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Democratic Republic of Congo Country Report on Human Rights Practices for 1998

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DEMOCRATIC REPUBLIC OF CONGO

Most of the Democratic Republic of Congo (formerly Zaire) continued to be ruled by President Laurent Desire Kabila, whose Alliance of Democratic Forces for the Liberation of Congo-Zaire (ADFL) overthrew the authoritarian regime of Mobutu Sese Seko by armed force in 1997. The State continued to be highly centralized formally--although in practice the country's dilapidated transportation and communications infrastructure impaired central Government control--and Kabila continued to rule by decree, unconstrained by a Constitution or a legislature. Although the Government finished a draft Constitution in March, only portions of it had been published by year's end, and Kabila continued to ban political party activity. The judiciary continued to be subject to executive influence and corruption.

By year's end, the Government had lost control of more than

one-third of the country's territory to a rebel organization, the Congolese Rally for Democracy (RCD), dominated by members of the Tutsi ethnic minority. The rebellion started in early August, when Kabila tried to expel from the country Rwandan military forces that had helped him overthrow Mobutu, and upon which the Congolese Tutsis and the governments of Burundi, Rwanda, Uganda and Burundi all relied for protection from hostile nongovernmental armed groups operating out of the eastern part of the country. These groups included: the Interahamwe militia of ethnic Hutus, mostly from Rwanda, which fought the

Tutsi-dominated Government of Rwanda; Hutu members of the former Rwandan Armed Forces, believed to be responsible for the 1994 genocide of Tutsis in Rwanda, which also fought the Government of Rwanda; the Mai Mai, a loose association of traditional Congolese local defense forces, which fought the influx of Rwandan immigrants; the Alliance of Democratic Forces (ADF), made of up Ugandan expatriates and supported by the Government of Sudan, which fought the Government of Uganda; and several groups of Hutus from Burundi fighting the Tutsi-dominated Government of Burundi. In the ensuing civil war, elements of the armed forces of Burundi, Rwanda, and Uganda operated inside the country in support of the rebels; elements of the armed forces of Angola, Chad, Namibia, and Zimbabwe operated inside the country in support of the Government; and the nongovernmental armed groups mentioned above operated inside the country on the side of the Government, often as guerrillas inside RCD-occupied territory.

The Government's security forces consist of a national police force under the Ministry of Interior, a National Security Council (CNS), the National Intelligence Agency (ANR), and the Congolese Armed Forces (FAC), which includes an office for the Military Detection of Subversive Activities

(DEMIAP). The police force, reorganized in 1997, handles basic criminal cases. The CNS shares responsibility for internal and external security with the ANR, including border security matters. The FAC retains some residual police functions. Military police have jurisdiction over armed forces personnel. The security forces committed numerous, serious human rights abuses.

Most sectors of the economy continued to decline. Production and incomes continued to fall and the modern sector has virtually disappeared. Physical infrastructure has suffered serious damage, financial institutions have collapsed, and public education and health have deteriorated. Annual per capita national income was estimated at \$115. Subsistence activities, a large informal sector, and widespread barter characterized much of the economy. The insolvent public sector could not provide even basic public services, and external economic assistance remained limited.

