List of Source Material	Annex F

1. Scope of the Document

1.1 This Country Report has been produced by Immigration and Nationality Directorate, Home Office, for use by officials involved in the asylum / human rights determination process. The Report provides general background information about the issues most commonly raised in asylum / human rights claims made in the United Kingdom. It includes information available up to 1 March 2005.

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

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

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

1.5 The information included in this Country Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant

aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented; rather that information regarding implementation has not been found.

1.6 As noted above, the Country Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. Country Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text.

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

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

1.9 Country Reports are published every six months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in Country Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country Information Bulletins, which are also published on the IND website. They also have constant access to an information request service for specific enquiries.

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

Country Information & Policy Unit

Home Office

Apollo House

36 Wellesley Road

Croydon CR9 3RR

Email: CIPU@homeoffice.gsi.gov.ukWebsite: http://www.ind.homeoffice.gov.uk/ind/en/home/0/country_information.html?**Advisory Panel on Country Information**

1.11 The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country information material. The Advisory Panel welcomes all feedback on the Home Office's Country Reports and other country information material. Information about the Panel's work can be found on its website at www.apci.org.uk.

1.12 It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office Country Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

Advisory Panel on Country Information

PO Box 1539

Croydon CR9 3WR

Email: apci@homeoffice.gsi.gov.ukWebsite: www.apci.org.uk[Return to Contents](#)

2. Geography

2.1 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa), stated that the Democratic Republic of the Congo (DRC) (formerly Zaire) has an area of 2,344,885 sq km (905,365 sq m), and is the second largest country of sub-Saharan Africa. The country shares borders with the Republic of Congo to the north-west, the Central African Republic and Sudan to the north, Uganda, Rwanda, Burundi and Tanzania to the east and Zambia and Angola to the south. There is a short coastline at the outlet of the River Congo. The basin of the River Congo is the country's dominant geographical feature. [1] (p271)

2.2 The capital and main urban centre is Kinshasa, and other major towns are Lubumbashi, Mbuji-Mayi, Kananga and Kisangani. [1] (p271) Politically, the country

is divided into 11 administrative provinces: Bandundu, Bas-Congo, Equateur, Kasai Occidental, Kasai Orientale, Katanga, Kivu-Maniema, North Kivu, Province Orientale, South Kivu and Kinshasa. [1] (p271 and 305) Maps of the DRC are available via sources [55a] [56b] and [57a].

2.3 The United States Department of State (USSD) Background Note on the DRC, published January 2005, stated that the DRC had an estimated population of around 58 million in 2004 with an estimated annual growth rate in 2004 of 2.99 per cent. [3d] (People, Economy) Europa also recorded that the DRC's population comprises numerous ethnic groups, which are separated by national boundaries. [1] (p271)

See also Section 6B Ethnic Groups

2.4 Europa also stated that "Many of the country's inhabitants follow traditional beliefs, which are mostly animistic. A large proportion of the population is Christian, predominantly Roman Catholic, and there are small Muslim, Jewish and Greek Orthodox communities." [1] (p312)

See also Section 6A Freedom of Religion

For further information on geography, refer to Europa Yearbook, source [1]

[Return to Contents](#)

3. Economy

3.1 The Economist Intelligence Unit (EIU) Country Profile 2004 stated "Although the economic situation has improved considerably, it will take years before new investment has any impact on the quality of life of most Congolese, the majority of whom live in abject poverty. It has been calculated that the economy would have to grow by 5% in real terms for 70 years to return to the 1960 level of real income per head." [30] (p28)

3.2 The United States Department of State (USSD) Background Note on the DRC, published January 2005, stated "Sparsely populated in relation to its area, the Democratic Republic of the Congo is home to a vast potential of natural resources and mineral wealth. Nevertheless, the D.R.C. is one of the poorest countries in the world, with per capita annual income of about \$98 in 2003. This is the result of years of mismanagement, corruption, and war." [3d] (Economy) Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa) and the EIU Country Profile also referred to the mismanagement and ongoing exploitation of the country's mineral wealth. [1] (p281) [30] (17,18,20,23)

3.3 Europa and the USSD Background Note of January 2005 reported that a number of international aid and finance institutions are assisting the DRC

economy, which is shifting towards a more market-orientated policy. [1] (p302,306) [3d] (Economy) Europa noted that in May 2004 the International Monetary Fund expressed satisfaction with the DRC's economic performance, although it stressed that much remained to be achieved in the areas of good governance, fight against corruption and transparency. [1] (p305)

3.4 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) also noted that "Corruption remained endemic at all levels. Many civil servants, police, and soldiers have not been paid in years, received irregular salaries, or did not earn enough to support their families, all of which encouraged petty corruption." [3f] (Section 3)

3.5 Europa noted that the national currency of the Democratic Republic of Congo is the new Congolese franc (100 centimes = 1 FC). [1] (p307) According to the 2004 Country Profile by the Economist Intelligence Unit the exchange rate at 18 October 2004 was CF437 = \$1. [30] (p7)

3.6 Europa also stated that "In early November 2001 a UN committee investigating the illegal exploitation of the DRC's resources by the armed factions presented an updated version of a report originally produced in May. The report accused Rwanda and Uganda of illegal exploitation of the DRC's mineral resources, and was angrily rejected by both Governments, which defended the right of their nationals to conduct business in the country." [1] (p280-1) Europa noted that the report also described the extensive nature of the Angolan and Zimbabwean business interests that had developed since their military intervention began. Europa also stated that the report refrained from describing these as illegal, since most of them involved agreements with the government, rather than the rebel administrations." [1] (p281)

See also Section 6C Humanitarian Aid/International Assistance

[Return to Contents](#)

4. History

Pre-Independence

4.1 As noted in Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa), immediately prior to independence from Belgium the country was known as the Belgian Congo. [1] (p272)

The Mobutu Regime 1960 - 1997

4.2 Europa reported that the independence of the Republic of the Congo was proclaimed on 30 June 1960. Following political turmoil and secession attempts by rebels in Katanga and South Kasai, Colonel Joseph-Desire Mobutu declared

himself head of the country in 1965. [1] (p272)

4.3 Europa also stated that in August 1964, the country was renamed the Democratic Republic of Congo and, in October 1971, that it was again renamed the Republic of Zaire. [1] (p272)

4.4 Europa also recorded that in August 1996, during Mobutu's absence for medical treatment there was a rapid escalation of violence in the eastern provinces of North and South Kivu which developed into a national rebellion, seeking, with the support of Rwanda, to overthrow the Mobutu regime. [1] (p276)

4.5 Europa reported:

"Rwandan Hutu militiamen and former soldiers of the Force Armées Rwandais (ex-FAR), who had fled their own country following their military defeat in 1994 [after the genocide of Tutsis in Rwanda], had by then, with the active assistance of the Zairean Armed Forces (Forces Armées de Zaire - FAZ), converted Rwandan refugee camps into bases for rearmament and preparation for the future reconquest of Rwanda. By mid-1996 Rwandan Hutu militias, known as Interahamwe, had begun to create their own territory in the Kivus, and with the support of Congolese Hutu Banyarwanda and members of the FAZ, were killing and expelling Congolese Tutsis and other ethnic groups. The situation was complicated by long-term rivalries in the area, including widespread resentment of Tutsis resident in Sud-Kivu (known as the Banyamulenge), and a dispute dating from the early days of the national conference over their entitlement to Zairean nationality. In early October [1996] the Deputy Governor of Sud-Kivu ordered the Banyamulenge to leave the country within a week. Although the order was subsequently suspended, it provoked the mobilization of a powerful Tutsi backlash." [1] (p276)

4.6 The Tutsi rebels were joined by other dissidents to form the Alliance des forces démocratiques pour la libération du Congo-Zaïre (AFDL) led by Laurent Kabila. By November 1996, AFDL forces occupied a substantial area of the east of the country. [1] (p276-277)

4.7 Europa stated that despite the return of Mobutu in December 1996, and mediation attempts to resolve the crisis, further territory fell to AFDL troops in the ensuing months with little opposition from government forces. On 16 May 1997, Mobutu and his entourage left Kinshasa, travelling to Togo, and then to Morocco, where he died on 7 September 1997. Many of his family and supporters fled to Brazzaville, in the neighbouring Republic of Congo. [1] (p277)

[Return to Contents](#)

The Laurent Kabila Regime 1997

4.8 Europa reported that in May 1997 Laurent Kabila declared himself the president of the country, renamed it the Democratic Republic of the Congo and appointed a new Government, which, while dominated by members of the AFDL, also included members of the Union pour la Democratie et le Progrès Social (Union for Democracy and Social progress) (UDPS) and of the Front patriotique, and avoided a potentially unpopular preponderance of Tutsis. To consolidate his power, on 28 May he also issued a constitutional decree, which accorded him legislative and executive power as well as control over the army and the treasury. This constitutional decree was to remain in force until a new constitution was adopted. Of the previously existing state institutions, only the judiciary was not dissolved. [1] (p277)

Rebellion 1998

4.9 Europa stated that rebellion and disaffection again escalated in the east after President Kabila expelled remaining Rwandan armed forces units from the country on 28 July 1998. The rebellion, assisted by the Rwandan Government, was launched in North and South Kivu when a group calling itself the Rassemblement Congolais pour la Democratie (RCD) announced its intention to oust President Kabila. The rebels were a disparate group of disaffected ex-Kabila civilian, military and opposition figures from outside and inside the country. [1] (p278)

4.10 Europa also stated that various African countries became involved in assisting the various parties to the conflict. Initially, the RCD rebels, assisted by Rwandan and Ugandan forces captured a large area comprising most of the east of the country. Their attempt to take Kinshasa in August 1998 was stalled, however, after military support to Kabila was provided by Zimbabwe, Namibia and Angola, and later Chad. [1] (p278)

4.11 Europa further reported that in November 1998, a new rebel group emerged called the Mouvement pour la Liberation du Congo (MLC) led by Jean-Pierre Bemba, the son of a prominent Mobutist. The MLC based itself in the Equateur Province and had large numbers of former FAZ soldiers in its ranks. The MLC developed close ties with the Ugandan Government, while Rwanda remained committed to the RCD. Europa also recorded that in late 1999 ethnic tensions between Hema and Lendu communities in Bunia erupted into violence, resulting in the death of many thousands, and the displacement of more than 200,000 people. [1] (p278)

4.12 Europa stated that by the end of 1998 the RCD controlled one-third of eastern DRC, while the MLC controlled much of Equateur. The fighting displaced thousands of people and there were many reports of serious human rights abuses by all sides. In 1999 the RCD split into two factions: one headed by Ernest Wamba dia Wamba (RCD-ML), and the other by Dr Emile Ilunga (RCD-Goma or RCD-G). [1] (p278)

Lusaka Peace Accord 1999

4.13 Europa recorded that in July 1999 a ceasefire agreement was signed at a peace summit in Lusaka, between the countries involved, and later by the rebel groups. This also set out arrangements for the disarmament of identified militia groups, the withdrawal of foreign forces, deployment of UN forces and for an inter-Congolese political dialogue. [1] (p279) In November 1999 the UN Security Council established the United Nations Mission for Congo - MONUC - which was increased in size the following year. Fighting subsequently subsided in most areas, although there were many incidents of serious clashes in the rebel-held areas in 2000, involving rebel groups, and also Ugandan and Rwandan forces. [1] (p279-280)

[Return to Contents](#)

The Joseph Kabila Regime 2001

4.14 Europa reported that Laurent Kabila was assassinated in the Presidential Palace in Kinshasa on 16 January 2001, reportedly by one of his soldiers. [1] (p280)

See also Section 6C Assassination of Laurent Kabila

4.15 Europa further reported that Laurent Kabila's son, Joseph Kabila, was formally installed as the new President of the DRC on 23 January 2001. Europa noted that his installation immediately boosted the peace process. [1] (p280) The same source stated "Joseph Kabila dissolved his father's Cabinet, and appointed a new government on 14 April 2001." [1] (p280) He also ended some restrictions on political activity in May 2001 and ordered the release of a number of detained human rights activists. [1] (p280)

4.16 Europa also reported that MONUC's mandate was extended by the UN in October 2001 to cover the disarmament, demobilisation, reintegration, repatriation and resettlement of combatants identified by the Lusaka accords as 'negative elements'. [1] (p280)

See also Section 6C Security Situation Disarmament of Foreign Armed Groups

Inter-Congolese Dialogue 2001 - 2002

4.17 Europa recorded that the Inter-Congolese Dialogue (ICD) started in Addis Ababa in October 2001, and continued in Sun City in South Africa in February and April 2002 with all the major parties to the ICD and many of the minor ones represented. [1] (p280-281) Agreement was reached in April 2002 on a power-sharing arrangement, which led to a peace deal in April between the Government and most of the rebel forces. However, the RCD-Goma and several long-established parties, including the UDPS, did not sign up to the agreement. [1] (p281)

4.18 Further agreements between the DRC and Rwanda in July 2002, covered the disarmament of armed groups on both sides and the withdrawal of remaining Rwandan and Ugandan troops. [1] (p281)

4.19 Europa also reported that although breaches of the cease-fire continued, peace talks resumed under the ICD in November 2002, and ended with the signing of a new peace agreement on 17 December 2002. This provided for a new Transitional National Government to be headed by the current President, with four Vice-Presidents who would be representatives of the incumbent government, the MLC, RCD-Goma, and the political opposition. It was agreed that the new government would comprise at least 35 cabinet ministers from all parties involved in the ICD. [1] (p281)

See also Section 5 Political System

[Return to Contents](#)

Events of 2003 – Transitional National Government

4.20 Europa stated that on 30 June 2003 President Kabila nominated a transitional government, in which ministries were divided between rebel groups, the incumbent administration, political opposition and civil society organisations. [1] (p282)

See also Section 5 Government and Political Parties

4.21 Europa also reported that, following agreement in August 2003 on power-sharing in the future integrated armed forces, the new Chiefs of Staff and senior officers were inaugurated. [1] (p282)

See also Section 5 Military Service

Events of 2004-2005

4.22 Possible coup attempts occurred in Kinshasa in March and June 2004. [2b] [2c]

See also Section 6C Coup Attempts 2004

4.23 A report from Integrated Regional Information Networks (IRIN) dated 24 June 2004 stated that the chief prosecutor of the International Criminal Court would open an investigation into alleged war crimes committed in the DRC since 1 July 2002. The report stated that the initial focus of the enquiry would be in Ituri. [18a]

See also Section 6C Security Situation Ituri

4.24 Europa reported that there were reports of serious fighting and human rights abuses in the east of the country, notably in Bukavu in May and June 2004. [1] (p283) Also, there were anti-MONUC demonstrations in Kinshasa and other cities on 2-3 June 2004 in connection with the fighting in Bukavu. [1] (p283) In August 2004 some 160 Banyamulenge refugees who had fled from the Bukavu region were massacred at a refugee camp at Gatumba in Burundi. [1] (p283)

See also Section 6C Security Situation Bukavu

4.25 Further fighting was reported in the east in the second half of 2004 and early 2005.

See also Section 6C Security Situation - Eastern DRC

4.26 According to the 2004 Country Profile by the Economist Intelligence Unit, "An amnesty law was passed by parliament in September 2004, to replace the general amnesty granted by presidential decree in April 2003. The amnesty applies to all Congolese that engaged in military operations between August 1998 (the start of the rebellion against Laurent Kabila) and June 2003 (the establishment of the transitional government). Exempt from amnesty are those that have killed or have attempted to kill the head of state or that have committed war crimes, acts of genocide or crimes against humanity." [30] (p12)

4.27 In November 2004 Rwanda threatened to intervene in the DRC, but later withdrew the threat. Europa reported that Vice-President Ruberwa and the RCD suspended their participation in the government for several days in August 2004 in response to the collapse of the peace process following the Gatumba massacre. [1] (p283)

4.28 In November 2004 and January 2005 a number of ministers and public officials were dismissed in connection with corruption allegations. [18ag]

See also Section 5 Political System

4.29 The United Nations (UN) Secretary-General reported to the UN Security Council on 31 December 2004 that allegations of sexual misconduct by some UN staff were under investigation and one staff member had been suspended and was facing charges. [54d] (p16) IRIN reported on 14 February 2005 that regulations had been instigated to regulate the conduct of MONUC personnel, and six Moroccan soldiers serving in MONUC had been arrested. [18ap]

4.30 There were demonstrations in Kinshasa on Monday 10 January 2005, and a general strike on Friday 14 January, following reports that elections might be delayed to October 2005 instead of June 2005. [15f] [15j] [18a] [23c] [65d] CNN and

BBC News Online reported on 10 January 2005 that police fired tear gas and bullets at the demonstrators, who numbered several thousands. [15] [23c] The CNN report, and a report from IRIN on 11 January 2005 stated that the demonstrators burned tyres in the streets during the violence, which lasted several hours. [18a] [23c] IRIN also reported that the stone-throwing demonstrators had blocked the city's main streets while police fired shots in the air to disperse the crowds. [18a]

4.31 Agence France Presse also reported on 11 January 2005 a statement by the DRC Information Minister that at least four people had been killed and 60 others arrested on the previous day. [65d] The BBC report of 10 January 2005 stated that the UDPS party denied suggestions by a government spokesman that they had organised the demonstrations. [15]

4.32 On the following Friday, 14 January 2005, BBC News reported that a general strike took place in Kinshasa in response to Monday's violence. [15] The same report stated that the UDPS again denied calling the strike. However, the report stated that those trying to enforce it called on people to vote for the UDPS leader, Etienne Tshisekedi. [15]

For further information on history, refer to Europa Yearbook, source [1]

See also separate headings for further information on events in 2004-2005, including: Section 5 Political System; Section 5 Military Service; Section 5 Internal Security; Section 6A Human Rights Issues; Section 6B Human Rights Issues - Specific Groups; Section 6C Security Situation - Eastern DRC

[Return to Contents](#)

5. State Structures

The Constitution

5.1 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa) stated that:

"Following the proclamation of the Democratic Republic of the Congo a 15-point constitutional decree was promulgated on 28 May 1997, which abrogated all previous constitutional dispositions. The decree declared the institutions of the Republic to be the President, the Government, and the courts and tribunals; all institutions of the previous regime were suspended, except for the judiciary. All power was to be invested in the Head of State, pending the adoption of a new constitution." [1] (p310)

5.2 The Country Background Note of January 2005 by the US State Department (USSD) stated:

"A transitional constitution was adopted on April 4, 2003. Extensive executive, legislative, and military powers are vested in the president and vice presidents. The legislature does not have the power to overturn the government through a vote of no confidence. The judiciary is nominally independent; the president has the power to dismiss and appoint judges. The president is head of a 35-member cabinet of ministers." [3d] (Government and Political Conditions) The text of the draft Constitution of April 2003 was published by the Institute for Security Studies. [27a]

5.3 The Secretary-General of the United Nations (UN) reported to the UN Security Council on 31 December 2004 that the Senate had prepared a first draft of the post-transition constitution, which provides for a unitary state with considerable powers devolved to the provinces. However such issues as the balance of power between the President and the Prime Minister, the electoral system and the minimum age requirement for the President and Prime Minister had yet to be clarified. [54d] (p2)

See also Section 5 Judiciary

[Return to Contents](#)

Citizenship and Nationality

5.4 The British Embassy in Kinshasa reported in June 2000 that, following the change in the name of the country from Zaire to Democratic Republic of Congo in May 1997, "[As a result,] all Zairean citizens, within the national territory or abroad, simultaneously and collectively became Congolese citizens. . . . A Zairean citizen who left Zaire at that time as a Zairean citizen also automatically became a Congolese citizen wherever he was." [22b]

See also Section 6C Documentation Passports

5.5 The 2004 Country Profile by the Economic Intelligence Unit (EIU) stated that "The law on Congolese nationality is one of the most contentious issues in the transition, as it will determine once and for all the status of the Banyamulenge (Congolese Tutsi) community in the DRC. Their status as Congolese nationals has been called into question and revoked several times as a result of changing political winds over the past decades. This ambiguity has been the reason for much abuse of the Banyamulenge and has also fuelled their resentment towards the Congolese government." [30] (p12)

See also Section 6B Ethnic Groups

5.6 In comments prepared for the Advisory Panel on Country Information meeting on 8 March 2005 UNHCR stated "Since 12 November 2004, there is a new Law on Congolese nationality: the Law n. 04/024." [60d]

5.7 UNHCR also amplified in subsequent information that:

"The law n. 81/012 of 29 June 1981, modified by Decree-Law n.197 of 29 January 1999, is no longer applicable in DRC, as it is superseded by the new Nationality Law: the Law n. 04/024 of 12 November 2004 on Congolese nationality. These are the main points of this new law:

1. There are two categories of nationality: recognized nationality (by origin, by birth or by presumption of law) and acquired nationality (by naturalization, by option or by adoption).
2. The time required for naturalization is 7 years residence in RDC.
3. The double nationality is prohibited without exception. Congolese nationality is exclusive.
4. The procedure for the obtention or renunciation of Congolese nationality is an administrative procedure, the courts do not intervene in this procedure.
5. The return to the country is not a pre-condition to acquire the Congolese nationality." [60e]

5.8 A copy of the Nationality Law was available via the MONUC (UN Mission to the Congo) Documentation Library website from 17 November 2004. [56c]

[Return to Contents](#)

Political System

5.9 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa), reported that the DRC is a republic with a president as the head of state. The same source stated "The President of the Republic exercises legislative power by decree, following consultation with the Cabinet; he is the chief of the executive and of the armed forces and has the authority to issue currency; he has the power to appoint and dismiss members of the government, ambassadors, provincial governors, senior army officers, senior civil servants and magistrates." [1] (p310)

Legislature

5.10 Europa also stated "A new transitional bicameral Parliament was inaugurated in Kinshasa by President Joseph Kabila on 22 August 2003. The 500-member lower chamber, or National Assembly, comprised a total of 94 members of RCD-Goma, the MLC [Mouvement pour la liberation du Congo (Congo Liberation Movement)], the former government, opposition political parties and civil society, while the RCD-ML was allocated 15 deputies, Mai-Mai militia 10, and the RCD-N five. The 120-member upper chamber or Senate, consisted of 22 representatives of the five main groups, four of the RCD-ML and Mai-Mai, and two of the RCD-N." [1] (p311)

Government

5.11 Europa reported that the power sharing agreement of June 2003 allowed President Kabila to nominate a transitional Government, in which ministries were divided between rebel groups, the incumbent administration, political opposition and civil society organisations. [1] (p282) The vice-presidents were named as Jean-Pierre Bemba (MLC rebel group), Abdoulaye Yerodia Ndombasi (former government), Arthur Z'Ahidi Ngoma (political opposition) and Azarias Ruberwa (RCD-Goma rebel group). [1] (p282)

5.12 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) also stated "There are also five 'citizens' institutions' that began operating in 2003: An Observatory for Human Rights, a Truth and Reconciliation Commission, a High Authority for Media, an Ethics and Anti-Corruption Commission, and the Independent Electoral Commission. In mid-year, the Government installed provincial governors throughout the country, and by year's end, former rebel-held areas were under marginal government control." [31] (Section 3)

See also Section 4 History Events of 2003 - Transitional National Government

5.13 Details of the transition institutions as at 19 July 2004, including a list of government ministers and other office-holders at that date was published by the UN Mission to the Congo Documents (MONUC) Documents Library. [56c] (*Institutions de la Transition en RDC*) On 16 May 2004, as reported by Europa, the TNG named the new appointments of eleven provincial governors. [1] (p283)

5.14 Further changes to the government were made during 2004 and early 2005, including the dismissal of the Foreign Minister, Antoine Ghonda Mangalibi, on 22 July 2004 and his replacement by Ramazani Baya, according to a news agency report of 2 July 2004. [62] Europa recorded that in August 2004, Vice-President Ruberwa and other representatives of the RCD-Goma former rebel group in the TNG suspended their participation although they resumed it shortly afterwards. [1] (p283)

5.15 Six government ministers and ten public officials were suspended from office in November 2004, according to a report from the UN-sponsored Radio Okapi:

"President Joseph Kabila has suspended six ministers and 12 directors of state companies. The decree was announced early Thursday afternoon [25 November]. Following the decree, Minister of public works and infrastructure [Jose Bononge] Endundo (MLC [Congolese Liberation Movement]), Minister of University and Higher Education Pierre Mudumbi (RCD-Goma [Goma-based

Congolese Rally for Democracy]], Minister of Telecommunications and Transport Joseph Olenghankoy (political opposition), Minister of External Trade Roger Lumbala (RCD-N [Congolese Rally for Democracy- National]), Minister of Mines Eugene Diomi Dongala (political opposition) and Minister of Energy Kalema Losono (PPRD [People's Party for Reconstruction and Development]) were suspended from their posts." [64b]

5.16 In January 2005 Agence France Presse (AFP) reported that the six ministers had been dismissed, along with a further three ministers, Defence Minister Jean-Pierre Ondekane and Economy Minister Emile Ngoy Kasongo who came from the former rebel Congolese Rally for Democracy (RCD), and Public Health Minister Anastasie Moleko Moliwa. [66c] AFP reported the list of changes as follows:

"All the movements with members in the government have named replacements for the dismissed ministers apart from the Congo Liberation Movement (MLC) which took control of much of northern DR Congo during the war. It has yet to put up a candidate for the public works portfolio.

In a partial reshuffle, Kabila's new appointments include:

Minister of Defence Adolphe Onusumba Yemba

Minister of Energy Pierre Muzumba Mwana Ombe

Minister of Economy Floribert Bokanga

Minister of Health Emile Bongeli Yekolo

Minister of Social Affairs Laurent-Charles Otete Omanga

Minister of Transport and Communications Eva Makasa

Minister of External Trade Chantal Ngalula Mulumba

Minister of Labour and Social Welfare Balamage Nkolo " [65c]

[Return to Contents](#)

5.17 A report from BBC News Online on 4 January 2005 stated "The new defence minister is a major figure within the former Rwanda-backed rebel group the Congolese Rally for Democracy (RCD) Adolphe Onusumba. The sacked ministers of defence and economy were RCD members who fell out with the party's leadership." [15h] AFP reported on 14 January 2005 that Vice-President Bemba, and several members of his MLC movement stayed away from the installation ceremony for the new ministers. [65a]

5.18 Four new ministers from the MLC grouping were appointed in February 2005, according to a report of 18 February 2005 by Le Potential newspaper, adding that "It seems there is a reconciliation between Joseph Kabila and Jean-Pierre Bemba and with the new decree there is hope that the political process [in DR Congo] will proceed normally." [70a]

5.19 The USSD Country Background Note of January 2005 stated that "This transitional government is slated to last until elections--the first since 1960--are to

be held in 2005." [3d] (History) USSD 2004 added "The Transitional Constitution calls for elections to be held by June 30, 2005. This period may be extended for two additional 6-month periods, with the approval of Parliament." [3f] (Section 3)

5.20 The Economist Intelligence Unit (EIU) Country Profile 2004 stated:

"The transitional government has so far failed to come together as a cohesive unit: the competing interests of the various components of government have prevailed over the interests of national unity. This competition has led to a number of delays in implementing key aspects of the transition, most notably the re-integration of the Congolese armed forces, the disarmament of various armed groups and the establishment of government authority throughout the country. These delays will inevitably force a postponement of elections, which are still due to be held in June 2005. Failure to make progress on these issues is attributed not only to the cumbersome structure of the government, but also to the fact that many in government hope to benefit more from a drawn-out peace process than from the timely holding of elections." [30] (p9)

5.21 On 7 January 2005 CNN News Agency reported comments by the head of the electoral commission that the previously intended election date of June 2005 might be put back to October 2005. [23b] On 12 January IRIN reported that various political groups and officials involved in the transition accused each other of causing the delay. [18a] The same report noted "The slowness of the transitional process has also been condemned by the international community including CIAT, the Comité international d'accompagnement de la transition, an international committee monitoring the transition." [18a]

5.22 According to a number of news reports violent protest demonstrations against deferring the elections took place in Kinshasa on Monday 10 January 2005. [15j] [23c] [18a] [65d] This was followed by a general strike in Kinshasa on the following Friday, 14 January. [15j]

See also Section 4 History Events of 2004

[Return to Contents](#)

Political Parties

5.23 A Fact-Finding Mission Report on the DRC by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA) dated October 2002 noted :

"[In addition,] the territorial problem [also] plays a vital role in the political arena. The PDSC distinguishes three categories of party on this basis:
1. National parties such as the UDPS, the MPR and the PDSC that are represented throughout the territory of the Congo;

2. Semi-national parties, active in Kinshasa and in one or two other provinces, eg. PALU, UNADEF (present in Kinshasa and in Katanga) FSD (active in Kinshasa and in Low Congo), MNC-L, FONUS;
3. Parties built round a personality such as the MSDD (Lutundula), the MDD, the ANADER (Lutete), the ROM and the ROC." [24a] (p11)

5.24 Information from the Country Fact File of the Institute for Security Studies also stated "There are a multitude of other, smaller parties, many of which were involved in the inter-Congolese dialogue and are which now have representatives in the transition government. [sic]" [27b] (History and Politics) The Economist Intelligence Unit (EIU) Country Profile 2004 stated:

"Although all of the main political parties signed the peace accord in December 2002, the political opposition has since split into two camps: those participating in the transitional government and those who are not. The UDPS, and the Parti lumumbiste unifié, two of the DRC's oldest and most legitimate opposition parties have not joined the government because they are dissatisfied with the procedure for selecting the opposition's representatives in the government. As a result, most of the opposition politicians currently in government are obscure figures with little experience or support." [30] (p14)

See also Section 6A Freedom of Association and Assembly; Section 6A Letters of Support from Political Parties; Annex B Main Political Organisations

[Return to Contents](#)

Judiciary

5.25 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa) reported that the Minister of Justice is responsible for the organisation and definition of competence of the judiciary. [1] (p312) The same source recorded that "There is a Supreme Court in Kinshasa, and there are also nine Courts of Appeal and 36 County Courts. . . . The Head of State is empowered to appoint and dismiss magistrates." [1] (p312) In comments prepared for the Advisory Panel on Country Information meeting on 8 March 2005 UNHCR stated "In DRC, there are 12 Courts of Appeal, 1 in each Province and 2 in Kinshasa." [60d]

5.26 A report by the United Nations (UN) Special Rapporteur for the DRC in March 2004 stated:

"As emphasized by the Special Rapporteur in her previous reports, the Congolese justice system is far from meeting the minimum required standards. In the words of the memorandum sent by the Independent Union of Judges of the Democratic Republic of the Congo to the Special Rapporteur: "Judges in the Democratic Republic of the Congo are not immune to the many ills that are eroding Congolese society at large: i.e. corruption, carelessness, lack of

accountability and discipline, not to mention human and general moral values. Congolese society needs to be rapidly and thoroughly overhauled in order to win back the confidence of the people." [55b] (p15)

5.27 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) reported that:

"The law provides for an independent judiciary; however, in practice, the judiciary continued to be ineffective, subject to government influence, and corrupt. The civilian judicial system, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, continued to be largely dysfunctional, and the rule of law was not generally respected. . . . Corruption remained pervasive, particularly among magistrates, who were paid very poorly and only intermittently and there were credible reports that judges regularly prolonged trials unduly as a form of blackmail and a means of soliciting bribes." [3f] (Section 1e)

5.28 USSD 2004 also stated "In areas under marginal government control, corruption remained rampant, and judges and other public servants were paid poorly and intermittently; however, the justice system in these areas improved from previous years. In January, the Government sent magistrates and judges to Bunia, and courts began to operate there for the first time since 1998." [3f] (Section 1e)