The Kabila Government's already poor human rights record worsened in several areas after the start of the civil war in August. Security forces were responsible for numerous extrajudicial killings, disappearances, torture, beatings, rape, and other abuses. The Kabila Government continued its attempts to establish control over the security forces, and a special military tribunal tried and executed several dozen FAC members for various human rights abuses. Prison conditions remained harsh and life-threatening. Security forces increasingly used arbitrary arrest and detention throughout the year. Prolonged pretrial detention remained a problem, and citizens often were denied fair public trials. The special military tribunal tried civilians for political offenses, and executed civilians with limited due process protections. The judiciary remained subject to executive influence, and continued to suffer from a lack of resources, inefficiency, and corruption. It remained subject to executive influence and largely ineffective as a deterrent to human rights abuses or as a corrective force. Security forces violated citizens' rights to privacy. Government security forces used excessive force and committed violations of international law in the civil war that started in August. Although a large number of private newspapers often published criticism of the Government, the Government restricted freedom of speech and the press by harassing and arresting newspaper editors and journalists, and seizing individual issues of publications, as well as by increasing its restrictions on private radio broadcasting. The Government severely restricted freedom of assembly and association. The law continued to restrict the process for official recognition of religious groups. The Government increased its restrictions on freedom of movement, inaugurating exit visa requirements after the start of the civil war. Citizens do not have the right to change their government peacefully. The Government continued to ban political party activity and used security services to stop political demonstrations, resulting in arrests and detentions. It also harassed and imprisoned members of opposition parties, and exiled a principal political opponent to his home village, although it later released him. The Government harassed human rights nongovernmental organizations (NGO's). The Government banned the human rights group AZADHO, one of the leading human rights organizations, and seized copies of its annual report on human rights. It also established a commission to review the "good standing" of all human rights organizations. The Government strongly resisted efforts by the United Nations to investigate reports of massacres in 1996 and 1997, leading to the withdrawal of the UN Investigative Team from the country. Violence against women is a problem and rarely is punished. Female genital mutilation persists among isolated populations in the north. Discrimination against ethnic minorities and indigenous Pygmies is a problem. After the start of the civil war, there was serious and widespread discrimination and violence and extreme official prejudice against members of the Tutsi ethnic minority. Security forces extrajudicially killed or summarily executed ethnic Tutsis and suspected rebels in the capital, and detained civilian Tutsis at a Kinshasa military camp. There were credible reports of beatings,

rapes and extrajudicial killings at this camp, and reports of killings and other abuses of Tutsis elsewhere in the country by both security forces and mobs. State-owned radio stations repeatedly broadcast hate messages, sometimes issued by senior government officials, which may have contributed to official and societal violence against Tutsis. There are unconfirmed reports indicating that in August at least some government military units received orders to execute all Tutsis in those units or in the general population in the areas where those units were stationed. Child labor remained a common problem in the informal sector.

Some nongovernmental armed groups fighting on the side of the Government, RCD forces, and mobs all committed many serious abuses, including many extrajudicial killings or summary executions in territories under their control.

Rebel forces committed extrajudicial killings in territories under their control including the massacre of church and lay workers on August 23, and shot down a civilian jetliner on October 10. RCD forces were responsible for disappearances and reportedly tortured, raped and detained many civilians. They also endangered the civilian population of Kinshasa by cutting electricity and disrupting the water supply and commercial food shipments during an unsuccessful effort to take the capital in August.

Although it often was difficult for victims and witnesses to distinguish RCD rebel forces from elements of the Rwandan army due to their close cooperation and commonalities of language and equipment, Rwandan army personnel also reportedly committed many serious human rights abuses, including extrajudicial killing, torture and rape. Although Angolan and Zimbabwean aircraft and artillery bombed or shelled areas inhabited by civilians in Kinshasa and Kisangani, there were few reports of human rights violations by the elements of some foreign government armed forces operating in the country, including the Chadian, Namibian, Ugandan and Zimbabwean armed forces; there were reports that foreign armed forces on both sides of the war sometimes restrained or mitigated the human rights abuses of their Congolese allies, in particular by safeguarding prisoners.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

The security forces executed many unarmed civilians in Butembo in North Kivu Province in late February for suspected collaboration with local Mai Mai militias then hostile to the Kabila government. These killings occurred after the FAC recaptured Butembo from Mai Mai troops who earlier had taken it from government forces. Estimates of the number of civilians killed range from 40 to 800. Several local human rights groups put the death toll in the low hundreds.

In March a teenage soldier killed a local volunteer of the International Committee of the Red Cross following a disagreement about the use of a plot of land for a soccer field. Within hours a special military tribunal sentenced the soldier to death. President Kabila commuted the sentence in April (see Section 1.e.).