5.29 The USSD Country Background Note of January 2005 stated that "[However,] serious human rights problems remain in the security services and justice system." [3d] (Government And Political Conditions) The 2004 Annual Survey 'Freedom in the World' by Freedom House stated "Despite guarantees of independence, in practice the judiciary is subject to corruption and manipulation." [66] (Political Rights and Civil Liberties)

5.30 USSD 2004 also stated "Military courts, headed by a military judge, tried military and civilian defendants. The military courts have no appeal process." [3f] (Section 1e) Amnesty International recorded that on 24 April 2003 President Kabila closed the Military Order Court (COM) in response to protests by national and international organisations. [3b] (p7) [11b] (p5)

See also Section 6A Human Rights General; Section 6C Assassination of President Laurent Kabila

[Return to Contents](#)

Legal Rights/Detention

Legal Rights

5.31 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2004 (USSD 2004) stated "The law prohibits arbitrary

arrest and detention; however, in areas under government control, security forces arbitrarily arrested and detained persons, including journalists." [37] (Section 1d)

5.32 USSD 2004 also reported that:

"The legal code provides for the right to a speedy public trial, the presumption of innocence, and legal counsel; however, these rights were not respected in practice. Defendants have the right to appeal in most cases; however, defendants do not have the right to appeal those cases involving national security, armed robbery, and smuggling, which generally are adjudicated by the Court of State Security, except those cases adjudicated by the special military tribunals, whose jurisdiction is ill-defined." [37] (Section 1e)

5.33 In comments prepared for the Advisory Panel on Country Information meeting on 8 March 2005 UNHCR stated "The organization and the jurisdiction of the military, as well as the modalities of punishment for military desertion, are specified in two Laws on Military of the 18 November 2002: the Law n. 023/2002 and the Law n. 024/2002. It is worth mentioning that Courts of Appeal also exist in military jurisdiction." [60d] USSD 2004 also stated:

"Military courts, headed by a military judge, tried military and civilian defendants. The military courts have no appeal process. The Government permitted, and in some cases provided, legal counsel; however, lawyers sometimes were not granted free access to defendants. In practice, military courts had broad discretion in terms of sentencing. In many cases, trials were open to the public at the discretion of the military judge. On April 20, 71 persons condemned by military courts were conditionally released from the CPRK [prison in Kinshasa]." [37] (Section 1e)

[Return to Contents](#)

Detention and Arrest

5.34 A report in April 2004 by the United Nations Mission for Congo (MONUC) on Detention in the Prisons and Detention cells of the DRC, based on a series of visits in 2002 and the first 6 months of 2003, stated that:

"The lawfulness of the arrest and detention is often an infringement of the law linked to the serious disfunctions in the police force and in the legal system. It is clear that the fundamental rights of persons arrested are not respected, in particular:

- The period in police detention, which may not exceed forty-eight hours,
- The right for any person arrested to be informed immediately or at the latest within twenty-four hours of the reasons for his/her arrest and of any accusation made against him,

- The right to a just and fair trial within the legal periods." [56a] (p4)

5.35 The MONUC report recommended a number of measures to improve the situation of illegal detention, and to reduce the number of people held in preventive detention and limit its duration. [56a] (p39-44)

5.36 The Amnesty International (AI) Annual Report for 2004, reporting on events in 2003, stated that "Arbitrary detentions remained frequent across the DRC and virtually none of those detained were known to have had their arrest ordered or reviewed by an independent judicial official. Many spent long periods in detention without charge or trial." [11b] (p4)

5.37 A report by the United Nations (UN) Special Rapporteur for the DRC in March 2004 stated "Crime generally goes unpunished in the Democratic Republic of the Congo and arbitrary detention is practised on a wide scale." [55b] (p16) The same report also stated "The lack of security for the civilian population is one of the impediments to the realization of human rights in the Democratic Republic of the Congo. The civilian population is subject to violence by the military and police, often for financial reasons; most such offences go unpunished. Since bribery is ubiquitous, the guilty parties can buy off the justice system and the police, and justice officials often help victims and perpetrators to make deals in exchange for part of the compensation paid." [55b] (p12)

5.38 USSD 2004 reported that "Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members. When authorities did press charges, the claims were rarely filed in a timely manner and were often contrived or overly vague. Security forces regularly held alleged suspects for varying periods of time before acknowledging that they were in custody or allowing the detainees to have contact with family or legal counsel." [3f] (Section 1d) The same source stated "Security forces used the pretext of state security to arbitrarily arrest individuals. Individuals arrested and detained in the name of state security frequently were held without legal charge, presentation of evidence, access to a lawyer, or due process. For example, during the year, local NGOs reported that an unknown number of individuals were detained in connection with alleged coup plots." [3f] (Section 1d)

5.39 USSD 2004 also stated "Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members." and "Throughout the country, there were credible reports that, when unable to locate a specific individual, authorities sometimes arrested or beat the closest family member." [3f] (Sections 1d, 1f)

See also Section 5 Prisons and Prison Conditions

[Return to Contents](#)

Torture

5.40 The AI 2004 report stated "People suspected of links with opposing armed political groups were targeted for torture and illegal detention. Human rights defenders and journalists engaged in legitimate investigation and criticism were also beaten, threatened and unlawfully detained because of their reporting on the human rights situation." [11b] (p4)

5.41 The same AI report stated "Torture techniques typically included systematic beatings or whippings of detainees, stabbing with bayonets or electric shocks. Torture was facilitated by the widespread use of private and unofficial detention centres – including underground pits (*cachots souterrains*), freight containers and the homes of security officials – particularly in areas of eastern DRC under the control of armed political groups." [11b] (p4) The following torture techniques were described as having occurred in RCD-Goma detention, North Kivu Province in January 2003: "They had a hot iron pressed on their backs and heavy weights attached to their testicles, and were suspended upside-down for long periods. A woman detainee reportedly had gunpowder set alight close to her breasts and her thumbnails ripped out. No action was taken against the perpetrators." [11b] (p4)

5.42 A further AI report of 26 October 2004 'Mass rape - Time for remedies' referred to the use of sexual violence and torture by soldiers in eastern DRC. [11d] (Introduction)

See also Section 6B Women

5.43 USSD 2004 detailed a number of cases of torture and cruel treatment by members of the security forces and armed groups, and stated "The law prohibits torture; however, in areas under government control, security forces and prison officials often beat and tortured detainees and prisoners. There were also unconfirmed reports that members of the security services tortured or abused civilians to settle personal disputes for themselves or other government officials." [3f] (Section 1c)

Death Penalty

5.44 The AI Report for 2004, reporting on events in 2003, also stated that "On 7 January [2003], 15 people were executed in secret in Kinshasa, the first executions known to have taken place since December 2000 and the first following the government's suspension in September 2002 of a moratorium on the death penalty. . . . The Military Court, which had conducted unfair trials and sentenced to death large numbers of people, including civilians, was abolished by presidential decree in April. Other courts continued to sentence prisoners to death." [11b] (p5)

5.45 USSD 2004 reported that in October 2004, the High Military Court convicted Colonel Charles Alamba, former prosecutor of the disbanded Military Order Court

(COM) and several others of murder, mutilation, and extortion and sentenced them to death. [3f] (Section 1a)

5.46 Persons sentenced to death for involvement in the assassination of President Laurent Kabila remained in prison. [30] (p7)

See also Section 6C Assassination of President Laurent Kabila

[Return to Contents](#)

Internal Security

5.47 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) reported as follows:

"In areas under government control, security forces consisted of a national police force and an immigration service, both under the Ministry of Interior; the National Intelligence Agency (ANR) and the Special Group for Presidential Security (GSSP), both reporting directly to the President; and the Congolese Armed Forces (FARDC), which were integrated at the regional headquarters level by year's end. The military's intelligence service, which reports to the President, continued to operate. The FARDC was responsible for external security, but also had domestic security responsibilities. Civilian authorities did not maintain effective control of the security forces, and there were frequent instances in which elements of the security forces acted independently of government authority. In addition, different individuals of the same security service effectively had different chains of command and often responded to orders from different individuals, including former commanders and political leaders whom they had followed before the Government was established." [3f] (Overview)

5.48 A Fact-Finding Mission Report on the DRC by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA) dated October 2002 noted that there are a number of security agencies. [24a] (p9) These include DEMIAP (Detection Militaire des Activités Anti-Patrie / Military Detection of Anti-Patriotic Activities). DEMIAP is formally answerable to the staff of the Congolese armed forces (Forces Armées Congolais - FAC) It is subdivided into internal and external departments. The internal section has a prison known as Ouagadougou. [24a] (p9)

5.49 The same report advised that the ANR was set up in 1997 to replace SNIP (National Service for Intelligence and Protection) and has made efforts to remedy the worst abuses. Most of the ANR's illegal prisons have been closed in recent years, except for those at ANR/Fleuve and ANR/Lemera. This service is subdivided into a Department for Internal Security (ANR/DSI) and a Department

for External Security (ANR/DSE), both run by a Director General. In March 2001, Kazadi Nyembwe was appointed general administrator of ANR. [24a] (p9)

5.50 Regarding the GSP (Garde Spéciale Présidentielle), the CEDOCA report stated "This special department consists of President Kabila's Praetorian Guard and was set up to replace the no less infamous Special Presidential Division of former President Mobutu. Starting off with the name GSSP, this Guard has had several name changes." [24a] (p9)

5.51 The CEDOCA Report also stated that the Congolese National Police (Police Nationale Congolaise) (PNC) was formed on 7 June 1997 to replace the National Guard and the Gendarmerie, and was run by the Police General Inspectorate (l'Inspection Générale de Police). [24a] (p9) The PNC is made up of Communal Police (Police Communale) (PC); Rapid Intervention Police (Police d'Intervention Rapide) (PIR); Internal Police (Police des Polices) (PP); Special Transport Police (Police Speciale de Roulage) (PSR). The uniform of the PNC and the PIR was reported as all blue or all black, and the uniform of the PP and PSR as yellow shirt and blue trousers (often with a yellow line). [24a] (p10)

5.52 CEDOCA also stated that the General Migration department (Direction Générale de Migration) (DGM) was responsible for border control, among other things. It succeeded the former National Immigration Agency (ANI). [24a] (p10)

5.53 CEDOCA also stated that the Special Intervention Forces (Forces d'Intervention Spéciale) (FIS) were formed from part of the GSP and part of the former 50th Brigade, now the 7th Military Region and their headquarters were in the military camp of Kokolo. [24a] (p10)

5.54 USSD 2004 also stated "By year's end, the national police force remained only partially integrated into the national command structure. National police handled basic criminal cases and traffic patrol. The Rapid Intervention Police was generally responsible for crowd control. Although the Government worked with MONUC and members of the international community to train police, police forces generally remained ineffective and corrupt. During the year, members of the police, military, and security forces attacked, detained, robbed, and extorted money from civilians." [3f] (Section 1d) The same source also stated "The law prohibits such actions [arbitrary interference with privacy, family, home or correspondence]; however, in areas under government control members of the security forces routinely ignored these provisions in practice. Members of security forces and deserters from the army and police continued to harass and rob citizens." [3f] (Section 1f)

See also Section 5 Legal Rights/Detention

[Return to Contents](#)

Prisons and Prison Conditions

5.55 A report issued by the Refugee Documentation Centre, Ireland, in May 2002 on prisons in the DRC described the prison system in the DRC. [12] (p3)

5.56 A report by the United Nations (UN) Special Rapporteur for the DRC in March 2004 stated:

"Most prisons date from the colonial period and are in a very advanced state of decay. The State is unable to guarantee food for prisoners. Most of them are fed by their families or by humanitarian NGOs. . . . Given the state of the prisons, the standard minimum rules on the separation of male and female, minor and adult, and petty and serious offenders are not respected and, owing to the shortage of resources, detainees who are taken ill and need specialized care are not transferred to hospital in time. As a result, several detainees have died from a lack of proper medical care. . . . Special attention needs to be paid to the situation of women in prisons. . . . The perimeters surrounding most prisons are not sound enough to make them secure. Escapes are commonplace." [55b] (p17)

5.57 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) reported a number of serious concerns about prison conditions. It stated "Conditions in most large, central prisons were harsh and life threatening. The penal system continued to suffer from severe shortages of funds and trained personnel. Most prisons were in a poor state of repair, lacked sanitation facilities, or were not designed to detain persons. Makala remained overcrowded. Health care and medical attention remained inadequate, and infectious diseases, including tuberculosis, were a problem." [3f] (Section 1c) The same source stated that Government-provided food remained inadequate and malnutrition was widespread. [3f] (Section 1c) USSD 2004 also reported "Women and juveniles sometimes were detained separately from men in larger prisons but were not separated in other detention facilities. There were numerous credible reports that male prisoners raped other prisoners, including men, women and children." [3f] (Section 1c)

5.58 USSD 2004 also stated that "The Government allowed the International Committee of the Red Cross (ICRC) and many NGOs access to all official detention facilities; however, the ICRC and other NGOs did not have access to illegal detention facilities maintained by security forces." [3f] (Section 1c) The International Committee of the Red Cross (ICRC) Annual Report for 2003 published in June 2004 stated that they carried out a programme of prison visits which included 59 places of detention and 274 visits. The ICRC also assisted with food, health and hygiene improvements. [33]

5.59 A report in April 2004 by the United Nations Mission for Congo (MONUC) on Detention in the Prisons and Detention cells of the DRC, based on a series of visits in 2002 and the first 6 months of 2003, stated that the conditions of detention in the prisons were unacceptable and there were serious deficiencies in food, hygiene and healthcare. The MONUC report made a series of recommendations. These included a prison monitoring body and measures to stamp out illegal detention, reduce the number of people held in preventive detention and limit its duration, improve the penal system and conditions of detention, give protection to women and minors in jail, and rehabilitate prisoners. [56a] (p39-44)

5.60 A further MONUC report publicised by IRIN on 17 December 2004 found that more than 50 inmates died in prisons in 2004 as a result of malnutrition. The report stated that 43 of these deaths were in Mbuji-Mayi prison, in the province of Kasai Occidental, also that 40 other inmates of that prison were severely malnourished, and a further 76 were moderately malnourished. [18a]

[Return to Contents](#)

5.61 USSD 2004 also reported:

"Conditions in smaller legal and illegal detention facilities were harsher than in larger prisons, and an unknown number of persons died. These facilities were overcrowded and generally intended for short-term pretrial detentions; however, in practice they were often used for lengthy detentions. Authorities often arbitrarily beat or tortured detainees. There usually were no toilets, mattresses, or medical care, and inmates often received insufficient amounts of light, air, and water. Such detention centers generally operated without a budget and with minimal regulation or oversight. Local prison authorities or influential individuals frequently barred visitors or severely mistreated particular detainees. Prison guards frequently required bribes from family members and NGOs to visit or provide detainees with food and other necessities." [3f] (Section 1c)

5.62 The same source also stated "The security services, particularly the ANR, military intelligence, and the GSSP, continued to operate numerous illegal detention facilities. Conditions in these facilities were extremely harsh and life threatening. Detainees were regularly abused, beaten, and tortured. Facilities lacked adequate food and water, toilets, mattresses, and medical care, and authorities routinely denied access to family members, friends, and lawyers." [3g] (Section 1c)

5.63 USSD 2004 stated that:

"Prison conditions in areas under marginal government control were extremely harsh and life-threatening. Most detention facilities were not designed as jails. Detainees often were kept in overcrowded rooms with little or no light or ventilation and sometimes were detained in small pits dug by various armed

groups. Detainees typically slept in small, overcrowded cells on cement or dirt floors without bedding and had no access to sanitation, potable water, toilets, or adequate medical care. Infectious diseases were widespread. Detainees were provided very little food, and guards demanded bribes to allow family members or friends to bring food to prisoners. Prisoners frequently were subjected to torture, beatings, and other abuse with no medical attention." [37] (Section 1c)

5.64 A report by the United Nations (UN) Special Rapporteur for the DRC in March 2004 also noted that there were still small dug out punishment cells (cachots) in a number of locations in the Kivu provinces, where military and civilians were often detained in inhuman conditions and torture was practised. [55b] (p18)

5.65 During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, it was stated that it was generally possible to bribe one's way out of custody, including military custody. However, it would be more difficult to do so in the case of a high security category, especially in the case of the CPRK in Kinshasa. [52] (p93)

[Return to Contents](#)

Military Service

5.66 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa) recorded that the agreement on power sharing in June 2003 included a new unified armed forces, which was to incorporate elements of all the former rebel groups and the Mai-Mai militia, former RCD-Goma and the MLC. [1] (p282) The same source recorded that the new Chiefs of Staff were inaugurated in September 2003. [1] (p282) A report by the Integrated Regional Information Networks (IRIN) on 5 September 2003 advised that at the inauguration ceremony all officers pledged allegiance to the Forces Armée de la République Démocratique du Congo (FARDC), although some debate remained as to what the new force would be called. [187]

5.67 The Secretary General of the United Nations (UN) stated in a report to the UN Security Council on 16 August 2004 that there had been a lack of progress on military integration in the country. [54b] (p4) In a further report on 31 December 2004 the UN Secretary-General noted:

"A number of bilateral donors are providing technical assistance for the reform and integration of the armed forces of the Democratic Republic of the Congo, including Angola, Belgium, France and South Africa. . . . In this connection, there has been little concrete progress on military integration and reform since the submission of my last report, on 16 August 2004 (S/2004/650). As a

consequence, parallel chains of command persist and military units are under-resourced and cannot sustain long-term operations. In the absence of concrete progress in defence-sector reform, disarmament, demobilization and reintegration, while officially launched at the end of June 2004, has yet to be implemented." [54d] (p6)

5.68 The Economist Intelligence Unit (EIU) Country Profile 2004 also stated:

"Although the government has created 11 military regions and appointed military commanders to these regions, the distribution of armed forces on the ground is much the same as it was when the ceasefire agreement was signed in early 2001. As a result, these forces retain their loyalty to the rebel group for which they fought during the war rather than to a new national army and the transitional government. An integrated command structure exists only in theory, and the forces on the ground continue to answer to their former commanders. This is a particular problem in military regions whose commander is from the rebel group that previously controlled the area, as is the case in the 8th military region (North Kivu province), which was previously largely under the control of the RCD-Goma." [30] (p9)

5.69 In January and February 2005 Human Rights Watch and the president of the International Centre for Transitional Justice and UN Special Adviser to the United Nations Secretary-General on the Prevention of Genocide reportedly expressed concern at the appointment of senior officers in the Ituri region, who were implicated in serious human rights abuses. [5] [18aq]

See also Section 6C Security Situation Ituri

[Return to Contents](#)

Treatment of Deserters and Conscientious Objectors

5.70 War Resisters' International (WRI) in 1998 stated the following:

"Draft evasion and desertion

penalties

Desertion is punishable under chapter I, section III of the Code of Military Justice. Penalties given are described as penal servitude (*servitude pénale*), which may be imprisonment as well as forced labour in a camp.

Desertion in the country is punishable by 2 months to 10 years' penal servitude in peacetime; up to life-long penal servitude or even the death penalty in wartime, during a state of emergency, or during a police operation to maintain public order (art. 410).

If two desert together, this is considered desertion with conspiracy and may be punished by 2 to 20 years' penal servitude in peacetime; up to life-long penal servitude or even the death penalty in wartime (art. 411).

Desertion abroad is punishable by 6 months to 10 years' penal servitude in peacetime; up to life-long penal servitude or even the death penalty in wartime (arts. 416-418).

In aggravating circumstances, such as desertion during active service, desertion with the taking of arms or desertion with conspiracy, the punishment may be from 3 to 10 years' penal servitude (art. 417).

Desertion and running over to another armed group is punishable by 10 to 20 years' penal servitude in peacetime, and execution in wartime (art. 419).

Desertion in front of the enemy will be punished by execution. This also applies to civilians who form part of a military unit (arts. 420-422).

practice

No information available." [9]

5.71 WRI also reported that there was provision for conscription in the 1964 constitution, however this was not enforced under the Mobutu regime. [9] A letter from the British Embassy in Kinshasa in December 2001 stated that there was no compulsory military service scheme and recruitment into the Congolese armed forces was on a voluntary basis only. The same letter stated "Desertion in peacetime and in wartime is dealt with under ordinance-law No 72/060 of 25 September 1972, articles 409-425 of the Code of Military Justice. In peacetime desertion is punishable by 2 months to 10 years penal servitude; up to life-long penal servitude or even the death penalty in wartime, during a state of emergency, or during a police operation to maintain public order (article 10). . . . A soldier has no right to refuse to fight on moral or conscientious grounds. Such an act is considered as desertion or high treason and treated as such." [22d]

5.72 WRI also noted that the legal basis of conscientious objection was uncertain, however, as conscription was not enforced it was unlikely that the provision had been used. [9]

See also Section 6B Child Soldiers

[Return to Contents](#)

Medical Services

5.73 The Economist Intelligence Unit (EIU) 2004 Country Profile Report advised that medical services have been severely disrupted and degraded by the effects of years of war and economic collapse, and the opening up of some areas since the end of the civil war has revealed the extent of the disruption to social services. [30] (p19) The report stated "Many areas have not had medical supplies for several years. Of the country's 306 health centres, less than 60% have

vaccination facilities." [30] (p19) The same source stated "Hospitals and other health infrastructure face serious staffing, supply and payment problems, and many have largely ceased functioning. Patients must often provide or purchase their own medical supplies. Private clinics operate in most of the larger towns. Christian missionaries play a prominent role and, in many areas, provide the only health services available." [30] (p19-20)

5.74 The National Health Plan 2004 of the DRC Ministry of Health stated "The destruction of the economic and social infrastructures has resulted in an increase in the rate of unemployment, the pauperisation of the population and has substantially reduced access to basic social services including health services." [28] The same source stated that the country's eleven provinces are subdivided into health zones. The National Health Plan 2004 characterised three areas of the country - east, central and west. The western area, including Kinshasa, was described as being in a development phase and having a stable population, functional structures and essential facilities. [28]

5.75 Data from the World Health Organisation (WHO) indicated that life expectancy averaged 43.5 years (2002 figures), including an expected 15 years loss of life due to ill health. Public expenditure on health was very low. [16a] [16b]

5.76 The International Rescue Committee (IRC) reported the results of a nationwide health study in 2004, finding that deaths in the DRC were one third higher than the average rate for sub-Saharan Africa, and that most deaths were from easily preventable and treatable diseases. Fever/malaria, diarrhoea, respiratory infections, and malnutrition were the principal causes of death, together accounting for more than 50% of deaths in both the East and the West. Children under five years of age were at particular risk from these diseases, with malnutrition as a primary or a contributing cause. Death rates were more than one third higher in the unstable eastern provinces. [50] (p11)

5.77 A report by Amnesty International (AI) 'Mass rape - Time for Remedies' dated 26 October 2004 drew attention to the use of violence, rape and sexual assault by combatant forces, leaving many men, women and children in need of medical treatment. The report called for restoration of a sustainable health care system. [11d] (Introduction) The Médecins sans frontières (MSF) Annual Activity Report article on the DRC 'A never ending health crisis' of 6 December 2004 also stated "During the past year it has become increasingly clear that sexual violence, mostly against women, has been a terrifying reality for people during the years of war." The report detailed a number of places, including Baraka, Bunia, Kisangani and Kinshasa, where MSF is providing medical care and counselling. [29c]

See also Section 6B Women; Section 6B Children; Section 6C Security Situation - Eastern DRC; Section 6C Internally Displaced Persons; Section 6C Humanitarian Aid/International Assistance

5.78 A country report by the Swiss Federal Office for Refugees dated September 2001 stated that:

"There are various types of medical facilities in Kinshasa which are:

- the public hospitals, such as the Kinshasa General Hospital (HGK, formerly the Mama Yemo Hospital) or the Ngaliema Clinic
- the private hospitals and clinics
- the company hospitals and dispensaries
- the hospitals and dispensaries run by churches or the non-governmental organisations." [10] (p8)

5.79 The Swiss report also stated "Public health facilities are in a poor state. Doctors are underpaid. . . . That said, the Democratic Republic of Congo still has good specialists but these doctors lack good facilities." The same source noted "Without modern or sophisticated equipment, Congolese doctors often act purposefully and effectively. Having a great deal of experience in dealing with the most widespread local diseases, they provide quality treatment, without much in the way of resources." [10] (p8)

5.80 The same report stated:

"The most disadvantaged Kinois [inhabitants of Kinshasa] cannot pay the sums necessary for treatment and are excluded from the public health system, which has resulted in the resurgence of diseases that had almost disappeared (especially malaria). These poorest patients can sometimes have the benefit of being taken care of at low cost, or even free of charge, by the health care facilities run by the religious communities (the Catholic Church and the Church of Christ in the Congo in particular) or by non-governmental organisations. The Salvation Army has, for example, a Health Department that administers several health establishments throughout the country, in particular in Bas-Congo (19 structures), in the Eastern Province, in Eastern Kasai and in Kinshasa. In the capital, it has nine medical establishments, among which there is a hospital and a surgery centre, an ophthalmic clinic and a maternity centre (the Bomoï Maternity Centre in Ndjili which deals with about 3,000 births a year). According to Dr Nku, Head of the Health Department, the aim of the Salvation Army - which employs 250 people in the health sector (including four full-time doctors, five part-time doctors, two dental surgeons and 155 nurses) - is to provide quality treatment at the lowest rates. Thus, according to their own estimates, the Salvation Army in Kinshasa takes care of more than 200,000 patients a year, 3,000 of which are suffering from tuberculosis and 1,500 from diabetes." [10] (p8)

5.81 The same Swiss report also noted that "A wide range of medical treatment is available in Kinshasa. There are few diseases (even chronic ones) or operations that cannot be dealt with in the country as long as the patient has the financial means." [10] (p9)

5.82 The Foreign and Commonwealth Office Travel Advice (last updated 21 February 2005) stated "The Centre Prive d'Urgence (CPU) clinic in Kinshasa is able to cope with basic health problems and to stabilise a patient after most serious accidents. . . . Outside Kinshasa western standard medical facilities are practically non-existent." [22] The British Embassy in Kinshasa in January 2001 advised that "The general hospital of Kinshasa has a medical structure to care for diabetics, about 100 cases per month. There are also medical centres, such as the Salvation Army, the University Clinic of Kinshasa, Ngaliema Clinic and approximately 24 centres scattered. . . . Insulin is available at about 1500 FC or about US\$8.33. The interior of the country is less well equipped." [22b]

5.83 The WHO Tuberculosis (TB) Control Country Profile Report 2004 noted that decentralised control and weak access to the under-developed primary health care system was a serious obstacle to improving TB control in the country. However, the report also stated:

"Case notifications are relatively high among young adults, a pattern that is characteristic of countries in which a high proportion of TB patients are infected with HIV (24% in DRC). Seventy per cent of the population had access, in principle to DOTS [Directly Observed Treatment Short Course] by the end of 2002. . . . These figures are surprisingly high, given that DR Congo has an underdeveloped primary health care system, and contact with the health services is often difficult, especially in the eastern provinces. Treatment success was 77% in the 2001 cohort, with a default rate over 10%." [16c]

5.84 Aid agencies have also initiated preventive vaccination campaigns, particularly for children. These include polio and measles. [18d] [29a]

[Return to Contents](#)

HIV/AIDS

5.85 The 2004 Epidemiological Fact Sheet by WHO and UNAIDS/UNICEF estimated a total of 1,100,000 adults and children with HIV/AIDS at end-2003. [61a] (p2) The UNAIDS Epidemic Update Report of December 2004 stated that HIV national adult prevalence had edged below 5%, with parts of the south of the country remaining the worst affected. [61b] (p30)

5.86 The EIU 2004 Country Profile stated that

"According to data from UNAIDS, the UN body co-ordinating the fight against HIV/AIDS, the adult rate of HIV/AIDS infection in the DRC was 4.2% at end-2003. Government data indicated a rate of 5.1% in 2000, based on samples taken in several of the country's largest urban areas, such as Kinshasa, Lubumbashi, Mbuji-Mayi and Mbandaka. Both figures probably underestimate the extent of the problem as they are below those of many of the country's neighbours. It is impossible to arrive at accurate figures for the extent of infection given the country's vast territory. . . . Current public health strategies for combating the incidence of HIV/AIDS are based on the promotion of simple preventative methods including the use of condoms and public awareness. NGOs, both foreign and local, have been involved in public health programmes dealing with HIV/AIDS. The Ministry of Health has had an AIDS prevention programme in place since the mid-1980s, but it has been chronically underfunded. HIV and AIDS still remain taboo subjects and people infected are frequently ostracised." [30] (p20)

5.87 The UNAIDS Country Level Progress Report of September 2004 stated that more recent data indicated a much higher prevalence rate in the east of the country, and the major role of the civil war in recent years. It also noted the issues of behavioural information and of sexual violence in spreading the epidemic. The report also listed major external funding by international governments and organisations, and measures aimed at youth, the uniformed services, child soldiers, and community and church-based organisations. [61c] (p112-113)

5.88 IRIN reported in October 2003 that MSF had begun providing free treatment with anti-retroviral drugs in Bukavu and intended to open another clinic in Kinshasa. [18g] The MSF Annual Activity Report 2004 also stated "The organization has developed a comprehensive program in Lubumbashi, Kisangani, Mbandaka and the nation's capital, Kinshasa, to fight sexually transmitted infections among those carrying out high-risk behavior, especially commercial sex workers." [29c] MSF also reported on 15 October 2004 about its AIDS projects, which had been running in Bukavu and in Kinshasa for a year. Both were providing ARV treatment. The report stated:

"In total there are now more than 456 people (127 in Bukavu and 329 in Kinshasa) under MSF-supported ARV treatment in the DRC. The HIV virus is spreading fast in DRC. Unlike many other countries in southern Africa, there is no reliable data about the exact prevalence of the disease. There are many risk factors though, such as high rates of sexual violence, population displacement caused by war and lack of access to preventative health care, that suggest that the global AIDS epidemic is beginning to hit DRC hard. . . . In Kinshasa, with a population of seven million, the prevalence rate is estimated at 3.8%, although the figure for the east of the country is thought to be far worse than the national average." [29b]

5.89 The same MSF article and the UNAIDS epidemiological fact sheets on HIV/AIDS and sexually transmitted infections of 1 September 2004 stated that 160,000 adults needed ARV treatment in the DRC at June 2004, and that 2500 were receiving this treatment. [29b] [61a] (p9) A report of 23 October 2004 from Radio Bukavu indicated that anti-retroviral tablets would be produced by a Congolese pharmaceutical company by January 2005. [67]

[Return to Contents](#)

Mental Health

5.90 The World Health Organisation (WHO) in 2001 reported that mental health policies, programme and legislation were present. Also, treatment was present in the primary health care system. However, no specific budget had been allocated for mental health. The following therapeutic drugs were generally available at the primary health care level: Carbamazepine, Phenobarbital, Phenytoinsodium, Amitriptyline, Chlorpromazine, Diazepam, Haloperidol, Levodopa. [16d]

5.91 A Swiss Federal Office for Refugees report dated September 2001 stated that:

"The most widespread mental illnesses in the Democratic Republic of Congo are states of agitation of infectious origin (especially the neuropsychiatric consequences of these diseases), schizophrenia and illnesses connected with drug addiction. Mental diseases can generally be taken care of in Kinshasa. This is particularly the case with depression, war traumas, post-traumatic stress syndrome (PTSD) and schizophrenia. Competent doctors practice on the spot and medicines are normally available. In the capital, there are about 22 psychiatrists. According to the Director of the CNPP, all the medicines figuring on the list of the World Health Organisation are available in Kinshasa except preparations with a heroine [sic] base." [10] (p10)

5.92 The same Swiss report stated:

"For essentially cultural reasons, the Congolese do not as a rule consult specialists in the field of psychiatry. If a person shows mood or personality disorder problems, his relations will firstly believe that he is the victim of a spell and that someone is trying to harm the family. The first reaction is to practice sorcery or prayer to 'overcome the spell'. It is only as a last recourse that the Congolese will consult a psychiatrist." [10] (p10)

5.93 The same report continued:

"In this field, public facilities are rare and those that exist are dilapidated. This is especially the case with the principal psychiatric unit in Kinshasa, the Neuro-Psycho-Pathological Centre (CNPP) of Mount Amba. . . . At the present time,

the hospital provides the initial consultation, diagnosis and therapy free of charge. The rest is chargeable to the patients and their families (specific treatments, medicines, food, bed linen, etc). Hospitalisation tax varies from 1,000 FC (US\$3.50) to 6,000 FC (US\$20), according to the patient's financial means. Besides the CNPP, Professor Kinsala directs his own private psychiatric clinic - the House of Rest and Post-Treatment in Lemba-Righini." [10] (p10)

5.94 The Swiss report also noted:

"In Kinshasa, there is also a small centre specialising in neuropsychiatry, the Kakuambi Centre. Some other hospitals, clinics and medical centres (such as the Dr. Lelo Medical Centre) offer, along with general medicine, some beds for psychiatric and psychological treatment. The CNPP in Kinkole (Bas-Congo), for its part, has been transformed into a general hospital." [10] (p10)

People with Disabilities

5.95 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) stated:

"Persons with disabilities were subjected to discrimination in employment, education, and the provision of other government services. Persons with disabilities were exempt from some civil laws, such as paying some taxes, or in some cases, paying customs duties. The law does not mandate accessibility to buildings or government services for persons with disabilities. There were some special private schools that used private funds and limited public support to provide education and vocational training to students who were blind or had physical disabilities." [31] (Section 5)

5.96 Care for handicapped people is given in some cities, such as Kinshasa, Mbuji Mayi and Kisangani, by an international organisation, Handicap International. This includes supporting a Centre for the Rehabilitation of Handicapped People (CRHP) in Kinshasa. [32]

[Return to Contents](#)

Educational System

5.97 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa) recorded that:

"Primary education, beginning at age 6 and lasting for six years, is officially compulsory. Secondary education, which is not officially compulsory, begins at 12 years of age and lasts for up to six years, comprising a first cycle of two years and a second of four years. . . . There are four universities, located at Kinshasa, Kinshasa/Limeté, Kisangani and Lubumbashi." [1] (p317) The same

source stated "As a result of the prolonged civil conflict, government funding for education was effectively suspended, contributing to a decline in enrolment. In addition large numbers of children had been internally displaced or recruited by combatant factions. In 2002 an emergency programme for education with an estimated cost of US\$101m, was introduced to restore rapidly access to basic education." [1] (p317)

5.98 Data published by the United Nations Children's Fund (UNICEF) in the report 'State of the World's Children' indicated that the net primary school attendance for 1996-2003 was 51 per cent. [59c] (p106) UNICEF also reported that the total adult literacy rate was 73% for men and 50% for women (2000 data). [59c] (p122)

5.99 The Economist Intelligence Unit (EIU) April 2004 Country Profile Report on the DRC stated:

"The formal education system is in a state of collapse and education continues with the help of private initiatives, including the direct payment of teachers by the communities they serve. The proportion of government expenditure allocated to education fell from 15.1% in 1972 to only 0.8% in 1995. Although education was officially nationalised in 1972, the Catholic Church remains responsible for an estimated 80% of primary schools and 60% of secondary schools, largely because of the collapse of the state sector. Despite the uptake from the private sector, fewer children are attending school. The net primary school enrolment ratio officially fell from 58% in 1985/87 to 35% in 1998/99 (according to the latest available data) and has undoubtedly fallen further since then. This trend compromises the future productivity of Congolese labour and threatens the country's long-term development prospects. The net secondary enrolment ratio was 12% in 1998/99. There are four national universities: two in Kinshasa, one in Kisangani and one in Lubumbashi. There are also a large number of institutes of higher education throughout the country." [30] (p19)

5.100 In comments prepared for the Advisory Panel on Country Information meeting on 8 March 2005 UNHCR stated "In 2004, there were 3 public universities in Kinshasa, Lubumbashi and Kisangani and several private universities in the whole country." [60d]

[Return to Contents](#)

6. HUMAN RIGHTS

6.A Human Rights Issues

General

6.1 International organisations, including Human Rights Watch, (HRW), Amnesty International (AI), and the International Crisis Group (ICG) have issued reports in the past year drawing attention to continuing serious abuses of human rights in the DRC, and the fragile nature of the transitional government. [5k] (Overview) [11d] (Introduction) [39a] (Overview) [39c] (Overview) Reports by many observers such as the 2004 Country Profile by the Economist Intelligence Unit, Amnesty International (AI), Human Rights Watch (HRW) and the International Crisis Group (ICG) commented that the various factions of the previous conflict had failed to put aside their competing interests in favour of national unity. [5k] (Overview) [11d] (Background) [30] (p9) [39a] (Overview) [3b] (Overview)

6.2 The International Crisis Group (ICG), in a report of 7 July 2004, 'Back from the Brink in the Congo' noted that "The Congo is in transition from a country ravaged by a major war to what is intended to become a reunified polity legitimised by democratic elections." [39a] (Overview) In a further report 'Back to the Brink in the Congo' dated 17 December 2004, the ICG referred to the continuing instability in the east of the country, rooted in the failure to deal with security issues, and the faltering political process in Kinshasa. [39c] (Overview)

6.3 The HRW World Report 2005, commenting on events in 2004, stated "After eighteen months in power, the transitional government of the Democratic Republic of Congo (DRC) remains fragile, far from its goals of peace and effective administration of this huge central African nation." The same source stated:

"Local and national officials continue to harass, arbitrarily arrest, or beat journalists, civil society activists, and ordinary citizens. Combatants of armed groups, including those officially integrated into the national army, continue to prey upon civilian populations, collecting illegal 'taxes' and extorting money through illegal detention or torture." and "The pervasive culture of impunity is one of the greatest obstacles to lasting peace as well as to ensuring civil and political rights in the DRC" [5k] (Civil and Political Rights)

6.4 The latest report of 31 December 2004 to the UN (United Nations) Security Council by the UN Secretary-General stated that the human rights situation had not improved since his previous report of 16 August 2004. [54d] (p13) The UN Special Rapporteur also commented on 10 March 2004 "Impunity and reconciliation are major issues confronting Congolese society." [55b] (p10)

6.5 The Country Profile 2004 by the Economist Intelligence Unit (EIU) commented that;

"More than a year into the transition, little progress has been made on such key matters as reconstituting the armed forces (to incorporate former rebel fighters) and extending the authority of the transitional government throughout the country (into former rebel-held areas). However, there has

been progress on the economic front, and the DRC now receives substantial foreign aid. Nonetheless, poverty levels are among the highest in the world and over 1m [million] Congolese are displaced." [30] (p4)

6.6 The Country Profile by the Foreign and Commonwealth Office (FCO) of 8 September 2004 also stated "The continued existence of the transitional government is fragile." and "However, the transitional government is remains [sic] the only viable route towards long-term peace in the DRC." [22h] (Politics) The FCO Profile also commented "The conflict has led to abuses of human rights and humanitarian standards by all sides. [22h] (Human Rights/Humanitarian)

6.7 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) reported that:

"In areas under central government control, the human rights record remained poor, and serious abuses occurred. Citizens did not have the right to change their government peacefully. Government security forces committed unlawful killings, torture, beatings, acts of rape, extortion, and other abuses, such as lootings and interference with citizens' right to privacy. In general, security forces operated with impunity." [3f] (Overview)

6.8 USSD 2004 also stated:

"The human rights record in areas under marginal government control remained extremely poor, and armed groups continued to commit numerous serious abuses, particularly in North and South Kivu, Maniema, northern Katanga and Ituri district in Orientale Province. Political freedom increased slightly during the year. Armed groups committed numerous, serious abuses with impunity against civilians, including deliberate large-scale killings, the burning of villages, kidnappings, torture, rape, cannibalism, mutilation, looting, and extortion." [3f] (Overview)

For further information see relevant sections, including Section 4 History Events of 2003; Section 4 History Events of 2004-2005; Section 5 Political System; Section 5 Legal Rights/Detention; Section 5 Torture; Section 5 Death Penalty; Section 5 Internal Security; Section 5 Military Service; Section 6A Freedom of Association and Assembly; Section 6B Women; Section 6B Children; Section 6C Security Situation - Eastern DRC; Section 6C Internally Displaced Persons

[Return to Contents](#)

Freedom of Speech and the Media

6.9 Articles 27 and 28 of the draft transitional constitution of March 2003 (translated and published by the South African-based Institute for Security Studies) provide for freedom of expression and freedom of speech. The draft

constitution also provided for a media authority. [27a] The United Nations (UN) Special Rapporteur reported on 10 March 2004 her deep concern about the current situation of five pro-democracy institutions, and the need to encourage these institutions, such as the High Authority for the Media, whose president was named as Modeste Mutinga. [55b] (p8) The Committee to Protect Journalists noted in its 2004 Report commenting on events in 2003 "The Democratic Republic of Congo's (DRC) transition constitution mandates the establishment of a High Authority on Media, a body meant to act both as a media watchdog and guarantor of press freedom." [19a]

6.10 Freedom House stated in the Freedom in the World report for 2004 that "Freedom of expression is limited, although the new constitution contains several articles intended to guarantee free expression, and the government has created a national law reform commission tasked with amending legislation that curtails the media." [66] (Political Rights and Civil Liberties)

6.11 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) reported:

"The law provides for freedom of speech and of the press; however, the Government sometimes restricted these rights in practice. During the year, there were approximately 30 reported instances where government agents arrested, detained, threatened, or abused members of the media. During the year journalists practiced self-censorship." The same source detailed a number of cases where comments by individuals and journalists had led to action by the authorities. These included the arrest and detention of Pastor Albert Lukusa, who was arrested and detained by the ANR in Lubumbashi after he gave a sermon criticising the government." [3f] (Section 2a)

[Return to Contents](#)

Journalists

6.12 A number of reports from human rights organisations, including Human Rights Watch (HRW), Reporters sans Frontières (RSF) [Reporters without Borders] and the Committee to Protect Journalists (CPJ), have drawn attention to cases of harassment of newspaper and broadcasting journalists by the authorities. [5k] (Civil and Political Rights) [7a] [7b] [19a] [19b] [19c] [19d] The HRW World Report 2005 commenting on events in 2004 stated "Local and national officials continue to harass, arbitrarily arrest, or beat journalists, civil society activists, and ordinary citizens." [5k] (Civil and Political Rights) Freedom House stated in the Freedom in the World report for 2004 that "Despite statutory protection, independent journalists are frequently threatened, arrested, or attacked." [66] (Political Rights and Civil Liberties)

6.13 RSF stated in its Annual Report 2004 commenting on events in 2003 that "Press freedom is gradually gaining ground in some of the cities, but the situation

was still worrying in the north and east of the country. A journalist was tortured and an AFP stringer was probably executed." [7b] (p1)

6.14 CPJ published numerous cases where journalists had been arrested or harassed by the authorities in 2004 and 2005. [19b] [19d] [19e] These included a special report in September 2004 about repressive action by the authorities and by rebel groups against journalists covering events in the area of Bukavu in 2004. [19a]

6.15 CPJ stated in its 2004 Country Summary Report, commenting on events in 2003:

"Congolese journalists have little protection from harassment, government-orchestrated or otherwise. They seldom have legal recourse, partly because of the high cost of legal representation, and partly because the judicial system is subject to influence from powerful local figures who are often the ones harassing journalists, according to local sources. Some local human rights organizations and press freedom groups, such as the Kinshasa-based Journaliste en Danger (JED), actively denounce abuses throughout the country. While JED has had some degree of success in raising awareness of the challenges faced by journalists, researchers at the organization say that court cases opened on behalf of local journalists are rarely resolved, and most often the perpetrators of harassment go unpunished. Attacks against the press are often orchestrated by powerful local figures, including private citizens, members of the government, and military and former rebel officials. The most common forms of harassment are arbitrary arrests, physical aggression, and intimidation; local sources say that police officers and members of the military are often paid to arrest and detain journalists." [19c] (p1)

6.16 USSD 2004 also stated: "During the year, government officials arrested, intimidated, harassed, and detained journalists, often without filing formal charges." [3f] (Section 2a) The same source stated "Unlike in the previous year, there were no reports of perceived threat of government harassment or intimidation resulting in self-censorship or the modification of lectures by professors, and academic freedom improved. In areas under marginal government control, armed groups and local authorities continued to severely restrict freedom of speech and of the press." [3f] (Section 2a)

6.17 The same source stated "The Ministry of Human Rights and the Ministry of Communication and Press continued to intervene on behalf of journalists facing prosecution and held occasional workshops. Unlike in the previous year, there were no reports of perceived threat of government harassment or intimidation resulting in self-censorship or the modification of lectures by professors, and academic freedom improved." [3f] (Section 2a)

6.18 USSD 2004 also reported that "In areas under marginal government control, armed groups and local authorities continued to severely restrict freedom of speech and the press." [3f] (Section 2a) USSD 2004 also stated: "During the year, JED continued to call for the decriminalization of certain press offenses included in the out-of-date Press Law." [3f] (Section 2a)

6.19 A Fact-Finding Mission Report on the DRC by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA) dated October 2002 stated "As far as attacks on press freedom are concerned, professional associations such as "Journaliste en Danger" [JED] specialising in the position of the press in the DRC, keep a record of almost all interrogations, arrests, incidents of censure, etc." [24a] (p19) JED is also a member of the IFEX group, a Canadian-based organisation which is managed by Canadian Journalists for Free Expression and publishes reports from JED on its website. [63b]

[Return to Contents](#)

Radio, Television and the Internet

6.20 The Economist Intelligence Unit (EIU) 2004 Country Profile stated:

"Private radio and television stations thrive in Kinshasa; most are domestically owned and run. Raga-TV, Tele-Kin Malebo, Antenne-A and Tropicana-TV are the most widely watched broadcasters. There is a large number of religious radio and television stations. The state-run radio and television network, Radio et télévision nationale congolaise (RTNC), broadcasts locally, having ceased national coverage over a decade ago. In early 2002 MONUC launched Radio Okapi, a national radio network which broadcasts from Kinshasa. It has established local FM stations in Bukavu, Bunia, Goma, Kalemie, Kananga, Kindu, Kisangani and Mbandaka, and relays in Mbuji-Mayi, Butembo and Lubumbashi, gathering and broadcasting material from over 100 correspondents in these areas. The station provides the only truly national service and has won respect for competent and unbiased coverage." [30] (p22)

6.21 Freedom House stated in the Freedom in the World report for 2004 "The UN broadcaster, Radio Okapi, has expanded its coverage of the country to include several local languages. Radio Maendeleo, one of the few independent radio stations in the eastern DRC, came back on the air in July after seven months of silence following its closure by the RCD. Officials said the station had violated the terms of its license by broadcasting political content. However, the station's new permission to operate remains subject to compliance with laws governing "public order and national security." . . . Although the government does not restrict access to the Internet, few people can afford the connection costs." [66] (Political Rights and Civil Liberties)

6.22 USSD 2004 reported that:

"Due to limited literacy and the high costs of newspapers and television, radio remained the most important medium of public information. Numerous privately owned radio stations and privately-owned television stations operated, as well as two state-owned radio stations and a state-owned television station. Major political parties represented in the Government were generally able to gain access to state radio and television, which covered activities of ex-rebels and opposition figures participating in the Government. Foreign journalists were able to operate in the country. For example, Radio Okapi, an independent radio station closely affiliated with MONUC, continued to broadcast national and local news and provide information on MONUC's mandate, activities, and demobilization and disarmament programs." [3f] (Section 2a)

See also Section 6C Armée de Victoire (Army of Victory Church)

6.23 The EIU 2004 Country Profile also stated "There are several local Internet service providers." [30] (p22) The same source noted however that "The state-owned fixed-line telephone operator, Office national des postes et télécommunications (OCPT), is close to collapse. As a result, the use of cellular services has surged since 1993, and subscriber numbers reached 560,000 in 2002. [30] (p22)

[Return to Contents](#)

Newspapers

6.24 A Fact-Finding Mission Report on the DRC by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA) dated October 2002 stated:

"Currently, there are 165 published titles but only about twenty newspapers appear regularly and only eight newspapers are published daily. . . . No newspaper is the government's mouthpiece, although the papers can be divided into categories of pro-government and pro-opposition. Some papers enjoy government support. The press in the DRC enjoys, relatively speaking, a lot of freedom and is first and foremost an 'opinion press' and not an 'information press'. Some newspapers and journalists take this task particularly to heart and sometimes write very cutting articles about one person or another. This is why some observers say that the problem with the press lies partly in the attitude of the journalists themselves, given that they do not always correctly apply ethical and moral prescriptions. Generally, we can confirm that Joseph Kabila is proving to be less repressive towards journalists than was his late father." [24a] (p18-19)

6.25 Freedom House also stated in the 2004 Freedom in the World report "At least 30 independent newspapers are published regularly in Kinshasa, but they are not widely circulated beyond the city." [66] (Political Rights and Civil Liberties)

6.26 However, the EIU 2004 Country Profile also stated "There are many newspapers in Kinshasa, but only a handful are regularly printed and read. The main opposition newspapers are *Le Potentiel*, *Le Phare*, *Tempête des Tropiques* and *La Référence Plus*. *Le Palmares* and *L'Avenir* are the two main pro-government newspapers. *Le Potentiel* has the largest circulation, at 4,000 copies a day. There are few newspapers in the rest of the country. However, since the resumption of national air traffic, the Kinshasa newspapers are getting to cities in the rest of the country, if only in small quantities." [30] (p22)

6.27 USSD 2004 further reported:

"The Government required each newspaper to pay a \$500 licensing fee and complete several administrative steps before it could publish legally. There was an active private press, and a large number of daily newspapers, mainly in urban areas, were licensed to publish. In general, journalists were poorly paid, lacked professional training, and were vulnerable to manipulation by wealthy individuals, government officials, and politicians who paid or provided other benefits to journalists to encourage them to write certain types of articles. However, many newspapers were highly critical of the Government. Although there was no official newspaper, the Government published the Daily Bulletin, which included decrees and official statements." [31] (Section 2a)

[Return to Contents](#)

Newspaper Articles

6.28 The CPJ report for 2003 stated that "[However,] limited financial resources hamper news gathering. Because journalists in the DRC remain severely underpaid, it is difficult for them to remain independent, and local sources say that many journalists are susceptible to bribes. According to JED, most local journalists have no contracts with their employers and often work on a project basis, so taking bribes is sometimes the only way journalists can support themselves." [19a] (p3) The RSF 2003 annual report stated that "In the course of the year [2002], several press and journalists' associations deplored the insults, defamation, unfounded rumour and inaccurate reporting that too often appeared in the Congolese press." [7a]

6.29 A Special Report on the DRC by the CPJ in September 2004 'Fragile Freedom' also stated "And though journalists believe that poverty is no excuse for keeping criminal sanctions for press offenses on the books, many who spoke with CPJ also expressed concerns about the quality of journalism in the DRC. They cited the weak economy, low salaries, and poor working conditions as threats to the independence of journalists and media outlets. According to Kabeya Pindi Pasi, president of the Congolese Press Union UNPC, most journalists do not have work contracts, and many lack training." [19e] (Low standards

and pay)

6.30 A Fact-Finding Mission Report on the DRC by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA) dated October 2002 stated:

"The relatively high price, that is 300FC (nearly US\$1) [of a newspaper] is an obstacle for many Congolese. Consequently, no Kinshasa newspaper has a circulation of more than 2,500. The poor economic circumstances and the small circulation also prevent the papers from generating sufficient advertising revenue. This precarious financial situation affects firstly the quality of the writing. To minimise salary costs, the papers often employ students or trainees. Similarly, the papers cannot call on experts to write specialised articles. The journalists' low or non-existent pay often exposes them to a 'thank you for the arrangements' situation. Politicians as well as other figures, therefore, can pay 'to alter the editorial lines'. A number of observers confirm quite frankly that some articles are bought. Dishonest people sometimes pay journalists to write an article. So, in this sort of article you may read that Mr X or Mrs Y has disappeared without a trace and that there are fears for his/her life. It is very difficult to discover these lies because when an attempt is made to check the facts, these articles prove to be "authentic" and actually published. . . . People with sufficient experience in this area still manage to decode these articles. The message is often all too clear and the tone overly moving." [24a] (p19)

[Return to Contents](#)

Freedom of Religion

Legal Framework

6.31 The US State Department (USSD) 2004 Religious Freedom Report on the DRC stated "The transitional constitution provides for freedom of religion, and the Government generally respects this right in practice." [3c] (Introduction) Freedom House stated in the Freedom in the World report for 2004 "Freedom of religion is respected in practice, although religious groups must register with the government to be recognized." [66] (Political Rights and Civil Liberties)

6.32 The USSD Religious Freedom Report also stated:

"The establishment and operation of religious institutions is provided for and regulated through a statutory order on the Regulation of Non-profit Associations and Public Utility Institutions. Requirements for the establishment of a religious organization are simple and generally are not subject to abuse. Exemption from taxation is among the benefits granted to religious organizations. A law regulating religious organizations grants civil servants the

power to recognize, suspend recognition of, or dissolve religious groups; however, this law was not invoked in the period covered in this report. Although the law restricts the process of recognition, officially recognized religions are free to establish places of worship and to train clergy. A 2001 decree allows nonprofit organizations, including religious organizations, to operate without restriction provided they register with the government by submitting a copy of their bylaws and constitution. The government requires practicing religious groups to be registered; however, in practice unregistered religious groups operate unhindered." [3c] (Section II)

Religious Groups

6.33 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa) recorded that "Many of the country's inhabitants follow traditional beliefs, which are mostly animistic. A large proportion of the population is Christian, predominantly Roman Catholic, and there are small Muslim, Jewish and Greek Orthodox communities." [1] (p312)

6.34 The USSD 2004 Religious Freedom Report on the DRC also stated:

"The country has a total area of 905,000 square miles, and its population is approximately 58 million. Approximately 50 percent of the population is Roman Catholic, 20 percent is Protestant, 10 percent is Kimbanguist, and 10 percent is Muslim. The remainder largely practices traditional indigenous religions. There are no statistics available on the percentage of atheists. Minority religious groups include, among others, Jehovah's Witnesses and the Church of Jesus Christ of Latter-day Saints (Mormons). There is no reliable data on active participation in religious services. Ethnic and political differences generally are not linked to religious differences. Foreign missionaries operate freely within the country. Missionary groups include Roman Catholic, Lutheran, Baptist, Evangelical, Mormon, and Jehovah's Witness. Most religious groups are scattered throughout the country and are widely represented in most cities and large towns. Muslims are mostly concentrated in the province of Maniema. Members of traditional Bunda dia Kongo reside predominately in Bas Congo." [3c] (Section I)

Religious Freedom

6.35 The USSD Religious Freedom Report stated "The generally amicable relationship among religions in society contributed to religious freedom; however, there continued to be credible reports that a number of children and elderly persons were accused of witchcraft and abandoned by their families." [3c] (Section III) The same source noted "Government policy and practiced [sic] contributed to the generally free practice of religion." [3c] (Section II)

6.36 The same report stated "In areas not under central government control, respect for religious freedom improved. Unlike in the period covered by the previous report, there were no reported instances of individual attacks against priests, parishioners, churches, parish property, and schools. No individuals responsible for cases from previous reporting periods have been charged, tried, or convicted of wrongdoing. There were no reports of religious prisoners or detainees." [3c] (Section II)

6.37 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) reported that "In areas under marginal government control, respect for religious freedom generally improved." [3f] (Section 2c)

See also Section 6C Bundu dia Kongo and Section 6C Armée de Victoire (Army of Victory Church)

[Return to Contents](#)

Freedom of Association and Assembly

6.38 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa) recorded that "In January 1999 a ban on the formation of political associations was officially ended, and in May 2001 remaining restrictions on the registration and operation of political parties were removed." [1] (p298) In comments prepared for the Advisory Panel on Country Information meeting on 8 March 2005 UNHCR stated "Procedures on registration and restrictions of political parties were ruled by law n. 90/007 of 18 July 18 1990, which was modified by the Law n. 90/009 of 18 December 1990, the Decree-Law n. 194 of 29 January 1999 and the law n. 001/2001 of 17 May 2001. Nowadays, the only law which is into force is the law n.04/002 of 15 March 2004." [60d]

6.39 The Economist Intelligence Unit (EIU) Country Profile 2004 also stated

"New legislation governing political activity was passed in 2004. Political parties are free to hold meetings and campaign, but must first register with the Ministry of the Interior. This last restriction, which has been in place since 1999, is contested by the main political parties, such as the Union pour la démocratie et le progrès social (UDPS), which argue that they have been registered as political parties since the national conference in the early 1990s, and do not need to do so again. There are dozens of small opposition parties, but few are of significance, frequently being the vehicle for individuals some of whom have made it into the transitional government as ministers." [30] (p12)

6.40 Freedom House stated in the Freedom in the World report for 2004 "The people of the Democratic Republic of Congo (DRC) have never been able to choose or change their government through democratic and peaceful means.

There are no elected representatives in the entire country. Infrastructure and institutions to support a free and fair election are almost entirely absent, although the United Nations is working with the government and the newly created Independent Electoral Commission to provide support for the presidential and legislative polls slated for 2005." [56] (Political Rights and Civil Liberties)

See also Section 5 Political Parties

6.41 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) detailed a number of occasions during 2004 on which freedom of association was restricted. It stated "The Transitional Constitution provides for freedom of association; however, in practice, the Government sometimes restricted this right. During the year, government authorities generally did not harass political parties, although there were some exceptions concerning the UDPS." [37] (Section 2b)

6.42 USSD 2004 also detailed a number of occasions during 2004 on which freedom of assembly was restricted and stated that:

"The Transitional Constitution provides for freedom of peaceful assembly; however, the Government restricted this right in practice. The Government considered the right to assemble to be subordinate to the maintenance of 'public order', and continued to require all organizers to inform the local city government before holding a public event. According to the law, organizers automatically have permission to hold an event unless the city government denies authorization in writing within 5 days of receiving the original notification. Some NGOs reported that in practice, the city administration sometimes denied authorization for an event, mostly on the grounds of preserving public order, after the 5-day period by backdating the correspondence. Government security services often dispersed unregistered unregistered protests, marches and meetings." [37] (Section 2b)

6.43 The same source reported "In areas under marginal government control, armed groups continued to restrict severely freedom of assembly and association." [37] (Section 2b)

[Return to Contents](#)

Political Activists

6.44 Freedom House also stated in the Freedom in the World report for 2004 "Freedom of assembly and association is limited. Numerous nongovernmental organizations, including human rights groups, operate despite intimidation and arrest. Despite the signing of the peace accord, Human Rights Watch recently reported that human rights workers in the DRC were under increasing attack, citing 20 cases of arrest, beating, and intimidation of human rights defenders, civil society activists, and independent journalists during a single three-month

period in 2003." [66] (Political Rights and Civil Liberties) The World Report 2005 by Human Rights Watch (HRW) commenting on events in 2004, stated "Local and national officials continue to harass, arbitrarily arrest, or beat journalists, civil society activists, and ordinary citizens" [5k] (Civil and Political Rights)

6.45 USSD 2004 stated that "During the year, the Government occasionally harassed opposition parties during private meetings. During the year, police occasionally arrested peaceful demonstrators" [3f] (Section 2b) The same source reported a number of occasions on which demonstrations and political meetings had been restricted or repressed, but also stated "Unlike in the previous year, there were no confirmed reports that security forces forcibly dispersed political party press conferences or rallies. The Government required political parties to apply for permits to hold press conferences; According to local NGOs, such permits sometimes were denied." [3f] (Section 2b)

6.46 A position paper by UNHCR dated 1 January 2005 stated that:

"Political parties continue to face repression in the DRC. Active membership in a political party, whether or not the party is recognized, may lead to difficulties with the authorities. The Government has reportedly been involved in arbitrary arrest, detention, torture and unfair trials, harsh prison conditions, restricted freedom of expression and assembly and the restriction of other civil and political rights of persons perceived to be government opponents. Members of several political parties (including UDPS) and their family members have been targets of such acts. UDPS party members are also subject to strict government controls over their meetings and protest marches in response to their alliance with RCD-Goma rather than the Government." [60b]

See also Section 5 Political System; Section 6C Treatment of Failed Asylum Seekers Returned to the DRC; Annex B Political Organisations

[Return to Contents](#)

Employment Rights

Trade Unions

6.47 The 2004 annual survey of violations of trade union rights by the International Confederation of Trade Unionists (ICFTU) commenting on events in 2003, stated:

"The legislation grants all categories of workers, with the exception of magistrates and military personnel, the right to organise. No prior authorisation is required to set up a trade union. The right to strike is recognised, although unions must have prior consent and adhere to lengthy mandatory arbitration and appeal procedures. The law prohibits employers from retaliating against strikers. The right to bargain collectively is also recognised. In the public

sector, however, the government sets wages by decree and the unions can only act in an advisory capacity. During the year, the government held meetings with the unions to discuss revising the Labour Code to bring it into line with international norms." [40]

6.48 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) stated "The law permits all workers, except magistrates and military personnel, to form without prior authorization and to join trade unions; workers formed unions in practice. Since the vast majority of the country's economy was in the informal sector, only a small percentage of the country's workers were organized. . . . In areas under marginal government control, there were no reports of functioning labor unions." [37] (Section 6a)

6.49 The ICFTU report noted that "In practice, the civil war and the collapse of the formal economy mean that there is very little respect for trade union rights. Employers ignore labour regulations and the government does not have the resources to enforce them. Soaring inflation and the constant depreciation of the Congolese Franc render any pay rises agreed through collective bargaining meaningless." [40]

6.50 Freedom House also stated in the Freedom in the World report for 2004 "More than 100 new independent unions were registered after the end of one party rule in 1990. Previously, all unions had to affiliate themselves with a confederation that was part of the ruling party. Some unions are affiliated with political parties, and labor leaders and activists have faced harassment. There is little union activity, owing to the breakdown of the country's formal (business) economy and its replacement by the black market." [56] (Political Rights and Civil Liberties)

See also Section 3 Economy

[Return to Contents](#)

Collective Bargaining

6.51 USSD 2004 reported that "The law provides for the right of unions to conduct activities without interference and the right to bargain collectively; however, in practice, the Government did not protect these rights, due in part to a lack of resources, and collective bargaining was not used in practice. In the public sector, the Government set wages by decree, and the unions could only act in an advisory capacity. [37] (Section 6a)

Strikes

6.52 USSD 2004 stated:

The law provides for the right to strike, and workers exercised this right in practice. . . . During the year, there was increased labor union activity, and

public sector unions organized several legal strikes to call for increased wages and back pay. The law prohibits employers or the Government from retaliating against strikers, but this prohibition was not enforced. . . . By year's end, most civil servants' salaries were not current, and most arrears had not been addressed. Some arrears were paid to certain workers with particularly effective unions or critical jobs. For example, striking air traffic controllers received some back pay, but striking customs officials did not." [3f] (Section 6b)

6.53 The ICFTU report referred to several cases where individuals involved in work-related protests and strikes had been attacked and arrested by police and military authorities. [40] A one day general strike occurred in Kinshasa in January 2005. [15]