During the civil war, there were many credible reports of executions by security forces of ethnic Tutsis; these reports were particularly numerous during the first month of the war (see Sections 1.g. and 5). In Uvira, from August 2 to August 5, government troops and Mai Mai carried out systematic house-to-house searches for and killings of Tutsis. During the first week of August, local youths whom FAC officers organized into paramilitary groups reportedly killed as many as 250 civilians, mostly Tutsis or persons thought to look like Tutsis, in the towns of Fizi and Uvira, on Lake Tanganyika near Burundi. According to credible reports, during the 2 weeks before the rebels took Kisangani on August 23, the Government's provincial governor in that city, with the active collaboration of the senior local officials of seven Government agencies: organized a public hate campaign against Congolese Tutsis; organized the arrest, detention, and torture of up to 130 Tutsis, persons believed to look like Tutsis, and persons from the Kivu provinces where the country's Tutsis are concentrated; and then directed the execution and burial in mass graves near the airport of up to 100 of these persons. During the first 2 weeks of their occupation of Kisangani, the rebels reportedly uncovered the bodies of about 150 persons killed during the days before the RCD took control of the city; most were Tutsis, the rest were members of other ethnic groups from the eastern region. Repeatedly during August, media owned and controlled by the State publicized messages by government officials that may have contributed to violence against domestic Tutsi civilians (see Section 1.g.). On August 26, when rebel forces were approaching Kinshasa, the Government encouraged the civilian population of the capital to seek out possible rebels and rebel sympathizers who might be hiding in the city. On August 27, mobs in the capital killed, often by burning, a number of persons thought to look like Tutsis or to be rebels in disguise, including some mentally ill persons; some victims reportedly were buried alive in the Masina and Kintambo neighborhoods of the capital, and fishermen reportedly saw burned bodies floating in the Congo River.

Government-organized and government-incited extrajudicial killings of Tutsis apparently diminished after the end of August, when the rebels were driven back from the capital and international criticism of these killings intensified. Nevertheless, civilian deaths for which the Government and its supporters were responsible continued to occur. On September 3, just before the rebels took Kalemie, in the southeastern region, government troops and civilian youth gangs reportedly burned to death a number of captured RCD rebels. Credible reports indicate that between the start of the war and year's end, about 28 persons detained by the military died of starvation after being transferred from Kitona to a jail in Lubumbashi (see Sections 1.c. and 1.d.).

Unconfirmed but apparently distinct reports indicate that between August 14 and August 26 at least some government military units received orders, which some recipients allegedly believed to have been issued by the Government to all brigades nationwide, to execute all Tutsis in those units or in the general population in the areas where those units were stationed.

Members of the security forces robbed, extorted and murdered civilians, particularly in the east of the country before they lost control of it. The military justice system, revised in 1997, prosecuted FAC members for individual incidents ranging from armed robbery to rape to murder, and several dozen were executed by order of a special military tribunal at various times in various cities (see Section 1.e.).

Harsh prison conditions and abuse led to an undetermined number of deaths in prisons. Many prisoners died of illness or starvation (see Section 1.c.).

Mob violence, at times instigated by government officials, resulted in killings.

During the civil war, rebel forces repeatedly committed mass extrajudicial killings. In early August, rebel forces operating in the eastern region reportedly executed large groups of captured government soldiers, including a group at the airport at Bukavu, after they refused to join the rebellion (see Section 1.g.). After taking Uvira on August 6, the rebels committed a large but unknown number of extrajudicial killings of civilians, reportedly in retaliation for the Mai Mai and FAC massacres of Tutsis in Uvira a few days earlier. On August 23 and 24, RCD forces reportedly killed hundreds of unarmed civilians at and near Kasika, a Catholic church parish in South Kivu Province; the RCD forces began these killings during a religious service, shooting inside the church and killing the priest and three nuns. The Kasika killings were apparently reprisals for a nearby Mai Mai attack on RCD forces. On August 25, RCD forces reportedly killed between several dozen and 200 unarmed civilians at Makobola, near Uvira. On August 27, in Kazimia, near Fizi, RCD rebels and members of the Burundian armed forces reportedly killed more than 300 unarmed civilians. On September 1, RCD rebels reportedly killed about 300 civilians in reprisal for a Mai Mai attack. On September 4 and 5, RCD rebels reportedly killed dozens of unarmed civilians in Kalemi, in reprisal for the killing of RCD prisoners of war by FAC forces and local youths on September 3. On September 6, RCD rebels in Kabare reportedly killed about 150 civilians in reprisal for a nearby Mai Mai attack. Over a 3-day period beginning on December 30, RCD rebels at Makobola reportedly killed hundreds of civilians following a fight on December 30 between RCD forces and the Forces for the Defense of Democracy, a Burundian Hutu nongovernmental armed group. In addition to these mass killings, there were many reports of smaller-scale extrajudicial killings by members of the RCD forces from August through December. Throughout the year, there were reports of Tutsis killing Hutus in the eastern regions.

b. Disappearance

There were many reported cases of disappearance, most occurring during the civil war. Both government and rebel forces reportedly were responsible for the disappearance of many persons. The bodies of many persons killed extrajudicially by both sides in the civil war were burned, dumped in rivers, or buried in mass graves that remain unopened, and neither side is known to have kept or released records of the identities of the persons whom its forces killed extrajudicially.