See also Section 4 History Events of 2004-2005

Equal Employment Rights

6.54 Freedom House also stated in the Freedom in the World report for 2004 that women enjoy fewer educational and employment opportunities than men and often do not receive equal pay for equal work. [65] (Political Rights and Civil Liberties) USSD 2004 noted that women constituted the majority of primary agricultural labourers and small-scale traders, and commonly received less pay than men for comparable work. [3f] (Section 5)

6.55 USSD 2004 also stated "In areas under marginal government control, there were numerous reports that armed groups used forced labor." [3f] (Section 6c)

See also Section 6B Women and Section 6C Security Situation - Eastern DRC

Child Labour

6.56 A country report by the Canadian Immigration and Refugee Board of March 2004 on the situation of children noted that "Since 1999, the DRC has [also] been a signatory to the International Labour Organization (ILO) Convention No. 182, concerning the worst forms of child labour (ibid., para. 39; ILO 17 Oct. 2003; ibid. 21 June 2001; IBCR Mar. 2003, 3). This Convention prohibits, among other things, [translation] 'child trafficking and serfdom, forced child labour, and the forced recruitment of children for use in armed conflict' (CICR-Belgique 2001)" [43o]

6.57 A report in 2000 by the United Nations Committee on the Rights of the Child stated:

"Work performed by children is regulated by the Labour Code (Order No. 19/67 of 3 October 1967), which gives a child the capacity to enter into an employment contract (minimum age 14 years, maximum 18 years, according to the case); regulates conditions and hours of work and the nature of the work

on which the child may be employed and stipulates the penalties applicable. Once again, and particularly in this area, practice falls far short of theory. Not only are the beneficiaries (parents and children) often unaware of their rights; in addition, current economic conditions make for violations in the sphere of child labour, which often takes place in the informal or unstructured sector or involves living by one's wits." [58] (p27)

6.58 USSD 2004 stated:

"There are laws to protect children from exploitation in the workplace; however, the Government did not effectively implement these laws during the year, and child labor was a problem throughout the country. The employment of children of all ages was common in the informal sector and in subsistence agriculture, which were the dominant portions of the economy. Such employment often was the only way a child or family could obtain money for food. . . . Neither the Ministry of Labor, which was responsible for enforcement, nor labor unions effectively enforced child labor laws." [31] (Section 6d)

See also Section 6B Children

[Return to Contents](#)

People Trafficking

6.59 The US State Department 2004 Report on Victims of Trafficking and Violence released in June 2004 reported "Democratic Republic of the Congo (D.R.C.) is a source country for women and children trafficked for the purposes of sexual exploitation and forced labor, including soldiering. Uncontrolled armed groups continue to abduct and forcibly recruit Congolese men, women, and children to serve as laborers, porters, domestics, combatants, and sex slaves." The same report stated "The Government of the Democratic Republic of the Congo does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so in those areas of the country under government control." [3e] (p52)

6.60 The same USSD report stated "No law specifically prohibits trafficking in persons, although Congolese laws prohibiting slavery, rape, and child prostitution could be used to prosecute traffickers. . . . The reunified government has not investigated or prosecuted any cases against traffickers. The country's criminal justice system— police, courts, and prisons—is decimated following years of war. The justice system must be rebuilt and rule of law improved before trafficking cases can be adequately addressed." [3e] (p52)

6.61 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) stated:

"The Government had few programs in place to prevent trafficking. The Ministry of Family Affairs and Labor implemented an action plan against sexual exploitation in conjunction with an international organization. In addition, the Government coordinated with other countries on trafficking issues and has attended some regional meetings on trafficking in persons; however, government efforts to combat trafficking were limited by a lack of resources and information, and because much of the country's trafficking problem occurred in areas under marginal government control. The Government had few resources for training; however, it permitted training of officials by foreign governments and NGOs. The Government had no funding available for protection services. Victims were not prosecuted." [37] (Section 5)

6.62 The same source noted that "The Government repeatedly criticized the abduction of women and children by armed groups." [37] (Section 5)

See also Section 6B Women and Section 6B Children

[Return to Contents](#)

Freedom of Movement

6.63 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa) reported that the road network is inadequate for a country the size of the DRC. Of the estimated 157,000 km of roads in 1999, only some 33,000 km were main roads, and most of the road network is in a very poor state of repair. [1] (p297) The Foreign and Commonwealth Office Travel Advice for British Citizens (last updated 21 February 2005 stated "There is no reliable public transport system in the DRC." [22]

6.64 Europa stated that transport to the north and north-east is possible along the River Congo, and river traffic has historically been the most important means of transport in the country. [1] (p297) The 2004 Country Profile by the Economic Intelligence Unit (EIU) also stated that "The Congo River and its tributaries are open to navigation over long distances, although the stretch between Kinshasa and the Atlantic Ocean is blocked by a series of rapids. There are passenger and freight services between Kinshasa and Kisangani." [30] (p21) The same source stated that "The once extensive railway system has now been reduced to a rump service." [30] (p21)

6.65 The FCO Travel Advice advised that there are internal domestic flights, including the resumption of flights to eastern cities which were formerly under rebel control. [22] The EIU Country Profile also stated:

"Because of the poor state of ground transport, the long distances involved and the insecurity in much of the country, air transport is much used for both freight and passengers. It is also dangerous because of the collapse of

government regulation. In May 2003 over 100 people died when the cargo door of a Russian-operated aeroplane opened in mid-flight. There are numerous private air transport companies, most with aircraft and air crews from the former Eastern bloc. There is a national airline, Hewa Bora, which was established through the merger of two other state companies and is now a joint venture with the privately owned Congo Air Lines (CAL). Hewa Bora operates domestic flights as well as flights to Johannesburg and Liège in Belgium. Air France resumed twice-weekly flights to Kinshasa from Paris in 2002, as did SN Air Brussels from Belgium. There are flights to a number of regional destinations throughout Africa, including Nairobi (Kenya Airways); Addis Ababa (Ethiopian Airways); Douala (Air Cameroon); and Luanda (Transportadora Aérea Angolana). Flights to Johannesburg, operated by South African Airways, are the most important of these regional links, and there is a growing volume of trade and air travel between the two countries."

Privately owned airlines that provide domestic and regional services include Katangair, WaltAir, Business Aviation, Wimbi Dira and Blue Air Lines. A number of air freight companies, including TMK and Simbaair, operate in the eastern part of the country. The UN peacekeeping operation, Mission de l'organisation des nations unies en République démocratique du Congo (MONUC), operates regular scheduled services to the major cities in the country." [30] (p21)

6.66 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) stated:

"The law provides for freedom of movement; however, the Government at times restricted this right in areas under its control. Freedom of movement between areas under government control and areas under marginal government control improved during the year. Movement between these areas continued to be hazardous; however, since the establishment of the Government, cross-country commercial air traffic has continued to increase, as has road and rail rehabilitation funded by the international community." [31] (Section 2d)

6. 67 USSD 2004 also reported that:

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

banditry. The significant risk of rape perpetrated by uniformed men restricted freedom of movement at night for women in many areas." [3f] (Section 2d)

See also Section 6C Official Documents

[Return to Contents](#)

6.B Human Rights - Specific Groups

Ethnic Groups

6.68 The World Directory of Minorities, issued in 1997 by Minority Rights Group International advised that there are over two hundred ethnic groups. [8] (p523-526) The CIA World Factbook reported that the four largest tribes - Mongo, Luba, Kongo (all Bantu), and the Mangbetu-Azande (Hamitic) - make up about 45% of the population. [13]

6.69 Demographic information from Ethnologue indicated that over 200 languages are spoken by these ethnic groups. [6] Ethnologue provides maps showing the main locations for Congolese ethnic groups and languages. [6]

6.70 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa) stated that "The extreme linguistic variety of the DRC is maintained to some extent by the ability of the people to speak several languages, by the existence of 'intermediary' languages' (a Kongo dialect, a Luba dialect, Swahili and Lingala, and by the use of French." [1] (p271) The US State Department Background Note of January 2005 affirmed that "Although 700 local languages and dialects are spoken, the linguistic variety is bridged by the use of French and the intermediary languages K.kongo, Tshiluba, Swahili and Lingala." [3d] (People)

6.71 Ethnologue provided the following information:

- Lingala is widely used in Kinshasa, Bandundu, Equateur, and Orientale provinces, except the southeast of Orientale; and is also spoken in the Central African Republic and the Republic of Congo;
- Tshiluba or Luba-Kasai is used in Kasai Occidental and Kasai Oriental provinces;
- Kongo or Kikongo is used mainly in the Bas-Congo Province and scattered communities along the Congo River from Brazzaville to its mouth, and is also spoken in Angola, and the Republic of Congo;
- Congo Swahili is prevalent in Katanga, Nord-Kivu, Sud-Kivu, and Maniema provinces and the southeastern part of the Orientale Province. There are other varieties of Swahili in East Africa. [6]

See also Section 2 Geography

[Return to Contents](#)

Ethnic Issues

6.72 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) reported that "Societal discrimination on the basis of ethnicity was practiced widely by members of virtually all ethnic groups and was evident in private hiring patterns in some cities; however, intermarriage across major ethnic and regional divides was common in large cities." [37] (Section 5) Freedom House also stated in the Freedom in the World report for 2004 "Ethnic societal discrimination is practiced widely among the country's 200 ethnic groups." [66] (Political Rights and Civil Liberties)

6.73 The UNHCR Global Appeal 2005 noted that "The DRC's internal and external problems are fuelled by power struggles revolving around ethnicity and the desire to control the immense untapped natural resources of the country." [60c] (p84) The 2004 Country Profile by the Economist intelligence Unit stated "Ethnic conflict is apparent in several areas of the country: between the Hema and Lendu around Bunia in Orientale province, between Congolese Tutsis (Banyamulenge) and other groups in the Kivus, and between the baLuba of Kasai and the Lunda of Katanga." [30] (19)

6.74 During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, it was stated that, particularly in the east, members of mixed marriages between different ethnic groups such as the Hema, Lendu or Banyamulenge may be rejected by each of their communities, and that a family of mixed ethnicity could be at risk. The same source stated that in general the offspring belong to the ethnic groups of their fathers. [52] (p117)

6.75 The United Nations (UN) Special Rapporteur stated in March 2004:

"The Special Rapporteur notes that the Batwa pygmies are not represented in political life or civil society but are the targets of human rights violations. In Maniema, she was able to meet representatives of pygmies living in the Kabambare, Kailo, Kasongo and Kibombo areas and was told of the grave human rights violations committed against them. She also received reports from pygmies living in Kinshasa. Minority indigenous peoples continue to be subjected to large-scale acts of discrimination of all kinds by the population. They are among the first victims of massive human rights violations." [55b] (p19)

6.76 USSD 2004 reported that:

"President Kabila's cabinet and office staff were geographically and ethnically diverse. However, a significant amount of political influence remained in the hands of individuals from Katanga. Katangans in the FARDC were more likely both to be promoted and to be paid than persons from other regions. The leadership of former rebel groups also was geographically and ethnically

diverse. However, a significant amount of influence in the MLC [Mouvement pour la Liberation du Congo] continued to be held by members from the Equateur province, and in the RCD/G [RCD-Goma] leadership, by Tutsis. A significant number of ethnic groups were represented in the Government." [37] (Section 5)

See also Section 6C Security Situation - Eastern DRC

[Return to Contents](#)

Banyamulenge/Tutsis in Eastern DRC

6.77 The World Directory of Minorities stated:

"When colonial boundaries were drawn in the late nineteenth century many Banyarwanda (Hutus, Tutsis and Twa, who all speak Kinyarwanda) found themselves on the Zaire side of the Rwandan border, in Kivu province. More Banyarwanda subsequently crossed from Rwanda to work on Belgian colonial farms. In the late 1950s (and subsequently) Tutsi refugees fleeing persecution in Rwanda also crossed to Zaire; Banyarwanda came to comprise around half the population of north Kivu, yet were widely viewed as 'foreigners' by other ethnic groups. The waves of immigration intensified competition over land. . . . Although at independence anyone who had lived in the country for ten years was entitled to citizenship, the law was amended in 1981; only those who could trace their ancestry within the country to 1885 were now eligible. The change was primarily aimed at Banyarwanda. From 1991 the change acquired much greater significance when registration began in anticipation of elections. Conflict escalated in 1992-3 into a virtual civil war, with raids and counter-raids between Banyarwanda and other groups." [8] (p524)

6.78 In addition to the Banyarwanda, there is an ethnic group known as the Banyamulenge, defined in 'The Historical Dictionary of the Democratic Republic of Congo' by F Scott Bobb as "A group of primarily ethnic Tutsis who before independence migrated from Burundi and Rwanda into the Mulenge Mountains of Sud-Kivu. Like the Banyarwanda living in Nord-Kivu, the Banyamulenge were drawn into the interethnic violence that spilled into Zaire from Rwanda and Burundi in the 1990s." [68] The report by the International Crisis Group of July 2004 also explained that "The Banyamulenge are the Congolese Tutsi community in South Kivu." [39a] (p3)

See also Section 5 Citizenship and Nationality for information on the Nationality Law

6.79 USSD 2004 also stated "Government forces and armed groups targeted civilians on the basis of ethnicity for extra-judicial killings, rape, looting, and arrest. For example, during the seizure of Bukavu by ex-RCD/G combatants in late May and early June [2004], the ex-RCD/G forces targeted non-Tutsis for

attack, and the FARDC in turn targeted Congolese Tutsis when it reoccupied the city in June (see Section 1.g.)." [3f] (section 1a)

6.80 Human Rights Watch (HRW) stated in the World Report 2005, commenting on events in 2004, "The Bukavu revolt and the Gatumba massacre sharply increased fear and hatred between Tutsi and Banyamulenge peoples and other ethnic groups in eastern DRC." [5k] (Increasing Ethnic Hostility) A Reuters news report of 11 October 2004 advised that there were violent protests in the eastern town of Uvira against returning ethnic Tutsi refugees (Banyamulenge). [21a] HRW also reported in June 2004 that killings and other abuses of Banyamulenge people by pro-government forces, were claimed as the reason why rebel forces took control of Bukavu in June 2004. [5c] (Overview)

6.81 In a position paper dated 1 January 2005 'Ethnic Minorities in DRC' UNHCR stated their opinion that individuals of Banyamulenge ethnic origin may be at risk of persecutory acts on the grounds of nationality and membership of a racial group. The paper also stated "UNHCR is aware that deportees who are suspected of being nationals of countries considered as 'unfriendly' (e.g. Uganda, Rwanda) may be arbitrarily detained and face ill treatment. It is therefore recommended that the nationality of rejected asylum-seekers be carefully ascertained before they are returned to the DRC." [60a]

See also Section 6C Security Situation - Eastern DRC; Section 6C Security Situation Bukavu; Section 6C Security Situation Gatumba; Section 6C Treatment of Failed Asylum Seekers Returned to the DRC

[Return to Contents](#)

Tutsis in Kinshasa

6.82 A Fact-Finding Mission Report dated October 2002 by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA), advised that in August and September 1998 an undetermined number of people who were Tutsis, or were perceived as being Tutsis, were subjected to indiscriminate human right abuses in Kinshasa, in reaction to the then conflict between the DRC and Rwanda. [24a] (p21)

6.83 The same report advised:

"People of Tutsi origin or who were presumed to be of Tutsi origin were arrested and a number of them were burnt alive or shot. In order to excuse themselves, the pogrom participants argued that the Congolese authorities played a significant role in stirring up anti-Tutsi hatred. During this period, a certain number of ministers in fact served as official spokesmen to designate the enemy by popular condemnation by labelling them as vermin which should be exterminated at any price." [24a] (p21-22)

6.84 The Belgian report of 2002 also noted that since 1998, the Government had allowed international agencies to resettle thousands of Tutsis in other countries. The same report stated "As is often the case in the Democratic Republic of Congo, the situation is in fact very volatile in relation to the Tutsis in Kinshasa." [24a] (p21-22)

6.85 The US State Department (USSD) Human Rights Report for 2002 reported that:

"Since the start of the war in 1998, ethnic Tutsis have been subjected to serious abuses, both in the capital and elsewhere, by government security forces and by some citizens for perceived or potential disloyalty to the regime; however, these abuses decreased significantly during the year. Human rights groups have complained that discrimination against persons perceived to be of Tutsi ethnicity and their supporters was a problem." [3a] (p21)

6.86 A country report dated January 2004 by the Ministry of Foreign Affairs of the Netherlands advised:

"The camp on the premises of the INSS (National Social Security Institute) in Kinshasa, which had housed several hundred Tutsis since 1998, was closed in the summer of 2003 by the Ministry of Human Rights because the local population had become more tolerant towards the Tutsi. The International Committee of the Red Cross helped find solutions for the ex-inhabitants of this camp. Approximately 100 persons have obtained a visa for Canada, and approximately 80 persons have travelled to the east of the Democratic Republic of Congo (this was coordinated by the Office of the United Nations High Commissioner for Human Rights). The remaining ex-inhabitants have remained in Kinshasa and joined society. The Red Cross helped them in this for six months." [42] (p20)

6.87 However, USSD 2004 stated:

"Anti-Tutsi sentiments—including appeals to force Tutsis into exile and practice discrimination toward Tutsis in regard to citizenship rights—were expressed in private and government-affiliated media. In addition to inflammatory articles and editorials in the major government-affiliated newspaper, L'Avenir, government-affiliated television talk shows featured guests with extreme, anti-Tutsi views. During the year, there were credible reports that certain members of the Government directly and indirectly encouraged hate speech that advocated forcing Tutsis into exile. For example, there were unconfirmed reports that some hard-line government officials provided funding for Pastor Theodore Ngoy to buy television airtime to incite hatred against Congolese Tutsis by claiming they were Rwandans who were in the country to infiltrate society. Such programs were aired periodically through the first half of the year." [3f] (Section 5)

6.88 The Congolese press freedom organisation, Journaliste en Danger, published via the International Freedom Exchange (IFEX), reported on 19 January 2005 that "On 13 January 2005, the Congolese media regulatory body (Haute Autorité des Médias, HAM) announced the one-month suspension of the controversial programme 'Forum des médias'. The weekly programme is produced and broadcast by the public broadcaster's (Radiotélévision nationale congolaise, RTNC) Channel Two station." JED stated that "Over the last few months, the programme - which is reportedly under the complete control of the Information Ministry - has become a breeding ground for fanaticisms of every kind. It convenes virtually the same group of individuals each week and has become a catalyst for the vilification of anyone not aligned with the official version of current events in the Democratic Republic of the Congo (DRC)." and "Congolese citizens of Rwandan origin, including Vice-Presidents Azarias Ruberwa and Jean Pierre Bemba, have been the principal targets of the programme." [63c]

See also Section 6C Treatment of Failed Asylum Seekers Returned to the DRC

[Return to Contents](#)

Women

6.89 According to the Natlex index of the International Labour Organisation family law is governed by Law 87/10 of 1 August 1987. [69]

6.90 Amnesty International (AI) in a report of 26 October 2004 'Mass rape - Time for remedies' stated:

"The legal system discriminates against women on different levels. For example, under Article 448 of the Family Code (*Code de la famille*), while unmarried women over the age of 18 are treated as equal before the law, a married woman who wishes to take a case to court must first ask her husband's permission(10).

The law criminalizing consensual sex out-side marriage, termed as adultery, is also applied differently to husband and wife. Article 467 sub-section 4 of the Family Code lays down a term of imprisonment of six months to a year and a fine for a married women committing adultery. A husband, however, will only face the same punishment if behaviour covered by this law is found to be of an 'offensive character' (*caractère injurieux*) (Article 467, paragraph 2).

Article 352 of the same Code provides for different ages of marriage for men and women: women/girls need only be aged 15 or over, men have to be aged 18 or above. Given the very high number of forced marriages, human rights organizations are campaigning for the law to be changed in favour of an equal age of marriage for both sexes.

According to article 490 paragraph 2 of the Family Code, whatever the marriage settlement, the management of the wealth is entrusted to the husband.

These are among examples of a number of discriminatory provisions in Congolese legislation." [11d] (II "LIMITLESS DEMANDS": THE LOT OF WOMEN IN CONGOLESE SOCIETY)

6.91 Freedom House also stated in the Freedom in the World report for 2004 "Despite constitutional guarantees women face de facto discrimination, especially in rural areas. They also enjoy fewer employment and educational opportunities than men and do not receive equal pay for equal work." [66] (Political Rights and Civil Liberties)

6.92 The US State Department 2004 Human Rights Report (USSD 2004) published on 28 February 2005 stated that:

"Married women were required by law to obtain their husband's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or applying for a passport. The law permits a woman to inherit her husband's property, to control her own property, and to receive a property settlement in the event of divorce; however, in practice, women often were denied these rights, which in some cases was consistent with traditional law. Widows commonly were stripped of all possessions--as well as their dependent children--by the deceased husband's family. Human rights groups and church organizations worked to combat this custom, but there was little government intervention or legal recourse available. In addition, women often did not realize that they could improve their legal inheritance claims by obtaining official documents that proved their marital status. Women also were denied custody of their children in divorce cases, but they retained the right to visit them. Polygyny was practiced, although it was illegal. Father-child relationships resulting from polygynous unions were recognized legally, but only the first wife was recognized legally as a spouse." [37] (Section 5)

6.93 An information response by the Canadian Immigration and Refugee Board (IRB) of 17 July 2003 about forced marriages stated that "In the RDC, there are at least 300 tribes in which most women are victims of negative customs and traditions that drive them to commit suicide or leave the country." The same source referred to a system of forced marriages called 'Kityul'. It also referred to an initiative by President Kabila to increase the birth registration rate which is currently at 34%, and said that this could assist the problem of girls being forced to marry before they are of legal age in the absence of proof of their date of birth. [43e]

6.94 A further information response from IRB dated 14 April 2004 about forced marriages stated that marriages between members of the same family are common. It also stated that customary marriages, like civil marriages, are

recognized by Congolese law and consequently, the Democratic Republic of Congo (RDC) does not interfere with the customs of the various ethnic groups, unless there is a complaint. The same report stated that marriage is the Congolese society's fundamental institution and that "Preferential marriages and lineage exogamy between clans are practised, and the notion of incest is a social concept, not a genetic one. Rules are very precise because marriage is an exchange of women between groups, an alliance, a means of social cohesion, and often a political tool. Being single is inconceivable." [43m]

6.95 In another IRB information response dated 8 April 2004 about marriage in the absence of one of the spouses, it was stated that customary or civil marriages by proxy are common and a friend or family member can stand in for one of the spouses who is absent. The proxy might be a family member, such as a brother, uncle or male cousin for the groom, or a sister, aunt or female cousin for the bride. Religious marriages, however, always require the physical presence of both spouses. [43f]

6.96 The United Nations (UN) Special Rapporteur stated in March 2004 that several women's associations in Lubumbashi and elsewhere had told her about the difficulties they face when they try to take part in political life through a political party, and have expressed the desire to become involved in political life through community organisations. [55b] (p18-19) USSD 2004 stated "Five of 36 cabinet ministers and 3 of 24 vice ministers were women, and women held 48 of the 614 seats in Parliament, including 5 in the 120-seat Senate." [3f] (section 2d)

6.97 USSD 2004 stated "Domestic violence against women, including rape, was common throughout the country; however, there were no known statistics on the extent of this violence. Assault and rape are crimes, but police rarely intervened in domestic disputes and rapists were very rarely prosecuted. There were no laws prohibiting spousal abuse or assault. It was commonplace for family members to instruct a rape victim to keep quiet about the incident, even to health care professionals, to save the reputation of the victim and her family. The press rarely reported incidents of violence against women or children; press reports of rape generally appeared only if it occurred in conjunction with another crime, or if NGOs reported on the subject." [3f] (section 2d)

6.98 USSD 2004 stated "The law does not prohibit prostitution except in cases involving children under the age of 14; prostitution, including child prostitution, was a problem mainly due to poor economic conditions. There continued to be reports of women and girls pressured or forced to engage in prostitution by their families out of economic necessity. There was no information available on the extent of prostitution in the country. Security forces encouraged prostitution and were customers. There were unconfirmed reports that security forces harassed and raped prostitutes." [3f] (Section 5)

6.99 The same source also stated "There were no laws preventing sexual harassment; the extent of the problem was unknown. On October 25 [2004], security forces in Kinshasa attacked women for wearing tight pants. Ten soldiers and two policemen were arrested for beating and tearing clothes off women in Kinshasa. At year's end, it was unknown if any action had been taken against them." [3f] (Section 5)

[Return to Contents](#)

6.100 Regarding Female Genital Mutilation (FGM), USSD 2004 stated "The law did not prohibit the practice of FGM, and although FGM was not widespread, it was practiced on young girls among isolated groups in the north. The National Committee to Fight Harmful Traditional Practices/Female Genital Mutilation developed a network of community leaders, women representatives, and health professionals dedicated to the prevention and treatment of FGM; however, the Committee lacked adequate resources for prevention and treatment." [3f] (Section 5)

6.101 Many reports referred to the widespread use of systematic sexual violence against women in areas of conflict, including USSD 2004, the Human Rights Watch (HRW) World Report 2005, commenting on events in 2004, Freedom House Freedom in the World report for 2004, Médecins sans Frontières Annual Activity report 2004, and the Global IDP Report of October 2004. [3f] (Section 5) [5k] (Continuing Violence Against Civilians) [29c] [49a] (p3, 5) [66] (Political Rights and Civil Liberties) The UN Special Rapporteur reported in March 2004 that she had met many female victims of sexual violence and referred to the medical consequences, including HIV/AIDs, the social discrimination and stigmatisation of the victims, and the impunity of the attackers. [55b] (p19, 20)

6.102 AI also issued reports in October and December 2004 detailing this abuse. [11d] [11e] The AI report of 26 October 2004, 'Mass rape: Time for remedies' called for measures to improve health care and to bring the perpetrators to justice, and highlighted the need to improve security in the east of the country. [11d] (Introduction) The same report also stated

"In the course of the armed conflict in eastern Democratic Republic of the Congo (DRC), tens of thousands of women and girls have been victims of systematic rape and sexual assault committed by combatant forces." and "Most women suffering injuries or illnesses caused by the rape – some of them life-threatening - are denied the medical care they need. Because of prejudice, many women are abandoned by their husbands and excluded by their communities, condemning them and their children to extreme poverty. Because of an incapacitated judicial system, there is no justice or redress for the crimes they have endured. Continuing insecurity means that women live in fear of further attacks or reprisals if they speak out against the perpetrators." [11d] (Introduction)

See also Section 6C Security Situation - Eastern DRC

6.103 USSD 2004 reported that "There were a number of active and effective women's groups throughout the country." [31] (Section 5) HRW also reported in the World Report 2005 "Several women's groups are seeking ways to encourage the prosecution of sexual violence, committed so widely in the DRC." [5k] (Making Justice Work)

[Return to Contents](#)

Children

6.104 A report by the United Nations (UN) Committee on the Rights of the Child in August 2000 stated that the age of 18 is the start of civil and political majority; the age of majority for penal purposes is set at 16; and the age of majority for purposes of marriage or sexual majority is 14 years of age. [58] (p28) The CIA World Factbook advised that the legal age for voting is 18 years. [13] In comments prepared for the Advisory Panel on Country Information meeting on 8 March 2005 UNHCR stated "Criminal responsibility is established at 14 years old (Criminal code). Minimum age to marry is 15 years for the girls and at 18 years for the boys (Family Code)." [60d]

6.105 A report of March 2004 by the Immigration and Refugee Board (IRB) of Canada on the Situation of Children in the DRC stated that children under the age of 18 make up approximately 55% of the population, however, only about 50% of children between the ages of 6 and 11 attend school. [43o] (Section 2) The same report quoted various sources that there is a widespread lack of respect for children's rights, and that the notion of child abuse does not exist in Congolese legislation. [43o] (Section 4)

See also Section 5 Educational System

6.106 The United Nations (UN) Secretary-General stated in a report of 31 December 2004 to the UN Security Council:

"At the national level, MONUC [UN Mission to the Congo] continues to facilitate the participation of national and provincial officials in workshops on child protection and to visit detention facilities. Together with child protection partners, MONUC is also working with the Parliament and relevant Government ministries to encourage the establishment of a child-protection legal framework, including constitutional and legislative provisions that would address child rights and support programmes for vulnerable children. [54d] (p14)

6.107 The IRB report of March 2004 and the US State Department 2004 Human Rights Report (USSD 2004) published on 28 February 2005 noted that tens of thousands of children are reported to live on the streets of major cities. [31] (Section 5) [43o] (Section 2) The IRB report stated that, under Congolese legislation, street children are considered delinquents, and are often arrested by the police. [43o]

(Section 4) The IRB and USSD 2004 also stated that many street children are treated as 'child witches'. [3f] (Section 5) [43o] (Section 2.2)

6.108 The US State Department Victims of Trafficking Report 2004 and Watch List on Children and Armed Conflict Report June 2003 also referred to the problem of child prostitution in the DRC. [3e] (p51) [37] (p22, 23) USSD 2004 stated "Child prostitution was a serious problem." [3f] (Section 5)

6.109 Amnesty International (AI), in a report of October 2004 'Mass rape: Time for remedies', reported on the use of sexual violence by armed forces on women and children, as did Human Rights Watch World Report 2005, commenting on events in 2004, and the Global IDP report of 25 October 2004. [5k] (Continuing Violence against civilians) [11d] (Introduction) [49a] (p5)

See also Section 6B Women

6.110 Information from the United Nations Children's Fund (UNICEF) was that many children have been killed in fighting, but a far greater number - hundreds of thousands - have died due to malnutrition and other preventable diseases. [59a] [59b] UNICEF also reported in 'The State of the World's Children 2005' report that the national under-five mortality rate was 205 per 1000 live births in 2003. [59c] UNAIDS reported in September 2004 that the number of children (age 0-15) living with HIV/AIDs was estimated between 42,000 and 180,000. [61a] (p2)

See also Section 5 Medical Services; Section 6A Human Rights Issues; Section 6B Employment Rights Child Labour; Section 6B People Trafficking; Section 6C Security Situation - Eastern DRC

[Return to Contents](#)

Child Soldiers

6.111 Numerous agencies and human rights groups including UNICEF, Amnesty International (AI), Human Rights Watch (HRW), Freedom House, Watchlist on Children and Armed Conflict, and the Global IDP Project have criticised the use of child soldiers by all sides in the conflicts in the east of the country. [5b] [11b] (Child Soldiers) [49a] (p5) [59c] (p44) [66] (Political rights and Civil Liberties) [37] (p22)

6.112 The Global Report 2004 published in November 2004 by the Coalition to stop the Use of Child Soldiers on the DRC stated that the transitional constitution of April 2003 bans the recruitment into armed forces of anyone under the age of 18, or their use in hostilities, also that the labour code prohibits the recruitment of minors, defining the use of child soldiers as one of the worst forms of child labour of all parties to the conflict. [44] ((National Recruitment Legislation) The same source stated that "All parties to the conflict recruited, abducted and used child soldiers, often on the front line." [44] (Introduction) A HRW report to the United Nations (UN) in January 2003 also referred to this issue, stating that the government recruited

child soldiers and "All armed opposition groups continued to recruit and use children in violation of international obligations, leading some observers to describe fighting forces as 'armies of children'." [5b]

6.113 The Global IDP Project report of 25 October 2004 stated:

"Many displaced children have been forced into the ranks of the armed groups. Although the total number of children associated with the armed forces and groups is unknown, estimates vary from 20-40,000 (UNICEF, 7 May 2004). In Ituri, the UN reported that at least 6,000 children were part of armed groups in 2002-2003. Save the Children said in 2003 that it was difficult to escape the impression that the town of Bunia had been taken over by children, who were used by local militias to terrorise its residents (UN SC, 16 July 2004; SCF-UK, 9 June 2003). Girls too are recruited, and often suffer both sexual abuse and forced labour (AI, 9 September 2003). In 2004, the UN reported that children continued to be recruited by insurgent groups in the territories of North and South Kivu, and that a quarter of the combatants in Ituri were children, in violation of the Additional Protocol to the Convention on the Rights of the Child (OHCHR, 31 July 2004; IRIN, 2 September 2004)." [49a] (p7)

6.114 The UN Secretary General in a report to the UN Security Council in August 2004 described some measures being taken on disarmament:

"Pending the implementation of the national disarmament, demobilization and reintegration programme, in response to an urgent need generated by the assembling of Mayi-Mayi [Mai Mai] soldiers in the provinces of Maniema and North and South Kivu, a joint MONUC/UNDP/Government of the Democratic Republic of the Congo disarmament, demobilization and reintegration operation was carried out in April and May 2004. Some 535 combatants were disarmed and subsequently 498 were registered in Kindu. A network of local non-governmental organizations has distributed food assistance and conducted awareness-raising sessions focusing on peace and reconciliation and the United Nations Children's Fund (UNICEF) has provided support for the children associated with those forces." [54b] (p6)

6.115 In a further report of 31 December 2004 the UN Secretary-General stated: "Resistance by some military commanders to releasing children from armed groups, and re-recruitment in some areas, continues in spite of continued advocacy and the establishment of structures for the reintegration of demobilized children. Despite these obstacles, more than 3,000 children have been disarmed and demobilized since October 2003." [54d] (p14) Watchlist on Children and Armed Conflict stated in its report of June 2003 that MONUC's Child Protection Section was the largest of any UN peacekeeping operation. [37] (p8)

6.116 USSD 2004 stated that:

"The FARDC and other armed groups continued to have child soldiers in their ranks. During the year, the Government demobilized an estimated 3,080 children, and there were no reports that the Government actively recruited children; however, there were numerous reports that it provided support to Mai Mai groups, which continued to recruit and use child soldiers. The Government continued to collaborate with UNICEF and other partners to demobilize child soldiers, participated in an international program to demobilize child soldiers, and finalized the national demobilization and disarmament committee's plan for children associated with armed groups." [3f] (Section 5)

6.117 The UN Integrated Regional Information Networks (IRIN) reported on 23 February 2005 that the UNDP had stated that the majority of the 3300 ex-combatants that had been disarmed in the Ituri region were children. The UNDP reportedly stated that the Congolese government's disarmament and community reinsertion plan in Ituri had so far admitted at least 1900 children. [18as] IRIN also reported on 27 February 2004 that the national commission for demobilisation and reintegration (Commission nationale de demobilisation et de reinsertion - CONADER) had been set up to oversee disarmament and reintegration in place of the national office for demobilisation and reintegration (Bureau national de demobilisation et de reinsertion - BUNADER), which was established during the Congo's nearly five-year war. The IRIN report stated:

"About 900 children affiliated with armed groups or used as combatants have been demobilised by BUNADER. . . . At the same time, an estimated 1,000 other children have been demobilised by armed groups themselves, with the aid of NGOs. . . . BUNADER estimates that there are at least 15,000 child soldiers to be demobilised nationwide. Due to a lack of financial means, demobilised child soldiers have often been re-recruited by armed groups who then try to place them beyond the reach of any programme aimed at their demobilisation and reintegration." [18h]

6.118 USSD 2004 stated "There were several active and effective local and international NGO groups working with MONUC and UNICEF to promote children's rights throughout the country, and with the Government's national committee on disarmament, demobilization, and reintegration." [3f] (Section 5) The 2003 Annual Report of the International Committee of the Red Cross (ICRC) stated "The ICRC registered more than 600 child soldiers in the year, reuniting some 170 of them (including 130 in the east) with their families in cooperation with the National Office for Demobilization and Reintegration, UNICEF and the International Labour Organization and NGOs." [33] (p2)

See also Section 6C Security Situation - Eastern DRC; Section 6C Disarmament of Foreign Armed Groups; Section 6C Assassination of President Laurent Kabila

[Return to Contents](#)

Childcare Arrangements

6.119 In comments prepared for the Advisory Panel on Country Information meeting on 8 March 2005 UNHCR stated "According to the Family Code, the minor who has neither father nor mother is placed under the guard of a tutor. The family council ("*Conseil de famille*") is allowed to express its opinion, but it is not a guard." [60d] A report by the UN Committee on the Rights of the Child in August 2000 stated:

"A child who is a minor is placed under parental authority. In the absence of both parents it is placed under the guardianship of the family (family council); if it has no family, or the parents have been deprived of parental authority (art. 239), guardianship is assumed by the State. . . . Unfortunately, the economic crisis which the Congo is undergoing is not of a nature to encourage family solidarity for the genuine acceptance of responsibility for the care of orphan [sic] and abandoned children. The guardianship of the State is often purely theoretical." [58] (p25)

[Return to Contents](#)

Homosexuals

6.120 The 1998 survey by the International Gay and Lesbian Association reported that the Pink Book had stated that parts of the Penal Code concerning 'crimes against family life' could be used to punish homosexual acts. This included laws governing assaults against a person, with a penalty of 6 months to 5 years imprisonment; rape, with a penalty of 5 to 40 years imprisonment; and assaults on minors, as a 'break of public morals' with a penalty of a fine and 3 months to 5 years imprisonment. [45] However, in comments prepared for the Advisory Panel on Country Information meeting on 8 March 2005 UNHCR stated "In Congolese Criminal Law, higher punishments are 20 years imprisonment or life imprisonment. There is no 40 years imprisonment." [60d]

6.121 The British Embassy in Kinshasa advised in August 2001 that homosexual activity was not illegal and police arrests were usually made when the person concerned had acted without due regard to propriety or against public morals. However, everyone, regardless of his or her sexual persuasion was bound by the Penal Code. There was no discrimination between male or female homosexuals. [22c]

6.122 The same source stated that traditionally, homosexuality was regarded as a crime against nature and homosexuals could be punished in accordance with local tradition. This might have included being ostracised or segregated. Latterly, however, covert or open homosexuality did not generally result in public condemnation or police harassment. [22c]

6.123 A country fact finding report of 2002 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA) also noted that:

"The Congolese Criminal Code does not contain any article dealing with homosexuality or makes it a criminal offence. Some international organisations for the defence of homosexuals state that articles 167, 168, 170 and 172 of the Zaire Criminal Code, "Section II: Indecent Assault, Rape" and "Section III: Offences Against Common Decency" *could* be used by the authorities to punish homosexuality. However, information obtained from organisations in defence of human rights in Kinshasa includes no indication of these suppositions. It is, however, an established fact that homosexuality is taboo in DRC. Merely raising the subject makes some interviewees feel embarrassed." [24a] (p27)

6.124 The same report stated that the observers questioned on the subject did not know of any cases of Congolese being persecuted by the authorities because of their sexual orientation. They did not know of the existence of an organisation for the defence of homosexual rights. The report referred to comments from two local human rights groups, CODHO (Committee of Human Rights Observers), and VSV (La Voix des Sans Voix) that homosexuals are rejected by society and homosexuality cannot be displayed in public; however homosexuals could manage to live as they wish in Kinshasa if they remained discreet. The report also stated that there were a number of clubs in Kinshasa where homosexuals meet. [24a] (p27)

[Return to Contents](#)

Persons Associated with the Mobutu Regime

6.125 An information response by the Canadian Immigration and Refugee Board (IRB) dated 3 April 2003 about the treatment of former diplomats and other individuals perceived as sympathisers with the former President Mobutu stated that:

"According to Le Potentiel, many exiled high officials have returned to the country (1 Nov. 2002). The same Congolese newspaper added that "Mobutists" are now present everywhere, including in government positions (Le Potentiel 28 Mar. 2003).

Referring to 'people who were linked to former President Mobutu and the MPR [Mouvement Populaire de la Revolution - Mobutist political party],' a November 2002 report stated that 'persecution may result from either having held a very senior visible position in the party, the government or the security forces, or from overt opposition to the current government.' (ACCORD/UNHCR 28 Nov. 2002)." [43a]

6.126 Two further IRB reports dated 2 March 2004 and 26 March 2004 indicated that there was no particular adverse treatment of members of the Ngbandi tribe,

or the Mbunza ethnic group, or persons from the Equateur province [associated with the former President Mobutu], based on interviews with the president of the Congolese human rights group ASADHO, and a journalist specialising in the Great Lakes region. The sources explained that the transition institutions (government, parliament, senate, army and others) comprise individuals from various ethnic groups including the Ngbandi and Mbunza, like those of other tribes in Equateur. [43i] [43j]

6.127 Another IRB response dated 10 April 2003 reported that the Congolese human rights group Journaliste en Danger was not aware of any ordinary Congolese citizen who had been prevented by the Congolese authorities from renewing a passport issued during the Mobutu regime. On the contrary the authorities had encouraged people to replace their old Zairian passports for the new Congolese ones. [43b]

See also Section 6C Documentation - Passports

6.128 A country fact finding report of 2002 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA) reported that after Laurent Kabila ousted Mobutu in May 1997 many high-ranking officials of the former Mobutu regime were arrested and imprisoned in the CPRK Prison in Kinshasa. Others managed to avoid being arrested by leaving the country. The report stated that the security situation improved for persons closely associated with the Mobutu regime when Joseph Kabila came to power in January 2001, and even more so, after the Sun City Peace Accord was signed in April 2002. A large number of persons closely associated with the Mobutu regime had now returned to the DRC. [24a] (p23)

6.129 The CEDOCA Report also stated that distant relatives of Mobutu living in Kinshasa had not encountered any problems through being associated with Mobutu, and also that negotiations took place in 2002 between Kinshasa and Rabat to repatriate the remains of Mobutu. The report stated that persons who were closely associated with the MPR during the Mobutu regime were not at risk of persecution by the security forces and could therefore return to the country if they were abroad. The report concluded that "If Mobutu's followers are not suspected of collaboration with the rebels, they are no longer persecuted. Affiliation to Mobutu's former MPR [political party] does not involve the risk of political persecution." [24a] (p23)

6.130 A CNN Online news report dated 23 November 2003 recorded that close relatives of Mobutu returned to the DRC from exile in 2003. [23a] The report stated that Manda Mobutu, the son of the former president, returned to the DRC in November 2003 from exile in France, with his sister, Yanga, to prepare his political party for the elections due to take place in 2005, and Manda's half-brother, Nzanga Mobutu, returned to the DRC from exile in August 2003. [23a] A news report by 'The Independent' (UK newspaper) dated 28 November 2003

stated that the Mobutu sons returned to the DRC with President Joseph Kabila's blessing, and Leon Kengo wa Dondo, a former prime minister under the Mobutu regime and other persons associated with the Mobutu regime had also returned to the DRC. [20]

[Return to Contents](#)

Former Soldiers of Mobutu Regime including FAZ

6.131 An information response dated 26 March 2004 by the IRB about the treatment of a person whose family members had served in the army under former President Mobutu stated that:

"The President of the African Association for the Defence of Human Rights (Association africaine de défense des droits de l'homme, ASADHO) said during a 25 March 2004 telephone interview that his organization is not aware of any particular treatment that would be imposed on a person merely because members of his or her family had served in the former army, under the Mobutu regime. He added that most members of the Zairean Armed Forces (Forces armées zaïroises, formerly FAZ) are currently serving in the Congolese Armed Forces (Forces armées congolaises, FAC) (ASADHO 25 Mar. 2004)." [43k]

6.132 A country fact finding report of 2002 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA) advised that the security situation in the DRC for former soldiers of the FAZ has improved since Joseph Kabila became president in January 2001. The CEDOCA report stated that many former FAZ soldiers were serving in the current Congolese army. In 2002, all the key positions in the Forces Armée Congolais (FAC) high command were occupied by former FAZ soldiers and an estimated 20,000 to 25,000 former FAZ soldiers were living in Kinshasa. The same report concluded "When ex-FAZ members are not suspected of collaboration with the rebels, they are no longer persecuted." [24a] (p23-24)

6.133 During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, it was stated that the rank of a soldier might not always mean what it did in better established armies. It was stated that a low-ranking soldier may politically have more power than a top general, by virtue of his ethnic group and connections to influential persons. [52] (p100)

6.134 A report dated 4 May 2004 from the United Nations (UN) Integrated Regional Information Networks (IRIN) advised that an agreement had just been reached between the DRC and the neighbouring Republic of Congo to repatriate former combatants in both countries. IRIN stated that:

"Similarly, the RoC [Republic of Congo] has, since 1997, been home to some 4,000 soldiers of the defunct Special Presidential Division of the late DRC president, Mobutu Sese Seko, and of his Zairean Armed Forces, or FAZ. The presence of these former soldiers has caused both Congos to trade mutual accusations of supporting coup makers, despite the existence of a non-aggression pact. In March, authorities in Kinshasa accused Brazzaville, and the ex-FAZ, of taking part in the 28 March [2004] attack on military targets in the DRC capital, Kinshasa. . . . In 2002, both Congos signed an agreement with the International Organisation for Migration for the repatriation of the ex-FAZ and former soldiers seeking refuge in RoC but nothing concrete has been achieved." [18]

[Return to Contents](#)

6.C Human Rights - Other Issues

Security Situation - Eastern DRC

6.135 The DRC has been involved in a major civil war in recent years. There has been fighting in the eastern area of the country involving the forces of rebel groups and those of other African countries, including Rwanda and Uganda. The provinces of North and South Kivu, Maniema, Equateur and the Ituri district of Orientale have been badly affected. [1] (p277-282) [3d] (History) [22h] (History, Politics) [27b] (Security Information) The concern of the international community has been expressed in peacekeeping efforts by the United Nations (UN) through the UN Mission to the Congo (MONUC) and the efforts of governments and international organisations. [16a] [17a] [17b] [29c] [33] [38] [53] [54d] (p6) [57b] [59a]

6.136 The Country Fact File by the Institute for Security Studies (ISS) commented that "The conflict in the DRC is multidimensional, and the conflict of the last six years has both regional and domestic aspects which have become intermingled. Both Uganda and Rwanda became involved in the DRC following the rupture of their alliance with Kabila and their dissatisfaction with his inability to address their security concerns. Since then they have cultivated their own interests in the areas which they controlled, and this has perpetuated an ongoing cycle of violence which has also stoked further local conflicts." [27b] (Security Information)

6.137 The fighting has had a devastating effect on the population in the east, where the infrastructure of transport, commerce, medical and social support was already extremely poor. [3f] (Overview) [11b] (p1) [29c] [53] [54d] (p1, 3-5) [60c] (p83-87) [66] (Overview) The International Rescue Committee (IRC) stated in December 2004 that nearly 4 million people had died as a result of the war. [50] (p11) Grave human rights abuses have been carried out in the conflict, and the fighting has continued between armed groups and government forces in parts of eastern and north eastern DRC. [3f] (Overview) [5k] [11b] (p1) [55b] (p8-10)

See also Section 3 Economy; Section 4 History; Section 5 Legal Rights/Detention; Section 5 Prisons and Prison Conditions; Section 5 Military Service; Section 5 Medical Services; Section 5 Educational System; Section 6A Human Rights General; Section 6B Ethnic Groups Banyamulenge/Tutsi in Eastern DRC; Section 6B Women; Section 6B Child Soldiers; Section 6C Internally Displaced People; Section 6C Humanitarian Aid/International Assistance

Armed Groups

6.138 The US State Department 2004 Human Rights Report (USSD 2004) published on 28 February 2005 stated "The human rights record in areas under marginal government control remained extremely poor, and armed groups continued to commit numerous, serious abuses, particularly in North and South Kivu, Maniema, northern Katanga, and Ituri District in Orientale Province." [37] (Overview)

6.139 The ISS Country Fact File listed various ex-rebel and other armed groups operating in the country, including Mouvement de Liberation Congolais (MLC), Rassemblement Congolais pour la Democratie (RCD-Goma), Mai Mai warriors, Interahamwe and ex- Force Armées Rwandaise (FAR). [27b] (Rebel Movements Allied to the Congo Coalition)

See also Annex C Armed Forces in the DRC

[Return to Contents](#)

Disarmament of Foreign Armed Groups

6.140 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa) recorded that a disarmament and repatriation programme was instigated in December 2001 under the aegis of MONUC. [1] (p281) The United Nations Secretary General reported on 31 December 2004 that the repatriation rate of foreign combatants and their dependants had decreased considerably since April 2004, due to heightened tensions in the Kivus. [54d] (p6)

See also Section 4 History

6.141 The International Crisis Group in a report of 17 December 2004 stated "A key bargain that remains unfulfilled is definitive Rwandan withdrawal in exchange for disarming of the Democratic Forces for the Liberation of Rwanda (FDLR), the insurgent force with strong links to the genocidaires of 1994."; and, referring to the UN Secretary General Report of 16 August 2004, "Unfortunately, the voluntary program of disarmament, demobilisation, repatriation, resettlement, and reintegration (DDR) has failed." [39c] (Overview)

6.142 On 29 December 2004 Human Rights Watch (HRW) warned of human rights abuses in Walungu in South Kivu where government and MONUC forces

were carrying out disarmament operations against Rwandan rebel groups. [51] A report by the UN Integrated Regional Information Networks (IRIN) dated 10 February 2005 stated that a joint verification programme between DRC and Rwanda had been activated to assist with claims that Rwanda continued to have its troops in the DRC and support Congolese rebels. [18a0]

See also Section 6B Child Soldiers; Section 6C Security Situation Ituri

[Return to Contents](#)

Ituri

6.143 Reports by IRIN dated 18 December 2002 and by HRW in July 2003 described and analysed the conflict that arose in the Ituri area of Orientale province, near the border with Uganda, from ethnic and land ownership tensions between the Hema and Lendu communities and between local militias. It also involved the RCD-ML and RCD-Goma armed groups, and, at different stages, the Rwandan and Ugandan Governments. [5a] [18b] A report by the UN Mission to the Congo (MONUC) released on 16 July 2004 also described in detail the events in Ituri between January 2002 and December 2003. [54a]

6.144 HRW also reported that the attacks in the Ituri region reportedly included war crimes, crimes against humanity and other violations of international humanitarian and human rights law on a massive scale. Assailants reportedly massacred unarmed civilians in such attacks, and mutilated corpses and practiced cannibalism. The attacks reportedly included rape and other forms of sexual violence, as well as arbitrary arrest and unlawful detention and the use of systematic torture. Thousands of people were displaced from the region. [5a] (p8, 39-46)

6.145 A report by the ICG in August 2004 updated the situation and reported that the Hema-Lendu conflict was largely over and the violence was mainly within groups and alliances. [39b] (p8) The ICG, and a report by IRIN dated 17 May 2004 noted that the Transitional National Government had reached an agreement with the chiefs of the seven armed groups in May 2004. [18j] [39b] (p10-11) In further reports of 16 July 2004 and 17 August 2004 IRIN reported that MONUC had trained 350 police officers for Ituri, and that despite the bouts of inter-militia fighting in July 2004, there were signs that the situation was improving. [18e] [18u]

6.146 A further report from IRIN dated 24 June 2004 stated that the chief prosecutor of the International Criminal Court would open an investigation into alleged war crimes committed in the DRC since 1 July 2002, and that the initial focus of the enquiry would be in Ituri. [18q] HRW reported in September 2004 on the strengths and weaknesses of the restored legal system in Ituri, and called for more effort to prosecute serious war crimes. [5d]

See also Section 5 Military Service

6.147 However, the USSD 2004 reported that "In May [2004], representatives of seven armed militia groups from Ituri District signed an agreement with the Government to disarm and participate in the transitional process toward democracy; however, the signatories did not respect the agreement. Unlike previous years, the FAPC and Lendu and Hema groups appeared to work together to coordinate illegal economic activities and arms trafficking. MONUC's Ituri Brigade continued to operate during the year." [3f] (Overview)

6.148 HRW reported on 22 October 2004 that FAPC forces had entered the town of Kaliko on 12 October, and subsequently tortured 24 civilians and killed six of them. [5f] On 30 November 2004 IRIN reported that the rise in violence had undermined humanitarian aid efforts, and a statement by the UN Office for the Coordination of Humanitarian Affairs (OCHA) that "Ituri is experiencing a renewed cycle of violence" [18ab] The United Nations (UN) Secretary General also reported to the UN Security Council on 31 December 2004 that the Ituri situation had deteriorated sharply, and that the disarmament programme had been hindered both by local militia leaders, and by the government's failure to integrate some of them into the national army. [54d] (p3)

6.149 IRIN reported on 13 January 2005 that disarmament efforts by MONUC were making better progress, and on MONUC operations against militia groups. [18ak] However, the Global IDP project in late January, and IRIN on 1 February 2005, reported that there was an escalation in fighting between the FNI (Front pour les nationalistes et integrationnistes, ethnic Lendu rebel group) and UPC-L (Union des patriotes congolais, Hema rebel group). [18af] [49b] This included the burning of the village of She, 60 km northeast of Bunia, and the displacement of more than 10,000 refugees across the border with Uganda. [18af] [49b]

6.150 IRIN also reported on 8 February 2005 that the worst affected area was at Djugu, north of Bunia, where fighting was taking place between the UPC and the FNI. [18an] The UN Office for Coordination of Humanitarian Affairs (OCHA) reported on 8 February 2005 that in the Djugu territory over 25,000 people had been displaced from the towns of Kasenyi and Tchomia on Lake Albert, following hostilities in the Nyamamba area that began at the end of December [2004], and that 40,000 people had fled from the Tch  district of Ituri since the beginning of the year. [57d] On 15 February 2005 BBC News Online reported that 70 small villages had been stormed in the Che mountains, near the Ugandan border. [15k]

6.151 A paper of 6 January 2005 by the ISS listed the estimated numbers of soldiers targeted by the disarmament process in Ituri, as amounting to over 45,000 combatants from seven different factions. [27d] (p8) On 22 and 23 February 2005 IRIN reported government plans to deploy a police brigade to Ituri to protect civilians from militias, also that a sixth disarmament camp had been set up in the district. [18ar] [18as]

6.152 MONUC reported on 28 February 2005 that nine Bangladeshi members of the MONUC forces in Ituri had been killed by one of the armed groups in an ambush near an IDP camp at Kafe, in the course of MONUC operations against the militias who were terrorising the population. [56d] IRIN reported on 28 February 2005 that MONUC had reinforced its troops after the killings, and that the first brigade of 3000 Belgian-trained FARDC soldiers had begun operations in Ituri. [18at]

[Return to Contents](#)

North Kivu December 2004

6.153 The UN Secretary-General reported to the UN Security Council on 31 December 2004 that "The reporting period [August to December 2004] witnessed a dangerous increase in tensions between the political and military factions in the Kivus. Reports were received of regular clashes between Mayi-Mayi and ex-RCD-Goma, as well as between FDLR and ex-RCD-Goma, particularly in and around Masisi, Walikale, Gungu and Rutshuru. . . . Security along the border with Rwanda in both Kivus seriously deteriorated in November and December, with Rwandan accusations of FDLR attacks on Rwanda and Democratic Republic of the Congo accusations of Rwandan troop presence in the Democratic Republic of the Congo." [54d] (p4)

6.154 Two reports from IRIN on 1 December 2004 stated that MONUC suspected that about 100 Rwandan soldiers were in Rutshuru, in the north part of North Kivu province, and a report from the town of Beni-Butembo, that seven villages had been burned, and many people had fled to Miriki, from the parishes of Lufofo and Kanyabayonga. A regional minister reported that 15 people had been killed in the village of Ikobo, and Rwandan troops had burned places in Lubero, Walikale and Rutshuru, and Vulehusa in North Kivu. The reports added that massive displacements of people were likely from the Lubero, Masisi and Walikale territories of North Kivu. [18ac] [18ad]

6.155 A report from HRW on 4 December 2004 indicated that the Rwandan authorities had been ambiguous about the presence of Rwanda troops in DRC, but had indicated that it was feasible, and justifiable as Rwanda would be protecting its own security. [5g]

6.156 A further IRIN report on 13 December 2004 stated that there had been fighting in the previous two days between rival factions of the Congolese armed forces. The affected areas reportedly included the town of Kanyabayonga, north of the provincial capital, Goma, and the locality of Bweremana, on the border with south Kivu province. The same report recorded a claim that the 126th Battalion of the Congolese army, comprising mainly former rebel RCD-Goma soldiers, who speak Kinyarwanda had clashed with soldiers sent to the area by the Kinshasa government. [18ae] A report by Amnesty International on 19 January 2005 about intimidation of human rights activists in the area, also referred to a massacre of

around 30 people at Baramba by RCD-Goma forces on 17 December 2005, and killings in Goma in early November. [11f]

6.157 BBC News Online reported on 20 December 2004 that Rwanda had withdrawn the invasion threat because it had been assured by the international community that it would disarm the rebels. The same source reported that fighting had flared up between pro-Rwandan renegades and DR Congo troops when government soldiers tried to deploy in an area controlled by troops loyal to the RCD-Goma ex-rebel group. The renegade troops were reportedly consolidating their positions within the town of Kirumba and on the hills surrounding it. The commander of the renegade force, Colonel Smith Kihanga, claimed his men had killed up to 15 government soldiers. [15f]

6.158 HRW reported on 21 December 2004 about the humanitarian disaster arising from the combat between rival units of the Congolese army, noting that 180,000 civilians had been forcibly displaced. The report stated that fighting at Kanyabayonga had caused many to flee into the forest, and that many had previously fled from earlier fighting at Masisi, south of Kanyabayonga, and in Walikale in the west of North Kivu. HRW referred to confirmation by MONUC that Rwanda troops had crossed the border. [5h]

6.159 HRW also stated:

"Congolese army troops fleeing from the advancing rebels last week looted Kayna and Kirumba, large villages north of Kanyabayonga, firing in the air as they arrived and frightening residents into flight. On December 17, the commanding Congolese officer arrested one subordinate officer in Lubero in connection with the looting. Fighting halted on Wednesday but resumed on Sunday as the rebels pushed the battlefield further north towards the town of Lubero. MONUC staff who flew over the area said that at midday Sunday a school was burning and villages were empty." [5h]

6.160 On 23 December 2004 BBC News Online reported that "A senior UN official has said the recent upsurge in violence in the east of the Democratic Republic of Congo appears to be abating. UN peacekeepers moved in on Tuesday [21 December] to create a buffer zone between rival factions of the Congolese army." [15g]

6.161 However, in a further report on 7 January 2005 IRIN advised that "Combatants are committing human rights violations near the town of Kanyabayonga in the east of the Democratic Republic of Congo (DRC) despite an uneasy calm following the creation of a UN buffer zone, a UN official said on Thursday." The report stated that "MONUC reported that human rights also deteriorated in December in Walikale, an area 140 km west of Goma, capital of North Kivu, with summary executions and abductions by members of the former

rebel faction Rassemblement congolais pour la démocratie (RCD-Goma) and former Mayi-Mayi militiamen." [18ah]

6.162 On 3 February 2005 IRIN reported again that the number of refugees fleeing into Uganda had ebbed and close to 10,000 had returned home. However, some were reluctant to return because of pressure from certain leaders. [18am]

6.163 Reuters reported on 15 February 2005 that "Congo's army has sentenced 21 soldiers to death for looting and rape during clashes in the east last December, a military official said on Tuesday, noting that such sentences had always been commuted in recent years. Six more soldiers received jail sentences for disobeying orders during the unrest in the volatile North Kivu province, said the official, who is close to the army high command." [21b]

[Return to Contents](#)

Bukavu June 2004

6.164 The UN Secretary-General reported to the UN Security Council on 16 August 2004 on the situation that arose in May and June 2004 in the eastern town of Bukavu, South Kivu province. He stated that the roots of the crisis could be traced to February-March 2004, when tensions rose between the Deputy Military Regional Commander, Colonel Jules Mutebutsi (formerly of the Rassemblement congolais pour la démocratie-Goma (RCD-Goma)) and the Military Regional Commander for South Kivu, Brigadier-General Prosper Nabyolwa (of the former government component). [54b] (p8) Europa reported that an arms cache was discovered in February 2004 at the Bukavu home of a former RCD officer, whose arrest was the cause of a dispute between these two officers. [1] (283) The UN report stated that, although suspended by the Transitional National Government, Colonel Mutebutsi was allowed to remain in Bukavu and retained control over several hundred troops. [54b] (p8)

6.165 Europa recorded that in late May troops loyal to General Mabe, the regional military Commander, and Mutebutsi, clashed in Bukavu, resulting in several thousand Banyamulenge fleeing across the border into Rwanda. On 2 June several thousand troops loyal to Nkunda attacked Mabe's forces and seized control of the town of Bukavu. [1] (p283)

6.166 The UN Secretary General also reported:

"As Nkunda's troops advanced towards Bukavu on 1 June, FARDC elements abandoned the buffer zone and, on 2 June, the forces belonging to Nkunda and Mutebutsi took over Bukavu. Widespread abuse and looting followed. By that time, most FARDC troops had fled the city or sought refuge in the MONUC compound. . . . What appeared initially as an act of insubordination

and mutiny by two renegade officers quickly escalated into a fierce military confrontation, with a perceived ethnic overtone, alleged foreign interference and potentially heavy political consequences." [54b] (p8)

6.167 Europa also reported that the failure of MONUC troops to prevent the capture of Bukavu caused protest riots in Kinshasa, Lubumbashi and several other towns. [1] (p283) The UN Secretary General's report of August 2004 also stated that "Violent demonstrations were staged against MONUC [United Nations Mission for the Congo] and United Nations agencies in Kinshasa, Lubumbashi, Kalemie, Mbandaka, Kisangani, Beni and Kindu, resulting in the destruction of over \$1 million worth of equipment and property." [54b] (p9) BBC News Online reported on 3 June 2004 that there were anti-UN demonstrations in Kinshasa, Kisangani, Kindu and Bukavu, in protest at the capture of Bukavu. The two reports of that date stated that UN troops had fired tear gas against the crowd in Kinshasa, and that three people had been killed apparently while looting the UN premises in Kinshasa. [15c] [15d]

6.168 IRIN reported on 5 May 2004 that about 25,000 people had been displaced by the fighting, and, on 14 June 2004, that there had been a sharp drop in activities by aid agencies due to insecurity in the area. [18k] [18n] However, Europa reported that "Nkunda later withdrew from Bukavu and appeared shortly afterwards in Rwanda, from where he threatened to invade if his concerns about alleged massacres of Banyamulenge were not met." [1] (p283) IRIN reported on 22 June 2004 that some 20,000 government troops had been deployed to the east, and, in a further report of 25 June 2004, that humanitarian agencies were slowly returning. [18o] [18r]

6.169 The report in August 2004 by the UN Secretary General stated that "Following numerous broken promises, General Nkunda's troops withdrew northwards on 6 June, while Colonel Mutebutsi's troops withdrew south towards Kamanyola on 8 June. The following morning, the FARDC, whose strength had been augmented through reinforcements from the western part of the Democratic Republic of the Congo, was able to re-enter Bukavu and regain control of the border points with Rwanda." [54b] (p10)

6.170 The UN report also stated:

"All sides, including FARDC troops as they entered Bukavu on 9 June, looted and abused civilians and, in some instances, raped women and girls. Between 8 and 21 June, MONUC investigated allegations of attacks on Banyamulenge in Bukavu. MONUC determined that, while the attacks did not appear to have been planned or ordered, between 26 May and 1 June, FARDC elements had perpetrated four deliberate killings and nine cases of injury of Banyamulenge civilians. It was also determined that the FARDC had unlawfully killed six Banyamulenge FARDC officers in Walungu on 3 June; the circumstances of the killings are as yet unclear." [54b] (p10)