Throughout the year, security forces regularly held alleged suspects in detention for varying periods of time before acknowledging that they were actually in custody. Typical accounts described unidentified assailants who abducted, threatened, and often beat their victims before releasing them. Journalists and opposition members claimed that they were targets of such actions.

In February the editor of the publication *Economic Monitor* reported an attempt in Kinshasa by six agents of the ANR to abduct him. According to the editor, when he resisted, the ANR agents attempted to obtain reinforcements from a local police station, but the policemen declined to assist them (see Section 2.a.).

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

Although the law forbids torture, security forces and prison officials used torture, and often beat prisoners in the process of arresting or interrogating them.

Authorities of the Kabila administration have not responded to charges of inmate abuse and repeated beatings by its security and prison officials.

Members of the security forces also raped, robbed, and extorted money from civilians; some abusers were prosecuted (see Section 1.a.) Incidents of physical abuse by security forces occurred during the arrest or detention of political opponents. Security forces arrested Eugene Diomi, head of the political party Front for the Survival of Democracy (FSD), at his home on December 11, 1997, raping two female relatives and stealing valuables. Diomi was held at a military camp, and reportedly severely beaten on a daily basis, until his provisional release under military guard for medical care January 8.

In February, at the time of the arrest and exile of Democratic Union for Social Progress (UDPS) party leader Etienne Tshisekedi (see Section 1.d.), security forces detained several members of the UDPS at his residence and physically abused them; they were released several days later.

Also in February, Joseph Albert Mena, former member of the transitional parliament during the Mobutu era, was arrested and beaten repeatedly in the basement of an unofficial detention facility, following his arrest during the transit of the presidential motorcade through Kinshasa. Mena was shot at, and then arrested, after failing to move his vehicle out of the way of the motorcade quickly enough. Accused of attempting to assassinate the President, he was released after a visiting presidential deputy chief of staff recognized him at the detention facility and arranged his release.

On March 13, 5 members of the UDPS were arrested at the party headquarters and physically abused in detention before their release on March 14.

There were numerous reports of torture of Tutsi civilians and captured rebels by government security forces during the civil war. There were repeated reports of torture at a government detention center for Tutsi civilians, Camp Kokolo in Kinshasa (see Section 1.d.). In August, persons who were determined not to be Tutsis and released from Camp Kokolo reported seeing detainees there whose ears had been cut off, and one person who had been disemboweled. Members of the presidential guard beat and whipped persons evacuated from the Burundian embassy in August. Military officers beat and injured Ugandan diplomats being evacuated from the country at Kinshasa's airport in August. Government officials tortured many of the Tutsis and other easterners whom they arrested and many of whom they killed at Kisangani before the city fell to the Rebels on August 23; some of more than 30 persons who were arrested but were not killed claimed to have been tortured.

Civilians detained by RCD rebel forces during the civil war claimed to have suffered torture, including rape, whippings, severe beatings that in some cases broke bones, and being forced to drink their own urine. RCD forces reportedly arrested and raped more than 50 women and girls in the Katudu district of Bakuvu on September 1.

The Kabila Government operated 220 known prisons and other places of detention. In all such facilities, conditions remained harsh and life threatening, although the Government undertook work at Kinshasa's main prison, Makala, to improve conditions. The Kabila administration provided food at some prisons, but not in sufficient quantities to ensure adequate nutrition for all inmates. About 28 persons detained by the military died of starvation after being transferred from Kitona to a jail in Lubumbashi (see Section 1.a.). Prison conditions remained a threat to prisoners' lives. Living condi-

ons were harsh and unsanitary, and prisoners were poorly treated. The penal system suffered from severe shortages of funds, medical facilities, food, and trained personnel.

Overcrowding and corruption in the prisons are widespread. There were reports of prisoners being beaten to death, tortured, deprived of food and water, or dying of starvation. Prisoners are wholly dependent on personal resources of family or friends for their survival. Inmates at Makala central prison in Kinshasa sleep on the floor without bedding and have no access to sanitation, potable water, or adequate health care. Tuberculosis, red diarrhea, and other infectious diseases are rampant. Although authorities do not target women for abuse, prison guards rape female inmates.