6.171 The UN report continued that:

"MONUC was prevented from interviewing Banyamulenge refugees in Cyangugu, Rwanda, with regard to another 12 reported killings and alleged abuses of Banyamulenge civilians in Bukavu. In addition, the MONUC investigations determined that the FARDC had deliberately killed two unarmed civilians in Bukavu who were not Banyamulenge. MONUC investigations also determined that Nkunda's and Mutebutsi's troops had been responsible for dozens of cases of rape and had deliberately killed at least nine civilians while in Bukavu, which was under their control between 2 and 5 June. . . . On 11 June, about 40 presidential guards attempted a coup d'état, accusing the Transitional Government of incompetence. Following exchanges of fire in central Kinshasa, the group's leader escaped and has apparently remained at large ever since. . . . Fighting has erupted in the Ruzizi plains following the withdrawal of Mutebutsi's troops south of Bukavu. On 21 June, Colonel Mutebutsi, along with some 300 troops, crossed into Rwanda." [54b] (p11)

See also Section 6C Attempted Coup of 11 June 2004

[Return to Contents](#)

6.172 A special report by IRIN dated 6 August 2004 on war and peace in the Kivus also referred to violent rapes and abuses by soldiers during the fighting around Bukavu. [18g] A local NGO, Heritiers de la Justice, published a report in July 2004 by a women's network that described many cases of violations of human rights and sexual violence. [51a] The same NGO also stated that it published a report on 3 August 2004 detailing killings and systematic violence in Bukavu. [51b]

6.173 AI condemned the serious rights abuses in the area on 3 June 2004, and also detailed a number of abuses committed by soldiers against civilians. [11c] A paper for the Institute for Security Studies in October 2004 'Continuing Instability in the Kivus' also gave the background and details of events in and around Bukavu in 2004. [27c] (p1-4, 10)

6.174 HRW in a Briefing Paper dated 12 June 2004 also detailed a number of events covering 27 and 28 May 2004 where Banyamulenge people had been killed by FARDC soldiers, and cases of human rights abuses and sexual violence committed by the forces of Generals Nkunda and Mutebutsi. The HRW report stated that "Human Rights Watch researchers have documented war crimes and other human rights abuses including summary executions, of which some were committed on an ethnic basis, rape, and looting by all the fighting groups since May 26, 2004 as well as in the previous months." [5c] On 17 June 2004 Radio Maendeleo reported that MONUC had investigated the alleged massacres of Banyamulenge people in Bukavu and had reached the same conclusion as HRW, namely that there had been no attempt to commit genocide. [41]

6.175 A Special Report of September 2004 by the Committee to Protect Journalists 'Fragile Freedom' reported that media workers had been threatened. The report also stated that there had been a number of unsubstantiated media reports during the fighting in Bukavu, including anti-Rwanda and anti-UN articles. [19e] (Low standards and pay)

6.176 HRW also reported on 29 December 2004 that FARDC troops who retreated from Bukavu to Walunga on 2 June 2004 carried out looting and rapes. [5i] (Human rights abuses by armed groups in Walunga) IRIN reported on 14 September 2004 that General Mabe, the regional FARDC commander stated that his FARDC troops had captured the stronghold of dissident soldiers at the town of Minova, north of Bukavu, ousting renegade troops, and that the entire region was under their control. [18v]

See also Section 5 Ethnic Groups

[Return to Contents](#)

Gatumba Massacre August 2004

6.177 Europa reported that in August 2004 some 160 Banyamulenge refugees who had fled from the Bukavu region to take refuge in Burundi were massacred at a refugee camp near the border between the two countries. Although a Burundian Hutu rebel faction, Forces nationales de libération, admitted responsibility, the Rwandan and Burundian governments maintained that Hutu militia operating within the DRC were responsible. Vice-President Ruberwa suspended RCD-Goma's participation in the peace process. However, at the beginning of September he announced that RCD-Goma had rejoined the government. [1] (p283)

6.178 Reports by HRW of 7 September 2004, and by the UN Special Representative in Burundi forwarded by the UN Secretary-General on 18 October 2004, gave background and details of the events surrounding the massacre. [5e] [54c]

6.179 HRW stated "On August 13, 2004 a force of armed combatants, many of them members of the Forces for National Liberation (Forces pour la Liberation Nationale, FNL), massacred at least 152 Congolese civilians and wounded another 106 at Gatumba refugee camp, near Bujumbura, the capital of Burundi. The FNL is a predominantly Hutu rebel movement known for its hostility to Tutsi and the victims were largely Banyamulenge, a group often categorized with Tutsi." [5e] (p1) The UN report noted that of the 15 tents housing Congolese refugees, 11 were burned, eight completely and three partially. [54c] (p9)

6.180 HRW and the UN reported on weaknesses in camp security and the response of police and military to the onset of the attack. [5e] (p12,18-19) [54c] (p8,10,16) HRW also reported that the attackers spoke a Burundi language, Kirundi. [5e] (p21)

HRW also reported that the attackers came from the direction of the DRC/Rwanda border, also that they did not attack any Burundian camp inmates, only Banyamulenge. [5e] (p13, 15)

6.181 HRW and the UN reported on more than one version of the events and allegations about responsibility for the killings. [5e] (p25) [54c] (p11, 14,17-20) HRW reported that UN and HRW investigators found difficulties interviewing a range of witnesses to the attack. [5e] (p25) A paper for the Institute for Security Studies in October 2004 'Continuing Instability in the Kivus' commented that this suggested that some of the leaders of the Banyamulenge had a vested interest in perpetuating a version of events which implicated Congolese forces in the massacre. The paper further commented that a version of events which asserted that the refugees were killed by FNL troops strongly resembled the FNL's official explanation. [27c] (p10)

6.182 A report by the Canadian Immigration and Refugee Board of 1 October 2004 referred to the Bembe (aka Babembe or Wabembe) of South Kivu. [43r] A Belgian journalist reported that some of the Babembe who took refuge over the border in Burundi from the fighting that broke out in May 2004 were among those Congolese who were killed in the Gatumba attack. [43r]

See also Section 6C Bukavu June 2004

[Return to Contents](#)

Kilwa October 2004

6.183 The report by the United Nations Secretary-General to the UN Security Council dated 31 December 2004 stated "On 13 and 14 October [2004] a group of six [sic] armed men belonging to the so-called Revolutionary Movement for the Liberation of Katanga briefly captured the town of Kilwa, 50 kms from the Zambia border, with the stated intention of seeking the 'independence of Katanga'. The occupation of Kilwa resulted in the displacement of its population, which reportedly fled in fear of reprisals by FARDC. On 15 October, FARDC re-established control over the town. A MONUC investigation suggested that during the attack and its immediate aftermath, FARDC elements were responsible for the indiscriminate killing of over 70 persons. The Transitional Government has yet to respond to the MONUC request to open an independent and transparent investigation into these killings." [54d] (p4)

6.184 The town of Kilwa in Katanga province, was the scene of fighting in October 2004, according to a report by IRIN dated 15 October 2004. The report stated that an armed group that had obtained control of the area was led by Prince Mulala, who identified himself to IRIN as a "colonel" and the Pweto sector commander of the Mayi-Mayi militia in the area. Mulala said his men were fighting because they had not been integrated into the unified army in

accordance with the April 2003 power sharing agreement between the government, several rebel factions and political organisations. [18x]

6.185 The IRIN report also stated that "The attack on Kilwa started around 2 a.m. on Thursday, creating panic among its 6,000 inhabitants. Employees at Anvil Mining, an Australian company mining copper and cobalt, have been evacuated." [18x]

6.186 On 16 October 2004 Agence France Presse referred to a local radio report that the insurgents were former paramilitary police from Katanga who had recently been expelled from mining areas in Angola and had joined a Mayi Mayi militia led by a warlord known as Gédéon for an assault on Kilwa. [65b]

6.187 According to a report of 16 October 2004 from Misna News Agency a presidential adviser stated that groups of Mayi Mayi (Congolese partisans) and unidentified elements - maybe former soldiers of Katanga called "Tigers" - were involved in a still very confused situation believed linked to the exploitation of mineral resources of the region. [14] However, on 19 October 2004 the UN-sponsored Radio Okapi reported a denial of involvement by the National Liberation Front [FLNC], political wing of the troops known as "Tigers", or ex-Katanga gendarmes. The denial was issued by Nickel Rumbu, the party's chairman, who said that his party was supporting the elections in the DRC, according to the report. [64a]

6.188 Further IRIN reports of 18 and 20 October 2004 stated that the town was retaken by government troops shortly after and the leader was captured. The vice-governor of Katanga told IRIN that the suspicion was that they were Mayi-Mayi militiamen from an island in Lake Mweru, and the previous week's attack had been only the latest in a long line of incidents over the past months and years, according to the report of 18 October 2004. The IRIN report of 20 October 2004 stated that the deputy governor of Katanga Province named the leader as Alain Ilunga Mukalyi. He said that Mukalyi was then taken to a hospital and has been undergoing surgery for gunshot wounds, which he sustained in the battle when government soldiers regained control of the town. Up to 30 insurgents were reportedly killed in the action, and several rebels were captured including Mukalyi's second-in-command. [18y] [18z]

6.189 According to a further IRIN report of 27 October 2004, over 3000 people who had fled to Zambia to avoid the fighting had returned to their homes and were not in urgent need of humanitarian aid. [18aa]

6.190 A press release by Global Witness dated 20 October 2004 expressed concern over the attack on Kilwa and stated that the attack was led by a group known as the Liberation Movement for Katanga. [36] According to an article from Angola Press dated 20 October 2004 "Security sources in Lusaka explained to PANA that Kilwa was briefly taken over last week by insurgents of the little known Movement for the Liberation of Katanga and irregular fighters from the among the

Mai Mai combatants." [34] The South Africa-based Institute for Security Studies referred to a different group with a similar name - the two wings of which are the Front de Liberation Nationale du Katanga (FNLK) or Katanga Tigers, and the Front de Liberation Nationale du Congo (FLNC). [27b] (Security Information)

[Return to Contents](#)

Internally Displaced Persons

6.191 The Global IDP Project country profile of October 2004 reported that there has been a sharp increase in the numbers of internally displaced people since the mid-1990s, reaching 3.4 million people by 2003. In 2004 the number of displaced fell for the first time since the mid-1990s, following the return of hundreds of thousands at the end of 2003 and in 2004. [49a] (p3) However, the report cited several areas in the east of the country where fighting and consequent displacement had taken place in 2004, including Katanga, North Kivu and Ituri. [49a] (p3)

6.192 The Global IDP report of October 2004 also stated that while some returned, others were displaced in 2004, and "Over the past year, hundreds of thousands have spontaneously returned home in eastern DRC, particularly in the provinces of Ituri, Maniema, Katanga and the Kivus. The United Nations estimated a total of 2,329,000 IDPs as of August 2004, a decrease of over a million since their August 2003 estimate (OCHA, 31 August 2004, 18 November 2003). Most of the displaced have returned home with little or no assistance." [49a] (p4) A further report from the Global IDP dated 3 February 2005 also referred to the displacement of thousands from Ituri in early 2005. [49b]

6.193 The Global IDP report of October 2004 also stated "The protection of the displaced and other civilians remains a serious concern throughout DRC, particularly in the Kivus, Maniema and Ituri." and "Despite the establishment of the Transition Government, civilians continue to live in crisis conditions in many parts of the DRC. Millions lack access to basic infrastructure (health centres, schools and roads), potable water, food, seeds, tools, clothes and straw to build houses. . . . With DRC's collapsed healthcare structures, displaced people are particularly vulnerable to infectious diseases." [49a] (p4,5)

6.194 Global IDP also reported:

"At the national level, both the Ministry for Solidarity and Humanitarian Affairs and the Ministry for Social Affairs have responsibility for responding to the needs of IDPs. The first focuses on protection and assistance during displacement, while the second is the focal point for return. Governors of several provinces have established offices to coordinate humanitarian assistance (OCHA, 23 September 2004). UN agencies, national and international NGOs and the ICRC are providing IDPs and returnees with food

and non- food items, seeds and tools, health care, and emergency education. The worsening security situation in mid-2004 has slowed down assistance to IDPs." [49a] (p6)

6.195 The US Committee for Refugees World (USCR) Survey 2004, commenting on events in 2003, stated also:

"As in previous years, relatively few displaced Congolese lived in camps. The overwhelming majority moved into the homes of family, friends, or strangers, or survived on their own in forests or remote villages. Uprooted families often congregated at small towns that had little food or shelter to share because of pervasive deprivation gripping the general population. Continued violence and poor security prevented international humanitarian agencies from reaching hundreds of thousands of displaced people during the year." [53]

6.196 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) reported that:

"As of November [2004], OCHA estimated that there were almost 2.2 million IDPs in the country, the majority of whom were reportedly in the eastern portion of the country, mostly concentrated in North Kivu, Orientale, and Katanga. In November, OCHA reported that there were an estimated 180,000 IDPs in the Ituri region, an estimated 785,000 IDPs in North Kivu, and 280,000 IDPS in South Kivu. Many of the IDPs received no assistance because of ongoing fighting and the denial of access to NGOs, and many were forced to relocate numerous times to escape fighting (see Section 1.g.). In December, fighting between FARDC forces and RCD/G soldiers who were not integrated into the national army displaced over 100,000 persons in central North Kivu. Unlike the previous year, there were no reports that militias attacked and fired upon IDPs attempting to flee." [3f] (Section 2d)

See also Section 6C Security Situation - Eastern DRC; Section 6C Humanitarian Aid/International Assistance

[Return to Contents](#)

Refugee Movement with Neighbouring Countries

6.197 USSD 2004 stated that "According to the U.N. High Commission for Refugees (UNHCR), at year's end [2004], approximately 370,000 Congolese refugees lived in several neighboring countries, including Tanzania (149,000), the Republic of the Congo (56,000), Zambia (54,000), Burundi (35,000), and Rwanda (33,000)." [3f] (section 1d) The same source stated "During the year, the Government accepted refugees from Burundi and Rwanda. According to the UNHCR, by November the country was hosting an estimated 196,000 refugees, including refugees from Angola, Sudan, and Burundi." [3f] (section 1d)

6.198 The UNHCR Global Appeal 2005 reported that "The main countries of asylum for DRC refugees are the United Republic of Tanzania, the Republic of the Congo (RoC), Zambia, Burundi, Rwanda, the Central African Republic (CAR) and Uganda. Other DRC refugees have found asylum in South Africa, Mozambique and Malawi, or even further afield in Europe and the United States." [60c] (p84)

[Return to Contents](#)

Humanitarian Aid/International Assistance

6.199 Many international aid organisations and Christian missionary groups operate in the country to provide medical and other relief services. [57b] [57c] These include United Nations (UN) and other international agencies, including the International Committee of the Red Cross, World Health Organisation and Médecins sans Frontières (MSF). [16a] [29c] [57a] [57b] [57c] Also, international donors, including the World Bank, the International Monetary Fund, the European Union and the UN Development Fund have provided funds for improvements to the economy and social and health services. [1] (p284,301-302,304-305) [3d] (Economy) [17a] [17b] [60c] (p87)

6.200 According to the Global IDP report of October 2004 "At the same time, several initiatives have strengthened the humanitarian presence in eastern DRC. Humanitarian agencies like OCHA have opened offices in isolated locations to get closer to displaced communities." [49a] (p4,5)

See also Section 3 Economy

[Return to Contents](#)

Treatment of Non Government Organisations (NGOs)

6.201 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) stated:

"The Government cooperated with international governmental organizations and NGOs and permitted international humanitarian and human rights NGOs access to conflict areas. A number of U.N. representatives and international NGOs visited the country during the year [2004]. During the year, international NGOs, including AI and HRW, and international organizations such as the U.N. published several reports on the human rights and humanitarian situation." [3f] (Section 4)

6.202 USSD 2004 also stated "The main domestic human rights organizations operating in the country included VSV [La Voix des sans Voix]; Groupe Jeremie; the Committee of Human Rights Observers (CODHO); The Christian Network of

Human Rights and Civic Education Organizations (RODHECIC); and the African Association for the Defense of Human Rights (ASADHO)." [37] (Section 4) The same source stated "Domestic human rights organizations operating in areas under marginal government control included Heirs of Justice, and Solidarity Exchange for Integral Development (SEDI) in South Kivu; Lotus Group, Friends of Nelson Mandela, and Justice and Liberation in Kisangani; and Justice Plus, in Bunia." [37] (Section 4)

[Return to Contents](#)

Human Rights Activists

6.203 USSD 2004 reported that "In areas under government control, a wide variety of domestic and international human rights NGOs continued to investigate and publish their findings on human rights cases. The Human Rights Ministry and the Observatory for Human Rights worked with NGOs during the year [2004] and were responsive to their requests and recommendations. However, during the year, many prison officials regularly obstructed NGO access to detainees, and security service personnel harassed and arrested domestic human rights workers." [37] (Section 4) The same source stated "In areas under marginal government control, domestic human rights NGOs and civil society members were subjected to frequent harassment and abuse, particularly in Ituri." [37] (Section 4)

6.204 USSD 2004 also stated, regarding areas under marginal government control,:

"Armed groups frequently committed abuses, including killings and rapes, against humanitarian workers or peacekeepers (see Section 1.g.). In addition, in Ituri, according to the MONUC Ituri Report, there were 'several cases of harassment of humanitarian workers and church members, with the aim of halting the delivery of humanitarian assistance to members of 'rival' ethnic groups.' Ituri armed groups also 'executed, abducted, arrested, or forced to flee persons they thought to be political opponents, as well as judges, intellectuals of enemy ethnic groups, journalists, and members of NGOs.' " [37] (Section 4)

6.205 Amnesty International (AI) also reported on 19 January 2005 that human rights workers in North Kivu had received death threats, following what appeared to be a concerted campaign against them by local renegade RCD-Goma forces, and similar threats in other provinces, including Katanga. The AI report referred to threats against several leading activists in Goma. [117]

See also Section 6C Security Situation Ituri; Security Situation North Kivu

[Return to Contents](#)

Official Documents

6.206 The British Embassy in Kinshasa in February 2003 advised that due to the prevalence of corruption and poor administrative records considerable caution should be exercised before accepting the validity of birth/marriage/death certificates and identity cards. These documents can be easily obtained by bribing the relevant officials, or by forgery. [22g]

6.207 A country fact finding report of 2002 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA) also stated that genuine official documents can easily be obtained by bribery, and so even if a document has been proven to be genuine, the information contained in it may be false. The documents most frequently falsified are travel documents, generally used to travel to Europe and sold by the producers of these forged documents for a large sum of money. [24a] (p48)

Birth, Marriage and Death Certificates

6.208 The British Embassy in Kinshasa in March 2002 advised that it is very difficult to ascertain whether birth, marriage and death certificates are genuine, as there is no national registry office where copies of birth, marriage, and death certificates are kept. Local authorities issue these documents but do not keep copies for their records. [22e] The same source advised in February 2003, it is a legal requirement to register births, marriages and deaths. [22g] An information response by the Canadian Immigration and Refugee Board (IRB) of 17 July 2003 referred to an initiative by President Kabila to increase the birth registration rate, which was currently at 34%. [43e]

[Return to Contents](#)

National Identity Cards

6.209 The British Embassy in Kinshasa advised in February 2003 that there is an array of different ID cards. Since the end of the Mobutu regime in 1997 there has been no new law or regulation specifying the official format for identity cards. The information from the British Embassy advised that in practice, old Zairean identity cards tend to be confiscated by the authorities when produced but no replacements are offered. There is no central issuing authority for identity cards. Each Commune or local authority is responsible for producing and issuing identity cards to its residents. These identity cards are produced in different formats as there is no government regulation about the format for these cards [22g]

6.210 An information response by the Canadian Immigration and Refugee Board (IRB) dated 2 September 2003 advised about the meaning of the notations 'Avis favorable A.N.R.' ('Approved A.N.R.') and 'Avis favorable D.G.M.' ('Approved

D.G.M.) stamped on the back of cards serving as proof of loss of identity papers, issued by the authorities of the city of Kinshasa. According to information from the editor-in-chief of Le Phare, a Congolese newspaper, "Since the fall of Mobutu in 1997, there have been no national identity cards in the RDC, so commune authorities (mayors) issue proofs of loss of identity papers. The security services [including the ANR and DGM] have contacts in all commune offices, whose job is to ensure that the people requesting these identity documents are indeed Congolese and not foreign intruders. This is the meaning that should be given to "Avis favorable" ("Approved")." [43f]

Driving Licences

6.211 During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, it was stated that:

"The current Congolese driving license is very sophisticated in comparison to other African countries, where normally it is simply a piece of paper. It is a plastic card, a little larger than a credit card. It has a light purple color and bears the holder's photo. Since one does not find such a card in other African countries it can be recognized as the Congolese driving license straight away. While this type of license is rather new, the driving license office already existed under Mobutu. The company which produces the driving licence cards is also working with the UN Mission in the Congo, producing their badges. The new driving license, introduced after the fall of Mobutu, features a bar code and a lion." [52] (p127-128)

Passports

6.212 An IRB information response dated 10 April 2003 advised that the DRC government had issued a new style of passport from 31 May 2000 and that previous versions of both DRC and Zaire/DRC passports were no longer valid from that date. [43b]

6.213 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) stated "Married women were required by law to have their husband's permission prior to traveling outside the country. Passport issuance was highly irregular and required the payment of significant bribes (up to \$500); however, there were no reports that certain groups were prevented from acquiring them." [3f] (Section 5)

See also Section 5 Citizenship and Nationality and Section 6A Freedom of Movement

Arrest, Search and Bail Warrants

6.214 The British Embassy in Kinshasa advised in February 2003 that arrest and search warrants are issued by prosecuting magistrates. Bail warrants are issued by court judges to whom the request for bail was submitted. In each case, the subject of the warrant is shown, but not given, the warrant. In the case of search warrants, the subject of the search has to sign the form. [22g]

[Return to Contents](#)

Letters of Support from Opposition Political Parties

6.215 The British Embassy in Kinshasa advised in February 2003 that there is no standard practice or format regarding letters of support produced by opposition political parties. The vast majority of political parties have a small membership and are no more than a loose collection of like-minded persons, with no formal organisational structure. In these circumstances, it is easy for members of these political parties to obtain letters of support signed by anyone generally recognised as an official of the party. [22g]

See also Section 5 Political Parties

[Return to Contents](#)

Bundu dia Kongo

6.216 A report by the United Nations (UN) Integrated Regional Information Networks (IRIN) dated 26 July 2002 stated that the Bundu dia Kongo (BDK) (Kingdom of Kongo) was a nationalist politico-religious group centred in the Bas-Congo province (west of Kinshasa) which has campaigned for the independence of the Bas-Congo region from the rest of the DRC. The report stated "Bundu dia Kongo adherents have protested in the past against the late DRC leader, Mobutu Sese Seko, and his successor, Laurent-Desire Kabila. The protests have occasionally ended in the deaths of the group's adherents, who have themselves sometimes been armed." [18a]

6.217 The same IRIN report stated:

"Bundu dia Kongo demands that its adherents renounce western and eastern religions, and has sometimes pushed them into committing acts of violence. It seeks the restoration of the ancient Kongo kingdom within its pre-colonial boundaries, which encompassed parts of today's Angola, the Republic of Congo and Gabon. The centre of the kingdom was located in Bas-Congo Province and in neighbouring Bandundu Province of modern-day DRC." [18a]

6.218 An information response by the Canadian Immigration and Refugee Board (IRB) dated 15 October 2003 also stated:

"According to Yabili [Web site], [translation]

The Bundu dia Kongo (Bdk) doctrine, which is compiled in the "Kongo Dieto," [described by source [24b] (p 15) below as an information sheet printed in Kinshasa, whose frequency varies as required] is a hodge-podge of ideas. It covers religion, philosophy, pure science, history, geography and politics. It is tailored to the Bakongo, the chosen people of the worldwide Black race. They are convinced that the RDC is composed not of a single people, but of a heterogeneous group of diverse and sometimes contrasting cultures. This is why they demand an ethnic-based federalism, which has nothing to do with separatism (6 Apr. 2003)." [43h]

6.219 A report of December 2003 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA) described the sect in detail, including its creation, philosophy, structure, leadership, the conditions and training for new members, its emblem, membership cards and statutes, as well as the events of July 2002 and subsequently. [24b]

6.220 The CEDOCA report stated that the basic philosophy of the organisation was to promote the positive aspects of the Kongo ancestral traditions. [24b] The Management Committee, as of 2003, was a Chief Executive, Ne Muanda Nsemi, an Administrative Director, Malozi ma Mpanza, a Secretary (name not known) and a Treasurer, Nzaki Bazola. Its office headquarters in 2003 was in Kinshasa. [24b] (p7)

6.221 With regard to membership cards the CEDOCA report stated:

"The membership card is yellow with BDK and the party emblem on it, then it says KALATI KIA KESA which actually means membership card in Kikongo. The card is written in Kikongo (there are none in French). The card includes a photo of the member. NB: no cards have been issued since the events of July 2002. In fact during the events of July 2002, the majority of the schools and zikua were looted by soldiers. As a result, membership cards were found lying about and were then used by certain people who sold them to false members. This is why BDK decided to develop a new design (but it has not yet been issued). Under the circumstances, Ne Muanda Nsemi has written to various asylum authorities to warn them that false members of BDK might produce genuine membership cards. In parallel to this membership card there is a subscription card which is blue. This card is like the first one, but includes the words KIMBANGI KIA KESA = proof of payment." [24b] (p18-19)

[Return to Contents](#)

Arrests of July 2002 and Subsequent Events

6.222 The US State Department International Religious Freedom Report 2004 stated "Bundu Dia Kongo, an ethnically based spiritual and political movement that called for the overthrow of the Government and the establishment of an 'ethnically pure' kingdom from the Bakongo tribe remained outlawed. Unlike in the period covered by the previous report, there were no reports that members of Bundu Dia Kongo were arrested. . . . There were no reports of religious prisoners or detainees." [3c] (Section II)

6.223 The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) stated:

"On April 24 [2003], following protests by national and international organizations, President Kabila closed the COM [Military Order Court] by presidential decree. In addition, the President granted amnesty for political crimes, crimes of opinion, and for members of political-religious movements, including UDPS [Union pour la Democratie et le Progrès Social (Union for Democracy and Social progress)] members and Bundu dia Kongo followers, and 70 prisoners were released. Many persons had their sentences commuted." [3b] (p7)

6.224 An IRB response dated 15 October 2003 stated "Three other sources stated that four to ten people were allegedly killed and several others wounded in July 2000 [sic] confrontations between the security forces of the Democratic Republic of Congo (RDC) and Bundu dia Kongo members in the province of Bas-Congo (West), in Lozi (350 km from Kinshasa) and Moanda (Agence France-Presse 22 July 2002; Country Reports 2002 31 Mar. 2003; IRIN 26 July 2002)." [43h]

6.225 The CEDOCA report of December 2003 described the events of July 2002 and subsequent imprisonment in detail. [24b]

6.226 The CEDOCA report stated that on 22 July 2002, in Kinzao-Mvute, about a hundred BDK members, wishing to commemorate the 40th anniversary of the creation of Bas-Congo Province, started to walk from their old temple to a new one, which was about 1 km away. On the way, they were stopped by the security forces and prevented from continuing their journey. Some of the members were arrested and badly beaten by the security forces. Also, on 22 July 2002, a meeting held in a temple in Tshela by BDK members was disrupted by units of the Congolese armed forces. Soldiers surrounded the temple and asked the 55 men, women and children in the temple to go outside and climb into military vehicles located outside the temple. As soon as all the BDK members had left the temple, it was burnt down. [24b] (p38-39)

6.227 The CEDOCA report continued that members were taken to the premises of the Bas-Fleuve district Commissioner. Once the leaders of the group were identified - Ne Mbambi Mbumba and Ne Nandi Kandi - soldiers searched their

homes to ascertain whether these individuals had arms caches. None were found. After their homes were searched, both of these men were subsequently threatened and attacked by the soldiers. All 55 members of the group were interrogated by the security forces, but by 26 July 2002 all had been released from the Tshela central prison, apart from Ne Mbambi Mbumba and Ne Nandi Kandi. [24b] (p38-39)

6.228 The CEDOCA report also stated that many other BDK members were arrested during the events of July 2002 in the Bas-Congo Province. Of these, only 40 people were transferred to the CPRK prison in Kinshasa to await being put on trial. All the others arrested, which included all the women, were released from detention within two weeks, by paying for their release or by bribing a police officer or by escaping. The trial of BDK members began on 12 December 2002 at the Court of State Security but was postponed. The Court of State Security had not convicted or acquitted any of the BDK members who were in the CPRK by the time President Kabila granted an amnesty to them in April 2003. [24b] (p42, 45)

6.229 The CEDOCA report clarified that the leader of the BDK was Ne Muanda Nsemi and that he was not among those arrested in July 2002, and that his only arrest was in February 2000 when he was released after 3 weeks under a presidential amnesty. The report stated that:

"There is some confusion between Ne Muanda Nsemi and Bernard Mizele Nsemi partly because they come from the same area and also because their names are similar in part. They are in fact two different people belonging to 2 different organisations. There are no links between their respective organisations. The movement led by Bernard Mizele Nsemi, the so-called Roi Kongo (King of the Kongo) that is "Royaume Kongo" ("Kongo Kingdom") was dissolved by Decree of the Court for Military Order in 1998." [24b] (p11-12)

6.230 However, an information response by the IRB dated 9 June 2003 referred to Bernard Mizele Nsemi as the leader of the Bundu dia Kongo, based on a report in Le Phare newspaper. [43c]

[Return to Contents](#)

Armée de Victoire (Army of Victory Church)

6.231 A report of December 2003 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA) advised that this Church is the main branch of the World Mission for Message of Life (Mission Mondiale Message de Vie) (MMMV) organisation, which was founded by Archbishop Fernando Kutino in 1984. The MMMV has five main areas of activities involving:

- The Army of Victory (Armée de Victoire) Church
- Evangelisation work both in the DRC and abroad
- The Victory School (école de la victoire) (religious training)

- Community work
- Radio and Television [station] Message de Vie (RTMV), which is MMMV's radio/television station. [24c] (p6, 9)

6.232 The CEDOCA report stated that the Church was founded in 1989 and had its headquarters in Kinshasa. It had between 10,000 and 15,000 supporters in 2003. Membership cards were issued to the Church's members. The Church had seven parishes and 26 'prayer units'. The leader of the Church was Archbishop Fernando Kutino, who was assisted by 14 bishops. There were 12 church elders who had a spiritual function, deacons, who dealt with the practical management needs of the Church, and church shepherds who were responsible for the prayer units. [24c] (p7,10-13)

6.233 The CEDOCA report also stated that the Church's emblem was a circle with a sword and a cross forming the 'A' for 'Army' and the 'V' for 'Victory' and a flame in the middle. The swords symbolised the word of God fighting against the forces of evil. The flame represented the fire that is the holy spirit. RTMV was located at the same place as the headquarters of MMMV and its function was to educate and instruct people about the MMMV and its message. [24c] (p13)

6.234 The CEDOCA report also stated that, on 30 May 2003, Archbishop Kutino launched a political/religious movement called Sauvons Congo (Save the Congo). It was created as a means to express people's frustrations over the failure of politicians to establish a democratic system of government and improve conditions for the Congolese people. Leaders of the movement denounced the problems that affect Congolese society such as corruption and human rights abuses. Government officials viewed the movement with suspicion and some criticised it severely. [24c] (p18-19, 21)

[Return to Contents](#)

Events of June 2003 and Subsequently

6.235 The CEDOCA report stated that on 10 June 2003 police officers in plain clothes raided the Church's premises where the radio station was based. The police officers assaulted Archbishop Kutino, who was having a meeting with members of the Sauvons Congo movement and took away some of the people who had been at the meeting, including Kutino. [24c] (p20-26) The CEDOCA report reported differing sources about whether anyone was arrested, stating that Le Phare and other newspapers reported that arrests had taken place, however interviewees, including church members, and local human rights groups ASADHO and VSV, did not mention any arrests. [24c] (p21,26)

6.236 The 2004 Annual Report by Reporters Without Borders, commenting on events in 2003, mentioned that broadcasting resumed in December 2003. The report stated:

"Radio-Télévision Message de Vie (RTMV), a Kinshasa-based radio station run by the Victory Army Church of protestant pastor Fernando Kutino, stopped broadcasting on 10 June after being ransacked by unidentified assailants. Acting on the pretext of restoring order, the police occupied the station's transmitter, located 10 km from the studios. Police were also permanently posted outside the studios and the church, while Rev. Kutino went into hiding. The church was finally able to resume broadcasting on 14 December." [7b]

6.237 A report from International Freedom of Exchange (IFEX) mentioned that RTMV resumed broadcasting on 14 December 2003. The report stated that it had been prohibited from operating by the governor of Kinshasa on the grounds that it did not have the legal status necessary to do so. The document confirming that status was delivered to the church on 5 December by the justice minister. [63a] Further information from CEDOCA in February 2004 confirmed that the RTMV had obtained the legal status required for its operations on 5 December 2003. The report stated "This had the consequence of not only the Church's activities being taken up again but also those of the RTMV, the radio-television network which was also closed on 10th June 2003. . . . On 14th December 2003 reopening took place in the presence of [Vice-President] Jean-Pierre Bemba." [24d]

[Return to Contents](#)

Assassination of President Laurent Kabila

6.238 A report by Amnesty International (AI) in December 2002 'From assassination to state murder?' advised that arrests began immediately after the assassination occurred on 16 January 2001, and mainly took place between January and March 2001. They included presidential bodyguards, members of the armed forces, members of the security services and at least 45 civilians. [11a] (p1-2) The report stated that Colonel Eddy Kapend Irung, a presidential aide was arrested in March 2001. [11a] (p2)

Commission of Inquiry

6.239 AI noted "The Commission of Inquiry, consisting of members of the Congolese security services as well as Angolan, Namibian and Zimbabwean army officers, was set up on 7 February 2001. It made public its findings on 23 May." [11a] (p2)

6.240 AI also reported that the Commission of Inquiry apparently enjoyed unlimited powers to detain suspects without charge or trial. It alleged that one of the president's own bodyguards, Lieutenant Rachidi Muzele, fired the shots which killed him. Muzele had also died from gunshot wounds immediately after the assassination. AI noted that the Commission's assertion that the RCD-Goma rebel group was responsible for planning the assassination with the support of

the Rwandan and Ugandan governments was vigorously denied by all three parties. [11a] (p2)

Detention of Suspects

6.241 AI reported that the assassination suspects were kept in Wing 1 of the CPRK prison in Kinshasa. Initially, the defendants were held incommunicado. They were kept under constant armed guard by a contingent of soldiers of the Zimbabwe Defence Forces which was permanently stationed in the CPRK. [11a] (p3)

6.242 A report on prisons in the DRC published by the Irish Refugee Documentation Centre in May 2002, advised that Wing 1 of the CPRK was completely isolated from the other wings and prisoners were kept under secure restrictions, with security precautions over visitors and gifts. [12] (p4-5)

Trial of the Accused

6.243 The AI report also advised that the trial of a large number of people accused in connection with the assassination began on 15 March 2002, before the Military Order Court in a room at the CPRK. [11a] (p3) The chief public prosecutor at the trial (Colonel Charles Alamba Mongako) called for the death penalty for more than one hundred of the accused and sentences ranging from two to fifteen years imprisonment for the rest, for charges of capital crimes, treason, and plotting against the state. [11a] (p1,3,6)

6.244 AI stated that when the trial began, there was a total of some 119 defendants but this number subsequently grew to 135 as further suspects were arrested or added to the charge sheet in the course of the trial. [11a] (p4) AI reported that some defendants were tried in their absence, including Major Janvier Bora Kamwanya Uzima, who escaped from the GLM detention centre in February 2001. Laurent Kabila's alleged assassin, the late Lieutenant Muzele, was also listed as one of the accused. [11a] (p4)

6.245 AI also reported that a number of female defendants were tried solely because they were related to some of the suspects. These women included Anne-Marie Masumbuko Mwali and Rosette Kamwanya Beya, who were arrested in March 2001 and who were both married to a former member of the Congolese armed forces, Major Janvier Bora Kamwanya Uzima. Major Bora had himself been arrested on 20 January 2001 and detained at an unofficial detention centre known as the GLM but managed to escape from the GLM and fled the country in February 2001. Anne-Marie Masumbuko Mwali was reportedly detained in an unofficial detention centre before her transfer to the CPRK Prison in Kinshasa. Honorine Fonokoko, the wife of Laurent Kabila's alleged assassin, Lieutenant Muzele, was also put on trial. [11a] (p2-3)

6.246 The Government announced in September 2002 that the moratorium on the death penalty, which had nominally been in place for three years, had been lifted. This would allow the Military Order Court to sentence any of the 135 accused with the death penalty if it wished to do so. In October 2002, the prosecution wound up its case by requesting the death penalty against 115 of the 135 accused. [11a] (p4)

6.247 AI commented that in spite of a four-month investigation carried out in early 2001 by a specially established Commission of Inquiry and a lengthy trial, the exact circumstances of former President Kabila's assassination remained contentious. [11a] (p1) AI also expressed concern at the conduct of the trial and noted that "The public prosecutor has called for the death penalty for 115 of the 135 accused, just days after the government announced an end to a moratorium on executions which had nominally been in place for 3 years. If found guilty, the defendants will have no right of appeal against their sentences, even if they are sentenced to death." [11a] (p1)

6.248 The Africa Research Bulletin (ARB) for January 2003 and a report by the United Nations Integrated Regional Information Networks (IRIN) report dated 28 January 2003, recorded that on 7 January 2003 the Military Court sentenced the persons suspected of being involved in the assassination of Laurent Kabila. [2a] [18c] The reports stated that between twenty six people and thirty people were sentenced to death, and between forty one and forty five were acquitted. [2a] [18c] IRIN stated that twenty seven others were sentenced to life in prison, and the remainder received sentences ranging from two to twenty years of imprisonment. [18c]

6.249 The ARB report for January 2003 stated that "Those condemned included Colonel Eddy Kapend, Kabila's former aide-de-camp. Kapend was identified as the ringleader of the killers. However, the court acquitted Fono Onokoko, the wife of Rashidi Mizele, Kabila's bodyguard, who, prosecutors said, shot Kabila dead on January 16th [2001]." [2a]

6.250 The names of those convicted at the trial were published by the Congolese human rights group ASADHO in March 2003. [46] (p13) An information response by the Canadian Immigration and Refugee Board (IRB) of 4 September 2003 also provided a source for the list of names of those tried and their sentences and stated that "Thirty of the 135 people accused were sentenced to death and 27 to imprisonment for life, while terms of imprisonment ranging from 2 to 20 years were given to nearly 20 of the accused, and 50 or so others were acquitted (ibid.; ASADHO Mar. 2003; Le Phare 18 Jan. 2003)." [43g]

6.251 The ARB report for January 2003 also stated that "Most of the condemned were members of the military. Amnesty International and other human rights groups expressed concern for their fate after the military prosecutor, in his closing submission, demanded the death penalty for 115 of the detainees. The

rights bodies also expressed concern at the detention of people arrested because of their relationship with the accused." [2a]

[Return to Contents](#)

Post-Trial Situation

6.252 The IRIN report of 28 January 2003 stated that after the sentences were passed, security was tightened at the CPRK Prison, where those of the accused who had been sentenced to imprisonment or death were kept. The wives of the men who were sentenced to death were not allowed to visit their husbands and were prevented from bringing them food and medicines. The Director of the CPRK, Dido Kitungwa reportedly stated that the security measures were taken to prevent those of the accused sentenced to death from escaping but he also stated that family members would be allowed to visit them at some point in the future. [18c]

6.253 Another IRIN report dated 18 August 2003 advised that 95 of the persons convicted for the assassination of Laurent Kabila, who were in prison, began a hunger strike in August 2003 to demand that a general amnesty be extended to them and to protest about prison conditions. The Government stated that the amnesty declared by President Joseph Kabila on 15 March 2003 was only intended to allow members of the rebel forces to take part in the Transitional National Government institutions and did not apply to anyone alleged to have been associated with the Laurent Kabila assassination. [18d] The Country Profile by the Economist Intelligence Unit noted in October 2004 that Colonel Edy Kapend, and General Nawej Yav, who were both sentenced to death, following what is widely considered to have been a sham trial, remain in prison in Kinshasa, along with several dozen other people who were convicted by the tribunal. [30] (p7)

6.254 A report by IRIN dated 7 October 2004 stated that the former prosecutor of the Military Court, Colonel Charles Alamba, was among 11 people condemned to death on after being found guilty of murder, mutilation and extortion. [18w] This concerned a separate incident, and unrelated trial. The report stated "Various human rights groups, including Amnesty International, have singled out Alamba for his abuses during his tenure as prosecutor. As military prosecutor at the time of the assassination of former President Laurent Kabila, Alamba led the trial in which 30 people accused of the crime were condemned to death, the same sentence now imposed on him." [18w]

See also Section 5 Judiciary

[Return to Contents](#)

Coup Attempts 2004

6.255 The US State Department Report on Human Rights Practices in 2004 published on 28 February 2005 (USSD 2004) stated that the whereabouts of an unknown number of civilians and soldiers who were detained early in the year in connection with alleged coup plots remained unknown. [37] (Section 1b) The 2004 Country Profile by the Economist Intelligence Unit commented that "There were two apparent coup attempts against Mr Kabila in 2004. Both were widely considered to have been staged by the presidential camp in an attempt to suspend the transition process." [30] (p13)

Attempted Coup of 28 March 2004

6.256 The Africa Research Bulletin (ARB) for March 2004, reporting several news sources, stated that: "Kinshasa awoke to gunfire on March 28th when forces thought to be loyal to Mobutu Sese Seko, the former dictator, launched a coup attempt against the government of President Joseph Kabila. Press and Information Minister Vital Kamerhe said that insurgents had attacked four military camps in Kinshasa early in the morning." [2b] The ARB also reported that "The alleged coup plotters simultaneously attacked Colonel Tshatshi military barracks located within the Unité Africaine district, home to the presidential offices, the Kokolo camp logistic base in a residential area, the Gombe naval base and the Ndolo air base." [2b] The ARB for March 2004 also reported that the attempted coup was dubbed Operation Pentecost by the perpetrators. [2b] The ARB for June 2004 also stated that the group was called the Army of Heaven. [2c]

6.257 A report by the United Nations Integrated Regional Information Networks (IRIN) on 29 March 2004 advised that the Interior Minister stated that the government remained united and in complete control. The report stated "He was speaking in Kinshasa as loyal army officers paraded 17 captured attackers before reporters. Diplomats in Kinshasa said the attackers were most likely remnants of the defunct Zairean Armed Forces, once loyal to the late President Mobutu Sese Seko." [18j]

6.258 On 24 June 2004 a further report from IRIN stated that:

"A government commission, formed to investigate the failed coup, said ex-military officers from the army of the late president, Mobutu Sese Seko, funded the operation." The report stated that the commission had identified thirteen ringleaders behind the coup attempt, many of whom were military and ex-presidential guards. The IRIN report also stated that "A spokesman for the commission said 72 people were in Kinshasa's central prison awaiting trial on charges related to the failed March coup." [18p]

6.259 In a further news report from l'Avenir newspaper distributed on 24 June 2004 the names of the main participants cited by the commission were identified. [35] The same source identified a former member of the DSP (Special Presidential Division) under Mobutu as the financial power behind the putsch. [35] The names

of the individuals involved with the coup were also reported on 8 September 2004 by the Canadian Immigration and Refugee Board. [43q]

6.260 According to a report from le Phare newspaper the Congolese NGO, La Voix des sans Voix (VSV) issued a communiqué in February 2005 about the government's behaviour towards persons arrested. The communiqué called for a just, fair and public trial for those arrested in connection with Operation Pentecost, and an improvement in their conditions of detention including authorisation of visits and access to suitable medical care. [31b]

[Return to Contents](#)

Attempted Coup of 11 June 2004

6.261 The ARB for June 2004, quoting several news sources, stated that on 11 June 2004 Kinshasa was again struck by artillery and gunfire shortly after midnight in another coup attempt. The same ARB source reported that the coup bid was quickly put down. [2c] A report from the United Nations Integrated Regional Information Networks (IRIN) on 11 June 2004 stated that Kinshasa was calm. [18m]

6.262 The ARB for June 2004 also stated "The coup leader, Major Eric Lenge, the commander of a battalion of the Special Group of the Presidential Security Group (GSSP), announced in a radio broadcast that his forces had "neutralised" the transitional government. . . . Electric power was cut off by the dissidents, but a few hours later they retreated into a military camp and then disappeared." [2c]

6.263 A report from AFP news agency on 15 June 2004 referred to a statement by the authorities that eight more suspects had been arrested, bringing the total to twenty. The date of the arrests was not given. The report said, "According to the statement, the would-be putschists fled to Bas-Congo province, southwest of the capital, after their coup bid failed." [65a] On 17 June 2004 Le Phare newspaper reported that six suspected members of the coup had been arrested on 14 June near Kimpangu village, after heavy fighting. The same source reported that on 16 June three rebels were on the Cecomaf road, and that fewer than ten of the rebel group remained at large. [31a]

6.264 ARB for June 2004 also stated "According to local sources, part of the motivation of the coup perpetrators, as during the March mutiny, was the government's failure to pay salary arrears to the troops. But diplomatic sources said there was a political agenda behind the coup and they accuse Katangese hardliners of having masterminded it." [2c] A report of 13 June 2004 from BBC News Online commented that "Congo's opposition has said the coup was fabricated by President Kabila." and "Our correspondent says that Maj Lenge is believed to be close to Mr Kabila and to some hardliners who have no seats in the current government of unity. Analysts in Kinshasa say that the 'coup attempt'

could have been engineered by the hardliners, to change the balance of powers within the Congolese government." [150]

6.265 On 21 June 2004 a South Africa news agency reported that the DRC Information Minister had announced that the army chief of staff, had been dismissed. The report stated "Information Minister Vital Kamerhe gave no specific reason for the firing of Admiral Liwanga Mata [Matae], beyond saying that it was in line with the government's probe into the attempt." and "Lenge, in his communique on state radio during the attempt, had mentioned Mata [Matae] by name, saying the army chief of staff had been aware of his plans." [48]

6.266 A radio report from Radio Candip, Bunia, on 21 June also reported:

"As you heard at the beginning of this radio bulletin, a shake up has taken place in the presidential guard and the DRC [Democratic Republic of Congo] national army. The head of state has dismissed officers of his inner circle, including Mr Kifua Adamasi [phonetic], who is accused of playing a major role in the 11 June putsch [coup] to topple President Joseph Kabila staged by Maj [Major] Eric Lenge. The head of state also made some changes in the army. Adm [Admiral] Liwanga Mata-Nyamunyobo, chief of staff of the FARDC [Democratic Republic of Congo Armed Forces], has been replaced by Gen [General] Kispea [Kisempia] Tunji Langi [phonetic]." [47]

See also Section 6C Security Situation Bukavu

[Return to Contents](#)

Treatment of Failed Asylum Seekers Returned to the DRC

6.267 The view of the Foreign and Commonwealth Office (FCO) was updated in a letter of 9 December 2004 from the British ambassador to the DRC. This stated that they had no evidence that DRC nationals face persecution from DRC authorities on being returned to Kinshasa after a failed claim for political asylum in European countries. It stated "Our sources on these matters include local lawyers and human rights activists, Ministers from across the parties comprising the Transitional National Government, local press and colleagues from other Embassies in Kinshasa." The same letter noted that the Belgian and French governments regularly make supervised returns of failed asylum seekers to Kinshasa. It also stated "All passengers arriving at Kinshasa are liable to be questioned by DRC immigration officials. We have no evidence that returned failed asylum seekers are singled out for adverse treatment." [22]

6.268 UNHCR issued a position paper dated 1 January 2005 - 'Return of Failed Asylum Seekers to DRC'. This emphasised the need for each case to be considered on its own merits, and referred to the humanitarian situation in the country and the precarious political and social situation. The paper stated that

"UNHCR maintains that individuals with real or perceived political associations are likely to be at risk, and therefore deserve to receive particular and careful consideration." The paper concluded that in view of the security situation in certain parts of the country, "[Thus,] UNHCR is in a position to reassert its recommendation that States need to carefully ascertain the nationality of rejected asylum-seekers, as well as their areas of origin, profile, and political or military affiliation, before they are considered for return to the DRC." [60a]

See also Section 6A Freedom of Association and Assembly Political Activists

6.269 UNHCR also addressed the return of unsuccessful asylum seekers of Banyamulenge or Tutsi ethnicity in a separate paper of 1 January 2005, 'Ethnic Minorities in DRC'. This referred to concerns that members of this group may continue to be at risk of persecution in the DRC. [60b]

See also Section 6B Ethnic Groups Banyamulenge/Tutsis in Eastern DRC; Tutsis in Kinshasa

6.270 The same paper continued:

"UNHCR's information is that asylum seekers from the DRC whose claims are denied in fair procedures may still face problems upon their return. For example, a deportee could be at risk of arbitrary detention and ill treatment if, upon arrival in Kinshasa, he or she is discovered during interrogation to have a political or military background or to have sought asylum abroad owing to a military or political background. There have also been reports of abuse of power by security officers at Ndjili International Airport (Kinshasa). It is alleged that some officers intimidate deportees, including through arbitrary detention, in order to extort money from them. UNHCR is aware that deportees who are suspected of being nationals of countries considered as 'unfriendly' (e.g. Uganda, Rwanda) may be arbitrarily detained and face ill treatment. It is therefore recommended that the nationality of rejected asylum-seekers be carefully ascertained before they are returned to the DRC." [60b]

6.271 The same paper also stated "Given the generally fraught circumstances in the DRC, decision-makers should give broad latitude to humanitarian considerations whenever return is envisaged. In this regard, UNHCR advises against the return of DRC nationals to a part of the country to which they do not originate and in which they have no social, community or family ties." [60b]

6.272 The Belgian and Dutch governments stated that, like the FCO, they have not seen any evidence to indicate that returned failed asylum seekers are persecuted. A letter from the Belgian Embassy in London of July 2003 stated that the Belgian Government enforced the return of failed Congolese asylum seekers to the DRC. Both the Belgian Embassy in Kinshasa and the Belgian Immigration Department monitored the treatment of returned failed asylum seekers to the

DRC from Belgium and had not seen any evidence to indicate that returned failed asylum seekers were at risk of persecution. [25]

6.273 A letter from the Dutch Embassy in London of July 2003 stated that the Dutch Government also enforced the return of failed Congolese asylum seekers to the DRC, and that the Dutch Embassy in Kinshasa had not seen any evidence to indicate that returned failed asylum seekers were at risk of persecution. The Dutch Government, did not monitor the treatment of returned failed asylum seekers to the DRC. [26]

6.274 Further information about the attitude of European countries on this subject was set out in a country report of January 2004 by the Netherlands Ministry of Foreign Affairs as follows:

"4.3 Policy of other countries

United Kingdom

All applications for asylum from Congolese are dealt with on an individual basis. Asylum is generally granted to Tutsis, but not to persons of mixed origin. In principle, failed Congolese asylum seekers are returned to the DRC.

Belgium

Most applications for asylum from Congolese are dealt with in the usual way. There is a freeze on taking decisions on applications by persons giving their place of origin as Ituri. In principle, failed Congolese asylum seekers are returned to the DRC.

Germany

Applications for asylum from Congolese nationals are assessed individually. Congolese asylum seekers who have exhausted all legal remedies are returned to Kinshasa.

Denmark

All applications for asylum from Congolese are assessed individually. Congolese asylum seekers who have exhausted all legal remedies are de facto deported.

Switzerland

Asylum is granted to Tutsis in some cases. Tutsis and persons who were in close contact with the Mobutu government are not deported. Congolese asylum seekers who have exhausted all legal remedies are deported to Kinshasa." [42] (p22)

6.275 During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, the subject of the involuntary return of unsuccessful asylum seekers was discussed at length. It was stated that caution should be exercised and a case-by-case approach was necessary in dealing with these individuals. [52] (p122-127)

ANNEXES

ANNEX A: CHRONOLOGY OF EVENTS

1960 The country gained independence from Belgium on 30 June 1960 as the Republic of the Congo. Later that year, Colonel Mobutu, as Army Chief of Staff, suspended political institutions and assumed control of the country.

1964 The country was renamed the Democratic Republic of the Congo.

1965 Mobutu again intervened following the political deadlock which ensued from elections. He assumed full executive powers and declared himself the President of the 'Second Republic'. The legislature was suspended and a five-year ban on party politics was imposed. During this period, power was progressively concentrated in the office of the President. By 1970, no senior politicians remained as potential rivals to Mobutu.

1970 Presidential and legislative elections were held. Mobutu, as sole candidate, was elected President, and members of a national legislative council were elected from a list of candidates presented by Mobutu's political party, the Mouvement Populaire de la Revolution (MPR). The government, legislature and judiciary became institutions of the MPR and all citizens automatically became party members. In 1971, the country was renamed the Republic of Zaire as part of a campaign for African authenticity.

1977 An invasion of Shaba [Katanga] province by former Katangese rebels from Angola was repulsed with assistance from France and Morocco (the First Shaba War).

Mobutu created the post of first state commissioner (equivalent to prime minister) and announced a legislative election for 1980. He was then re-elected unopposed for a further term of office.

1984 Mobutu was again re-elected without opposition and continued with political and financial policies to reinforce his personal position.

1990 Mobutu announced various political changes, including the inauguration of the Third Republic, and a Transitional Government although he retained his hold on power. Legislation permitting the operation of political parties and free trade unions was enacted, and a special commission to draft a new constitution by April 1991 was announced.

1991 The announcement of a timetable for the restoration of multi-party politics led to the proliferation of political parties.

1996 In August, Mobutu left the country for cancer treatment in Switzerland. The hiatus created by his absence and ill-health proved to be a decisive factor in bringing his rule to an end. What appeared at first to be a regional movement to protect Tutsis soon gathered momentum and emerged as a national rebellion aiming to overthrow the Mobutu regime. The rebels were joined by dissidents of diverse ethnic origin to form the Alliance des Forces Democratiques pour la Liberation du Congo-Zaire (AFDL), led by Laurent-Desire Kabila. Despite attempts by the government to control the situation, the rebel forces continued to make progress in taking over a large area of the east, including the towns of Goma and Bukavu, by the end of the year.

1997 On 16 May President Mobutu left Kinshasa with his entourage as AFDL forces approached Kinshasa. On 17 May, AFDL troops entered Kinshasa and Kabila declared himself President of the Democratic Republic of the Congo. Kabila also issued a constitutional decree to remain in force until the adoption of a new constitution which allowed him legislative and executive power and control over the armed forces and treasury. A government was formed which, while dominated by AFDL members, also included UDPS and other party members. In August, a military court was established by decree.

[Return to Contents](#)

1998 In April, the government banned the country's main human rights group AZADHO and took action against other groups.

In August, reports were received of an organised rebellion from the east of the country which was aiming to topple the regime. The rebels, calling themselves the Rassemblement Congolais pour la Democratie (RCD), were assisted by Rwanda and Uganda who were angered by Kabila's failure to contain attacks on their territory by insurgents based in eastern DRC. The rebels captured a number of eastern towns and made a flight to the west to take other assets. They reached the outskirts of Kinshasa by late August but then received a number of military setbacks from government forces who were by then being aided by Zimbabwe, Angola and Namibia, and subsequently by Chad.

The rebels continued to make progress in the east and captured more than one-third of the country by the end of the year.

In October, another rebel group, the Movement for the Liberation of Congo (MLC) joined the fighting in northern DRC.

Later in the year and in early 1999, reports of mass movements of refugees displaced by the war and of atrocities committed by both sides were issued. Kinshasa remained generally calm, although suffering the economic effects of the war. Diplomatic efforts to end the fighting were inconclusive.

1999 In January, government decrees lifted the ban on public political activity and announced arrangements for registering new political parties. These were widely criticised for being too restrictive.

A peace accord was signed in Lusaka by the governments of the DRC and other countries involved on 10 July and shortly afterwards by the MLC rebel group and the RCD factions.

Despite the ceasefire agreement, violations of the ceasefire by both the government forces and the rebel groups were reported.

At the end of November the UN Security Council established a force in the country - UN Mission to the Congo (MONUC)

2000 In January, MONUC was increased in size by adding some 5000 troops to support the work of 500 ceasefire monitors.

Violations of the ceasefire agreement by both the Government forces and the rebel groups continued to be reported. A new ceasefire agreement in April failed to bring lasting peace.

In early May there was serious fighting between Ugandan and Rwandan forces in Kisangani, and, later in the year, between government and RCD-Goma forces, around the town of Pepa.

2001 On 16 January, President Laurent Kabila was assassinated in Kinshasa.

His son - Joseph Kabila - was sworn in as the new President of the DRC.

In May, a law was passed allowing registered political parties to engage in political activity legally subject to certain conditions.

In November a UN report accused Rwanda and Uganda of illegal exploitation of the DRC's mineral resources, a charge which both countries rejected.

In December, violent clashes took place between university students and the police in Lubumbashi and Kinshasa.

2002 On 17 January, on the DRC's joint border with Rwanda and Uganda, the Nyirangongo volcano erupted causing severe destruction in Goma and the surrounding area.

In February, the Inter-Congolese Dialogue resumed in Sun City in South Africa, which led to a peace deal in April between the Government and most of the rebel forces, although RCD-Goma and several long-established parties, including the UDPS, did not sign up to the agreement.

On 15 March, the trial of the 135 persons suspected of involvement in the assassination of Laurent Kabila began.

On 30 July, an agreement on disarmament of Hutu rebels and withdrawal of Rwandan forces from DRC was signed in South Africa by President Kabila and Rwandan President Kagame. The Hutu rebels did not recognise the agreement as they claimed they were not consulted.

In September 2002, the Government announced that the moratorium on the death penalty, which had nominally been in place for three years, had been lifted.

[Return to Contents](#)

2003 On 7 January, the Military Court sentenced the persons suspected of being involved in the assassination of Laurent Kabila.

In April the Military Court was abolished.

On 2 April, delegates from all parties to the conflict in the DRC signed a power-sharing peace deal in Sun City, South Africa. The DRC Government, rebel movements, opposition political parties and representatives of civil society agreed to set up a Transitional National Government to oversee democratic elections due to take place in 2005.

On 30 June the new Transitional National Government was set up and comprised the President, four vice-presidents, 36 ministers and 25 deputy ministers from the previous administration, the Mai-Mai militia, the rebel forces, the unarmed political opposition and civil society. Joseph Kabila remained the President of the DRC while the Transitional National Government was in operation.

On 22 August a transitional National Assembly and Senate of the Transitional National Government was opened in Kinshasa by President Joseph Kabila, with members drawn from the various parties to the national power-sharing accord. In August an agreement was reached on establishing a unified armed forces command.

2004 On 28 March 2004, an attempted coup was reported to have taken place in Kinshasa, allegedly by former soldiers of Mobutu's army.

In May the President appointed governors and their deputies to the eleven provinces to form part of the Transitional national Government.

In May and June fighting broke out in the Bukavu area.

On 28 June another attempted coup in Kinshasa was reported which was also quelled within a short time.

In June the chief prosecutor of the International Criminal Court announced an ICC investigation into alleged war crimes committed in the DRC since 1 July 2002, with the initial focus of the enquiry in Ituri. [180]

In August some 160 Banyamulenge refugees who had fled from the fighting in Bukavu were massacred at a refugee camp at Gatumba, Burundi.

Vice-President Ruberwa suspended RCD-Goma's participation in the transitional government in view of the collapse of the peace process for about a week at the end of August.

Demonstrations and a general strike occurred in Kinshasa in the week of 10 January 2005 following reports that the elections programmed for June 2005 might be delayed to later in the year. [151] [15]

Source: [1] unless otherwise stated

[Return to Contents](#)

ANNEX B: POLITICAL ORGANISATIONS

Alliance des forces démocratiques pour la libération du Congo-Zaïre (AFDL)

The AFDL was the ruling political party of former president Laurent Kabila on coming to power. Its membership was mainly made up of Tutsis. It comprised four political groups, all from eastern DRC: the Popular Revolution Party (founded by Kabila), the People's Democratic Alliance, the Revolutionary Movement for the Liberalisation of Zaïre and the National Council for Resistance for Democracy. In April 1999, Laurent Kabila dissolved the AFDL in favour of village committees to devolve power to the people. [1] (p279) [30] (p13)

Forces Novatrices pour l'union et la Solidarité (Forces for Union and Solidarity) (FONUS) [22h] (Government)

Forces Pour le Salut du Congo (Force for the Salvation of Congo) (FSC)

Formed in June 2000 by former supporters of former President Mobutu. Leader Jérôme Tshisimbi. [1] (p311)

Mai Mai

The Mai-Mai militias fighting in Congo first emerged in the early 1990s as an expression of local resentment and opposition to the presence of Rwandan forces and their proxy, the RCD, in eastern DRC. The Mai-Mai are divided into many armed groups and do not have a unified leadership structure, and many groups have started behaving more like warlords. The Mai-Mai fought alongside government forces throughout the war and also have close links to the Interahamwe. As signatories to the Pretoria peace accord, they are represented in the government and other transitional institutions, and their troops have been incorporated into the government armed forces. [30] (p15)

See also Annex C Armed Forces in the DRC

Mouvement pour la libération du Congo (Congo Liberation Movement) (MLC)

Former Ugandan-supported rebel movement; Leader Jean-Pierre Bemba, now Vice-President in the Transitional National Government. [1] (p311)

The MLC was legalised by the decree of September 2003 authorising all parties to function legally. [3b] (Section 2b)

The MLC has its headquarters in Mr Mobutu's former presidential "village" of Gbadolite in Equateur province. [30] (p13) Led by millionaire businessman, Vice-President Jean-Pierre Bemba, the MLC has close links to the Ugandan government which controlled much of northern and central DRC. Many of the MLC's senior members hail from the civilian and military structures of ousted dictator Mobutu Sese Seko. [27b] (History and Politics)

According to a report of 22 April 2004 by the Canadian Immigration and Refugee Board, the party has no links with the Congolese NGO, Ligue des électeurs (League of Electors). [43p]

See also Annex C Armed Forces in the DRC; Annex D Prominent People

Mouvement Populaire de la Revolution (Popular Revolutionary Movement) (MPR)

Formed in 1966 by former President Mobutu; sole legal political party until November 1990; Sec Gen - Kithima Bin Ramazani. Leader (vacant) [1] (p311) [4] (p114)

An information response by the Canadian Immigration and Refugee Board (IRB) of 10 June 2003 about the existence of the MPR rénové/Salongo stated:

"Nonetheless, one source indicated that there are three factions of the Popular Movement of the Revolution (MPR): the MPR-Fait Privé, headed by Catherine Nzuzi wa Mbombo; the MPR/Vunduaawe, under the leadership of Félix Vunduaawe; and the MPR/Mananga, led by Mananga Dintoka Mpholo (CIA World Factbook 2002 19 Mar. 2003). Two other published sources, however, noted the existence of only two factions of the MPR, that is, Catherine Nzuzi wa Mbombo's MPR-Fait Privé and another simply called the MPR, headed by Félix Vunduaawe (Le Phare et Le Communicateur 9 Sept. 2002; Le Palmarès 15 Apr. 2003)." [43d]

Catherine Nzuzi wa Mbombo was named as the Minister of Humanitarian Affairs in the Transitional National Government appointed in June 2003. [56c] (Institutions de la Transition en RDC)

Organisation des progressistes du Congo (Progressive Organisation for Congo) (Madaraka ya wendiliza wa Kongo -MWENDEKO)

Kinshasa. www.chez.com/mwendeko [1] (p311)

Parti démocrate et social chrétien (Democratic and Christian Socialist Party) (PDSC)

32a ave Tombalbaye, Kinshasa-Gombe. Centrist. Founded in 1990; President André Bo-Boliko; Secretary-General Tuyaba Lewula. [1] (p311) Affiliate of the Christian Democrat International. [4] (p114)

Parti lumumbiste unifié (Unified Lumumbist Party) (PALU) Leader Antoine Gizenga [13] (Political parties and leaders) [22h] (Government)

[Return to Contents](#)

Parti du Peuple pour la Reconstruction et le Développement (People's Party for Reconstruction and Development) (PPRD)

Formed March 2002 by President Joseph Kabila. [1] (p311)

The Economist Intelligence Unit (EIU) Country Profile 2004 stated "In March 2002 Joseph Kabila formed his own political party, Parti pour la réconciliation et le développement (PPRD), largely composed of his father's old allies. The PPRD has done little to create the structures of a modern political party, publish its policies or otherwise establish itself. [30] (p12)

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

<http://www.congo.co.za/> Formed 1998. Main Ilunga faction. Rebel movement until December 2002 peace agreement. Included in the government formed in July 2003. Leader Azarias Ruberwa, Vice-President in the Transitional National Government. [1] (p311)

A close political ally of the Rwandan government and the bulk of its leaders hail from the Banyamulenge community. [27b] (History and Politics)

Since taking up arms in August 1998 the RCD has fractured repeatedly. Both the RCD-ML and the RCD-N have representatives in the Transitional National Government, though fewer than the main RCD, now named RCD-Goma after its stronghold in North Kivu. [30] (p13)

See also Annex C Armed Forces in the DRC;

Rassemblement congolais pour la démocratie - Mouvement de Libération (Congolese Rally for Democracy - Liberation Movement) (RCD-ML) also known as RCD-Kisangani (RCD-K/ML) <http://www.congorcd.org/> Bunia.

Broke away from main RCD in 1999. Supported by Uganda. President: Mbusa Nyamwisi. [1] (p311)

A political ally of the Ugandan government, the RCD-K/ML controlled an area known as the Grand Nord which stretches from Kanyabayonga to Beni. The RCD-K/ML is led by Mbusa Nyamwisi, who is now also the minister of external commerce in the transition government. [27b] (History and Politics)

Rassemblement congolais pour la démocratie - National (Congolese Rally for Democracy - National) (RCD-N)

Bafwasende. Broke away from RCD-ML in October 2000. Leader Roger Lumbala. [1] (p311)

Union pour la Démocratie et le Progrès Social (Union for Democracy and Social Progress) (UDPS) Twelfth Street, Limete Zone. Kinshasa

<http://www.udps.org/UDPS.html> Formed in 1982. Leader: Etienne Tshisekedi Wa Mulumba [1] (p311)

See also Annex D Prominent People

The UDPS was formed in the early 1980s as an opposition party within the former Zaire to counter the arbitrary rule of the Mobutu regime. [1] (p273) The UDPS has been banned on a number of occasions. [4] (p114-115)

The UDPS denounced the Inter-Congolese Dialogue in 2002 and formed a political alliance with the RCD-Goma to oppose it. [1] (p271) Africa South of the Sahara 2005 (Europa) reported that they also refused to take part in the Transitional National Government formed in June 2003. [1] (p272) According to information from the Institute for Security Studies, Mr Tshisekedi has declined to

participate in the transition government but intends to run in the presidential elections. [27b] (History and Politics) A report of 5 August 2004 by the Canadian Immigration and Refugee Board (IRB) referred to a statement by the UDPS president that although the UDPS is not part of the transitional government, the organisation is fully participating in the transition process. [43n]
The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) stated that the UDPS was legalised by the decree of September 2003 authorising all parties to function legally. [3b] (Section 2b) USSD 2003 reported that the amnesty announced by President Kabila for political crimes, crimes of opinion, and for members of political-religious movements, included UDPS members. [3b] (Section 1e)

UFERI Union of Federalist and Independent Republicans [22h] (Government) TWO factions; UFERI (Lokambo Omokoko); UFERI/OR (Adolphe Kishwe Maya) [13] (Political parties and leaders)

See also Section 5 Political System and Political Parties and Section 6 Freedom of Association and Assembly

[Return to Contents](#)

ANNEX C: ARMED FORCES IN THE DRC

The following information is taken from the South African Institute for Security Studies Country Fact File - Security Information. [27b]

See also Annex B for information on former rebel groups that now form part of the transitional administration.

Congolese Armed Forces (FARDC)

The President, Major General Joseph Kabila is the Commander-in-Chief of the Armed Forces

Minister of defence: Adolphe Onusumba Yemba (RCD-G)

FARDC chief of staff: Major General Sungilanga Kisempia (PPRD)

FARDC land forces chief of staff: General Sylvain Buki (RCD-G)

FARDC navy chief of staff: General Major Amuli Bahigwa (MLC)

FARDC air force chief of staff: Brigadier General Bitanihirwa Kamara (MLC)

1 st Military Region/Bandundu: Brigadier General Moustapha Mukiza (MLC)

2 nd Military Region/Bas-Congo: ...

3 rd Military Region/Equateur: Brigadier-General Mulubi Bin Muhemedi (PPRD)

4 th Military Region/Kasai-Occidental: Brigadier-General Sindani Kasereka (RCD-K/ML)

5 th Military Region/Kasai Oriental: General Rwabisira Obeid (RCD)

6 th Military Region/Katanga: Brigadier-General Nzambe Alengbia (MLC)

7 th Military Region/Maniema: Brigadier-General Widi Mbulu Divioka (RCD-N)
8 th Military Region/North Kivu: General Gabriel Amisi (RCD)
9 th Military Region/Province Orientale: Major-General Bulenda Padiri (Mayi-Mayi)
10 th Military Region/South Kivu: Major Mbuja Mabe (PPRD)

The Congolese Armed Forces, which was renamed the Forces Armées de la République Democratique du Congo (FARDC), consists of an army, air force and navy. The army is relatively poorly trained (even by local standards) and has infantry, some armour, air defense and artillery units. The infantry seem to be a conglomerate of ex-FAZ (old Zairian Armed Forces) and recruits collected by the ADFL during the 1997 conflict.

There are army bases at N'djili, Kitona, Kotakoli and in Lubumbashi. Air force bases are at N'djili and Kamina. Naval bases are at Matadi, Kinshasa and Banana.

National Police, including PIR (Police d'Intervention Rapide)

The Commander is General Celestin Kifwa, a former general in the Angolan army.

The Bandundu area has been a major source for recruitment for PIR, thus a strong Lunda influence.

PIR is largely credited for the return of safety on the streets of Kinshasa.

FIC (Force d'Intervention de la Capitale)

The Commander Brigadier-General Jean Yav Nawesh, a former general in the Angolan army, was the commander, but has been arrested. Commandant Jean-Claude Kifwa (Tango-Tango) is the second-in-command.

It is the military intervention force for Kinshasa. It was created in 1999 out of the Presidential Guard (GSSP) and troops of the Kinshasa-based 7th army brigade. It is mostly composed of Balubakat.

It is ready to crush attempts at insurrection as illustrated in the curbing of the camp Tchatchi mutiny in September 2000.

[Return to Contents](#)

Rebel Movements Allied to the Congo Coalition

Mayi-Mayi [Mai Mai] Warriors

The ever-changing alliances and groupings within this group of rebel forces makes it difficult to give clear estimates of numbers of fighters. It is estimated that the Mayi-Mayi number between 3500 - 4000.

The Mayi-Mayi are rural militias which were originally set up by the Hunde tribe. They originated in the 1960s as part of a nationalist and Marxist guerrilla group under the leadership of Patrice Lumumba. As a group they generally oppose foreigners of any ethnicity, but in particular the Banyamulenge and Congolese Tutsi. This is largely the result of disputes over land and pressure on local resources.

Although they are referred to as a coherent group, the Mayi-Mayi are in fact made up of many small clans led by individual leaders and are no longer a cohesive group. Their origins as self-defense militias have also been largely abandoned and, although they are fierce about their cause, they have become as predatory of the local populations as have the myriad other armed groups roaming the eastern DRC.

Mayi-Mayi representatives participated in the inter-Congolese dialogue and are signatories to the agreement. They have two ministers and two vice-ministers in the transition government and are represented in the national assembly and the senate.

Mayi-Mayi commanders have also been incorporated into the new structure of the armed forces and several – such as General Padiri Kalendu, the commander of the fifth military zone of Orientale province – hold senior posts. Like the troops of the various rebel groups, Mayi-Mayi forces have been incorporated into the new Congolese army.

The Mayi-Mayi operate in the North and South Kivu Provinces, but also north in Orientale Province. Equipment varies from spears to rifles and rocket-propelled grenade launchers.

[Return to Contents](#)

Interahamwe

Interahamwe and ex-FAR (Forces Armées Rwandais) form ALiR / Armée du Libération du Rwanda

Rwandan commanders estimate that three Interahamwe battalions of 2 500 - 3 000 men each operate between the areas of Masisi, Walikale and Rutshuru. The Rwandans believe that the Interahamwe in the Kivus number 15 000. Interahamwe are mainly extremist Hutu militia. ALiR's strength is estimated at between 30 000 to 40 000 and consist of Interahamwe, ex-FAR and new recruits.

The Interahamwe structure consists of 1 Division operating in North Kivu and 2 Division operating South Kivu. There are three brigades operating in North Kivu, namely Limpopo in Lukweti-Mutongo, Niamey in Rutshuru and Lilongwe in Katoye. They operate on the frontline in the DRC and in Eastern DRC.

Larger formations possess limited numbers of heavier weapons, including 60mm mortars, 12.7mm anti-aircraft guns, rocket-propelled grenade launchers and five crew-manned machine guns. Their communications include hand-held Motorolas, VHF radios and satellite phones. They lack vehicles and regular supplies.

Former Forces Armées Rwandais (Ex-FAR)

Interahamwe and ex-FAR form ALiR / Armée du Libération du Rwanda

The ex-FAR was the Rwandan army, which was composed mainly of Hutu soldiers and was a major player in the 1994 genocide. At the time of their defeat by RPF forces in mid-1994, their numbers were estimated at some 20 000. The new FDLR's strength is estimated at between 30,000 and 40,000 and consist of Interahamwe, ex-FAR and new recruits.

According to military sources, Service d'Action et de Renseignement Militaires (SARM) provided training and weapons to the ex-FAR. After Kabila switched alliances, he actively recruited, trained and armed the ex-FAR and deployed them against the RCD and MCL rebel alliance.

The force operational headquarters for the Kivus is thought to be close to Shabunda. From bases in Masisi they launch cross-border attacks into Rwanda. They operate on the frontline in the DRC and in Eastern DRC.

Ngilima

The Ngilima is a grouping of warriors from different ethnic groups in the Kivu provinces, concentrated in the Rutshuru area, who see themselves as defending the population against foreigners. They opposed Mobutu and later also the ex-FAR and Interahamwe who had been settled in the UNHCR camps. Many of their recruits were Nande and the language spoken among them tends to be Kinande. Their number is estimated at between 1000 and 1400 fighters.

They were particularly active in the Virunga National Park. They survive by poaching in the Park. At the beginning of 1996, they came in contact with one of the AFDL leaders – Kisase Prior to the overthrow of Mobutu the Ngilima were trained by mercenaries from Kisangani, with Lumumbist connections.

Zairian Hutu (MAGRIVI or Militia)

Another group of Hutu is the Zairian Hutu who, having joined forces with the Rwandan Hutu, are often included under the general 'Hutu' label. However, care should be taken to distinguish between these two groups as they have different political objectives which temporarily coincided. The Zairian Hutus have been in Zaire for generations and consider themselves to be Zairian. Local authorities estimated the Hutu population at some 4-500 000 in North Kivu.

MAGRIVI, which was founded in 1989 by Sekimonyo wa Magango, the former Minister for Higher Education and Scientific Research, allegedly supported Rwandan President Habyarimana's regime and the Interahamwe financially. Following the exodus of the Rwandan Hutus to eastern Zaire, MAGRIVI consolidated itself into a military group, the Hutu Militia (sometimes the Hutu Combatants), who worked in close collaboration with the ex-FAR and Interahamwe militia, whose apparent objective was the establishment of a racially pure "Hutu-land".

[Return to Contents](#)

FNLK (Front de Liberation Nationale du Katanga) or Katanga Tigers and the FLNC (Front de Liberation Nationale du Congo)

Since 1998, the Tiger's military leadership is divided into two political wings, each claiming to represent the movement. One wing is led from Angola by Henri Mukatshung Mwambu (Secretary-General of the FLNC) who returned to Kinshasa after Kabila's victory, joining the main faction of Tigers. The movement's second in command is General "Mufu" Vindicien Kiyana. Dr Emile Ilunga leads the other wing and is a former representative in Brussels of the PRP (Patri de la Revolution Populaire) founded by Kabila in 1968. The nominal head of the Tigers, is General Jean Delphin Muland (or Mulanda)

This anti-Mobutu movement had its origins in the exodus of Katanga Gendarmes from the Congo to Angola, following the defeat of the attempt by the Katanga Provincial government to secede in 1960-62. Initially composed of gendarmes from Katanga they aimed to achieve independence or greater autonomy for the province of Katanga/Shaba and control over the lucrative mining potential of the region. Pogroms against Kasai immigrants led to further resentment against the Gendarmes, and after their defeat in the 1960-62 war, they formed a mercenary group led by Nathanael Mbumba and operating mainly out of Angola. They consisted of groups of about 5000, of which about 1800 were fighting men.

The Katanga Gendarmes were used and supported by virtually every Angolan political entity. They received equipment and were maintained by the Angolan Government in return for their services in the war against UNITA. By the 1990's they have adopted the MPLA's leftist ideology and seemed to have placed the secession of Katanga on the back burner. During Laurent Kabila's military campaign they joined the AFDL and were instrumental in the defeat of Mobutu in Kinshasa.

See also Section 6C Security Situation - Eastern DRC Kilwa

RCD-Goma (Rassemblement Congolais pour la Democratie/Congolese Movement for Democracy).

They are estimated at around 16 000 people.

The political leader of the RCD-G is Azarias Ruberwa who replaced Adolphe Onusumba Yemba Ruberwa is now one of four vice-presidents in the transition government. As such, he is also in charge of the political and security commission.

Important military leaders include Jean-Pierre Ondekane, a Mongo from Equateur province. A former officer in the Zairian Armed Forces and of the Congolese Armed Forces, Ondekane was the commanding officer of the 10th Brigade, which was the first unit to mutiny at the start of the 1998 war. Ondekane was the minister of defence in the transition government, while Onusumba is one of two vice-presidents of the national assembly.

The RCD has a total of seven ministerial posts and two vice-ministerial posts as well as representation in the national assembly and the senate equal to that of the presidential party and the MLC.

Officers of Banyamulenge and Congolese origin in Laurent Kabila's FAC founded the RCD. The RCD consisted of an estimated 17 000 to 20 000 armed men made up mainly of FAC units which were stationed in the Eastern DRC. It enlarged its armed forces as the rebellion progressed by recruiting captured or threatened FAC soldiers, sometimes whole units at once, as well as new draftees.

The RCD received military support from Rwanda.

See also Annex B Political Organisations

[Return to Contents](#)

RCD/ML-Kisangani (Rassemblement Congolais pour la Democratie - Mouvement de Liberation / Congolese Rally for Democracy- Liberation Movement)

Commanders

The first political leader and Minister/Commissioner of Defense was Prof Ernest Wamba dia Wamba. His deputies, Prime Minister Mbusa Nyamwisi and Deputy Prime Minister John Tibasima challenged Prof Wamba and Nyamwisi took over

as the leader of the movement in 2000. The RCD/ML-Kisangani was closely allied to the MLC for some time, however it eventually fell out with this group, moving closer to the Kabila government.

The RCD-ML started with a recruitment drive in North Kivu, Ituri and Tsopo in July 2000.

After Kisangani, the RCD-K/ML's headquarters were in Bunia. It later moved its headquarters to Beni.

Uganda supported the RCD-ML and its military wing.

See also Annex B Political Organisations; Annex D Prominent People

MLC (Mouvement de Liberation Congolais / Movement for the Liberation of the Congo)

The leader of the MLC is Jean Pierre Bemba. Bemba is a businessman from Equateur province and the son of one of the richest men in the DRC. Bemba is now one of four vice-presidents in the transition government.

The MLC's Secretary General is Olivier Kamitatu who is now the president of the national assembly. The former Chief of Staff of the MLC's army is Colonel Amuli. The MLC has seven ministerial posts and two vice-ministerial posts. In the national assembly and the senate it has representation equal to that of the RCD and the presidential party.

The MLC emerged in Equateur province and included about 5 000 ex-FAZ/DSP, Congolese soldiers from the Republic of the Congo and new recruits from the northwest of the DRC. Estimated strength was between 6 500 and 9 000 soldiers, although it claims an army of 25 000 men.

The MLC was supported militarily and politically by Uganda, and had alliances with all of the main rebel movements at some point or another during the conflict. At the time of the signing of the global peace agreement, the MLC was cooperating with the Rassemblement Congolais pour la Democratie-National, led by Roger Lumbala.

The MLC's headquarters were in Gbadolite and it controlled most of Equateur province as well as the north-western parts of Orientale province.

The MLC is funding most of its operations by the proceeds from 4-5 small diamond and gold mines under their control. Revenues are also raised from taxes levied on tea, coffee, and timber. Officially Uganda admits that it provides artillery, medical and communication support to the MLC. Bemba is perceived as

having ties with Mobutist intelligence circles and is thought to employ the Union des Republicains Nationalistes Pour la Liberation, composed of former members of Mobutu's Special Presidential Division.

See also Annex B Political Organisations

Ex-Mobutu Generals and Ex-FAZ/DSP Troops

The most prominent Commanders are Generals Kpama, Philemon Baramoto Kata, Nzimbi Ngabale, Kongo wa Bassa, Monga Aundu Eluki and Mavhe.

Former soldiers of Mobutu's Division Speciale Presidentielle (DSP) formed the Union des Nationalistes Republicains pour la Liberation (UNAREL). UNAREL now seems to be defunct.

After the fall of Mobutu and the capture of Kinshasa, Mobutu's richest generals fled to Europe, South Africa and Canada, and the less well off to the Central African Republic, Congo/Brazzaville and Northern DRC.

Some of the generals attempted to organize continuing resistance from abroad. They have been in contact with various rebel groupings in the DRC, and are known to have had discussions with the Mayi-Mayi, Interahamwe, ex-FAR, UNITA and the two FLEC movements [Angolan groups].

It is not clear exactly how much support they still have left on the ground.

See also Section 6B Persons Associated with the Mobutu Regime

[Return to Contents](#)

ANNEX D: PROMINENT PEOPLE

Jean-Pierre Bemba

Leader of the Movement for the Liberation of Congo (MLC). Son of business magnate Bemba Saolona. In June 2003, Bemba became one of the Vice-Presidents in the Transitional National Government.

During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, it was stated that Bemba had links to persons from the former Mobutu regime. [52] (p101) The 2004 Country Profile by the Economist Intelligence Unit (EIU) stated:

"A wealthy Belgian-educated businessman from Equateur province, whose father was close to former presidents, Joseph Mobutu and Laurent Kabila, he heads the Mouvement pour la libération du Congo (MLC), one of the two main rebel movements. He has ambitions of playing a role in politics at the national level and this favours his co-operation, at least in the medium term, with the transitional government, in which he is one of the four vice-presidents. He is regarded as a volatile and unpredictable figure." [30] (p15)

See also Annex B Political Organisations; Annex C Armed Forces in the DRC

Emile Ilunga

Leader of RCD-Goma rebel faction until November 2000, when he was deposed. [1] (p278) A long-time political activist from Katanga. Also associated with the 'Katanga Tigers'. [27b] (Security Information)

See also Annex C Armed Forces in the DRC

Joseph Kabila

Son of former DRC president Laurent Kabila and current President of the DRC. He was appointed as the President of the DRC in January 2001 after the assassination of his father. In June 2003, he became the head of the new Transitional National Government. [1] (p280, 282) The EIU 2004 Country Profile stated:

"The 33-year-old president was educated in Uganda, and later lived and worked in Tanzania. His outlook is more anglophone East African than francophone and he speaks English and Swahili better than French. His origins are disputed: some claim that his mother is a Rwandan Tutsi, although the government denies this. Commander of the land forces under his father, he had little political experience before being catapulted into power by historical accident. He lacks a solid powerbase and is dominated by his father's old cronies. His popularity has declined drastically over the past year." [30] (p14-15)

Laurent Desire Kabila

Former president of the DRC. He became the leader of AFDL forces which toppled the Mobutu regime in May 1997. He declared himself the President of the DRC in May 1997 and remained the president until his assassination in January 2001. [1] (p277,280)

Colonel Eddy Kapend

Former head of the former president's special presidential staff and aide-de-camp to the late Laurent Kabila. He was arrested as a key suspect by the security forces after former president Laurent Kabila was assassinated in January 2001. Kapend was formally charged in March 2002 with conspiracy and the murder of the late Laurent Kabila. In January 2003, Kapend was sentenced to death by the Military Order Court. [2a] [11a] (p2)

See also Section 6C Assassination of President Laurent Kabila

Olivier Kamitatu

The EIU 2004 Country Profile stated:

"Now president of the National Assembly, Mr Kamitatu was Mr Bemba's right-hand man in the MLC and its chief strategist. He is widely considered to be a responsible interlocutor and has close links with the international community. Before becoming involved with the MLC, he headed a political research institute in Kinshasa which continues to function." [30] (p15)

According to a report of 22 April 2004 by the Canadian Immigration and Refugee Board, Olivier Kamitatu, the Secretary General of the MLC, was made president of the Transitional National Assembly. [43p]

Bizimi Karaha

Former Minister of Foreign affairs until August 1998, when he defected to the rebel forces then attacking the country. [1] (p278)

[Return to Contents](#)

Fernando Kutino

Archbishop Fernando Kutino founded the World Mission for Message of Life (MMMV), religious organisation in 1984. He is also the leader of the Army of Church Victory, which is the main branch of the MMMV, and the Sauvons Congo (Save the Congo) movement. After the 10 June 2003 raid of the Army of Church Victory by the police, Kutino fled the country and applied for asylum in France. [24c]

See also Section 6C Armée de Victoire (Army of Victory Church)

Patrice Lumumba

First Prime Minister after independence was granted in 1960. He was murdered in February 1961. [1] p272) The current Lumumbiste party is PALU. [13] (Political parties and leaders) [22h] (Government)

See also Annex B Political Organisations

Catherine Nzuzi wa Mbombo

Leader of one faction of the MPR political party and appointed as Minister of Solidarity and Humanitarian Affairs in June 2003 in the Transitional National Government. [1] (p310) [56c]

See also Annex B Political Organisations

Joseph-Desire Mobutu (Mobutu Sese Seko Kuku Ngbendu Wa Za Banga after 1971)

Took control of the country in 1965, changed the name of the country from the Congo to Zaire, and remained President of Zaire until 1997. When the AFDL forces of Laurent Kabila were about to take control of Kinshasa Mobutu and his family left for Morocco where he died in September 1997. [1] (p272-277)

See also Section 4 History

Abdoulaye Yerodia Ndongbasi

Former Foreign Minister in the Laurent Kabila administration. [1] (p280) Appointed one of the vice-presidents of the new Transitional National Government in June 2003. [1] (p282,310)

Arthur Z'Ahidi Ngoma

Appointed one of the vice-presidents of the new Transitional National Government in June 2003. Represents the political opposition. [1] (p278,282,310)

Azarias Ruberwa

Appointed as one of the vice-presidents of the new Transitional National Government in June 2003. [1] (p282) Current leader of the RCD-Goma former rebel group. [1] (p311) The EIU 2004 Country Profile stated:

"A Congolese Tutsi, Mr Ruberwa is a lawyer who has been the real leader of the Rassemblement congolais pour la démocratie (RCD) since late 2000. In the transitional government he is vice-president in charge of the commission on politics and security. He is considered to be in a difficult position, caught between Rwanda and the hardliners in his own movement on the one hand and his responsibilities as vice-president on the other." [30] (p15)

See also Annex B Political Organisations; Annex C Armed Forces in the DRC

Etienne Wa Mulumba Tshisekedi

UDPS founder member and current leader. [1] (p311) Mr Tshisekedi has been prominent in DRC politics since the 1980s. [1] (p274-276) A BBC News Online report dated 29 September 2003 recorded that Tshisekedi returned to the DRC in September 2003 after two years of self-imposed exile in South Africa. Tens of thousands of his supporters greeted him when he arrived at Kinshasa Airport. He stated that he intended to start work to prepare for the presidential and parliamentary elections, due to take place in 2005, but he and the UDPS did not have any interest in the transitional administration. [15b] Europa stated that Mr Tshisekedi's opposition over the appointment of a Vice-President in 2003 was criticised, and resulted in the exclusion of the UDPS from the administration and its marginalisation from mainstream politics. [1] (p282) The EIU 2004 Country Profile stated:

"The 68-year-old leader of Union pour la démocratie et le progrès social (UDPS) is a long-standing opposition figure - an opponent of Mr Mobutu and

both of the Kabilas and still a formidable figure with a power base in his native Kasai Occidental, Mr Tshisekedi and the UDPS boycotted the transitional government, dissatisfied with the procedure for appointing the political opposition's representatives. Although Mr Tshisekedi rarely makes public appearances and has made some political miscalculations over the past few years, he is nonetheless a contender for the presidency, as he is still widely respected." [30] (p15)

See also Annex B Political Organisations

Ernest Wamba Dia Wamba

Chairman of the RCD from the start of the rebellion in August 1998. He was later ousted by the Goma-based faction of the RCD led by Emile Ilunga and became the head of RCD-ML. [1] (p280)

[Return to Contents](#)

ANNEX E: GLOSSARY

ANR

National Intelligence Agency (Agence Nationale de Renseignements). One of the Government's security forces. The ANR shares responsibility for internal and external security with the CNS, including border security matters.

APC

Patriotic Army of the Congo (Armée Populaire Congolaise). Armed militia group, dominated by the Lendu ethnic group. Formed in 2002 as a faction of the RCD-ML. Active in the Ituri area.

ASADHO

Formerly AZADHO. Association Africaine de Defence des Droits de l'Homme or African Association for Defence of Human Rights. One of the DRC's main human rights organisations.

Banyamulenge (Congolese Tutsis)

Congolese Tutsis of Rwandan origin. Established long-term residents of South Kivu but not officially recognised as Congolese nationals by the Government. Formed the basis of the AFDL group which brought Laurent Kabila to power. The RCD group is dominated by Tutsis.

Banyarwanda

Collective name for Congolese people of Rwandan origin, either Hutu, Tutsi or Twa. Those in DRC living mainly in North Kivu but without equal nationality and land ownership rights, a situation which led to violent ethnic conflicts, especially

after the influx of Rwandese Hutu refugees in 1994, when thousands were massacred.

CODHO

Comité des Observateurs des Droits de l'Homme or Committee of Human Rights Observers. One of the DRC's main human rights organisations.

Committee for State Security

Replaced the National Security Council. As of June 2002, acts as a co-ordinating body for national security rather than a security force.

DEMIAP

Military Detection of Anti-Patriotic Activities (Detection Militaire des Activités Anti-Patrie) One of the Government's security forces.

DGM

Director General of Migration (Direction Generale de Migration) Government security force with immigration control responsibilities.

DSP

Special Presidential Division. One of the security forces of the former Mobutu regime.

FAC

Forces Armées Congolaises (Congolesse armed forces of the present regime)

FARDC

Forces Armée de la République Démocratique du Congo. Congolesse armed forces.

See also Annex C Armed Forces in the DRC

FAZ

Forces Armées Zairoises (Zaire armed forces of the former Mobutu regime)

FDLR

Democratic Liberation Forces of Rwanda (Forces Democratiques de Liberation du Rwanda)

FIPI

Front de l'integration pour la pacification de l'Ituri (Front for Integration an Peace in Ituri) Lendu militia group, supported by Ugandan forces in Ituri. [1] (p311)

See also Section 6C Security Situation Ituri

FNI

Front pour les nationalistes et integrationnistes. Formed 2003 in Uganda. Ethnic Lendu rebel group, in conflict with Union des patriotes congolais in north-east. Leader Floribert Ndjabu Ngabu. [1] (p311)

See also Section 6C Security Situation Ituri

[Return to Contents](#)

GSSP or GSP

Special Group for Presidential Security (Garde Speciale Présidentielle) One of the security forces of the present regime. Responsible for presidential security.

Interahamwe

Rwandan Hutu militia groups who lived in refugee camps in Kivu. Responsible for most of the massacres which took place in Rwanda during the 1994 genocide and involved in the ethnic clashes in Kivu. Controlled many of the refugee camps in the Kivus. Dispersed with the camps but many groups are still in eastern DRC. They have been allied with government forces and have also operated independently.

See also Annex C Armed Forces in the DRC

Kadogos

Swahili word for "little ones". This term is used by Congolese people to describe child soldiers in the army.

La Voix des Sans Voix

Voice of the Voiceless, one of the DRC's main human rights organisations.

Mai-Mai or Mayi Mayi

Militia based in North Kivu, drawing support from local tribes and opposed to Rwandan occupation. They are allied with government forces but operate independently.

See also Annex C Armed Forces in the DRC

MONUC

United Nations Mission for Congo, set up in August 1999.

PIR

Rapid Intervention Forces (Police d'Intervention Rapide)

RDF

Rwandan army - Rwandan Defence Force (Forces Armée Rwandaise), formerly the RPA (Rwandan Patriotic Army)

RPF or FPR

Rwandan Patriotic Front (Front Patriotique Rwandais). Tutsi-dominated movement which forced out the Hutu regime in Rwanda following the 1994 genocide.

SARM

Service for Action and Military Information (Service d'Action et de Renseignements Militaires). SARM was the military security agency of the former Mobutu regime.

SNIP

Service for National Intelligence and Protection (Service National d'Intelligence et de Protection). SNIP was the civilian security agency of the former Mobutu regime.

UPC

Union des patriotes congolais (Congolese Patriots Union). Rebel group of Hema ethnic group. In conflict with Lendu in north-east. [1] (p311)

See also Section 6C Security Situation Ituri

UPDF

Uganda Peoples Defence Forces. Ugandan army.

[Return to Contents](#)

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Return to Contents

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[Return to Contents](#)

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[Return to Contents](#)