The use of unpublicized and unofficial detention sites by the civil and military authorities circumvented humanitarian groups' access to many prisoners and detainees. The ICRC was denied access to these sites, and to regular detention facilities, including facilities where the Government incarcerated Tutsi civilians during the civil war.

d. Arbitrary Arrest, Detention, or Exile

Despite legal provisions governing arrest and detention procedures, the security forces were responsible for numerous cases of arbitrary arrest and detention.

Under the law, serious offenses (those punishable by more than 6 months' imprisonment) do not require a warrant for a suspect's arrest. Only a law enforcement officer with "judicial police officer" status is empowered to authorize arrest. This status also is vested in senior officers of the security services. The law instructs security forces to bring detainees to the police within 24 hours. The law also provides that detainees must be charged within 24 hours and be brought within 48 hours before a magistrate, who may authorize provisional detention for varying renewable periods.

In practice these provisions often were violated. The security forces, especially those carrying out the orders of any official who could claim authority, used arbitrary arrest to intimidate outspoken opponents and journalists. Charges rarely were filed, and the political motivation for such detentions was often obscure. When the authorities did press charges, the claims they filed were sometimes contrived or recitations of archaic colonial regulations.

Detention without charge has been a frequent problem under the Kabila administration. On December 4, 1997, British Broadcasting Company journalist Mossi Mwassi, reputedly a South African citizen, was arrested by security forces and charged with endangering state security, apparently for having attended a press conference given by opposition politician Arthur Z'Ahidi Ngoma. Mwassi was released on April 11.

On December 26, 1997, security forces detained 123 Congolese citizens, expelled en masse from Angola for lack of proper legal status, on suspicion of being members of the Mobutu-era military. They were held without charge and shuttled through various detention facilities prior to their release on January 18.

On January 19, the Government detained three members of the Solidarite trade union after one of them criticized officials of the transportation parastatal on television, regarding treatment of parastatal workers. The Government released the unionists in May.

On January 20, security agents arrested Joseph Olenghankoy, head of the political party Innovative Forces for Unity and Solidarity (FONUS), on unspecified charges (see Section 1.e.). Two other FONUS officials, Paul Kasongo and Athenase Oyumbo, were arrested on January 28, then released on January 30, while Oyumbo was

re-arrested on January 31, all without explanation by authorities. Oyumbo subsequently was tried by a military tribunal and acquitted May 19. Olenghankoy, who escaped briefly in April with two other prominent prisoners, Z'Ahidi Ngoma and Commandant Masasu, from a prison in Lubumbashi, subsequently was tried by a military tribunal and sentenced to 15 years' imprisonment in May (see Section 1.e.).

On January 27, security forces arrested several traditional leaders of the Bashi ethnic group in South Kivu province, together with three academics from local universities and several opposition party officials, on suspicion of sympathizing with Mai Mai militia. Most were released within several days, but the academics were transferred to Kinshasa, and held without charge until mid-April.

On February 12, security agents arrested UDPS leader Etienne Tshisekedi at his home, 2 days after he met with a foreign envoy, and 2 days before a scheduled rally in honor of the 1982 founding of the party. He then was sent into internal exile at his home village of Kabeya-Kamwanga in East Kasai province. A number of UDPS officials were arrested subsequently, held without charge, and released within several days. The Government released Tshisekedi from internal exile in early July, and he returned to Kinshasa.

The Government arrested journalist Albert Bonsange Yema on February 12 for an article he published in the newspaper L'Alarme that criticized the arrest of Joseph Olenghankoy. In May the State Security Court tried him for endangering state security and sentenced him to 1 year in prison.

On February 25, security forces arrested Modest Mutinga, editor of the newspaper Le Potential, after he claimed in an article that some Kasaians in Kabila's Government were unhappy over the arrest of Tshisekedi. Mutinga was set free on February 28.

On March 13, five members of the UDPS were arrested at the party headquarters, supposedly for flying the party flag, and released the following day (see Section 1.c.). Furniture and documents also were seized by government agents.

On April 11, five ANR agents arrested Michel Ladi Luya, editor of the newspaper Le Palmars, at the newspaper's offices, apparently for publishing an open letter from Etienne Tshisekedi on April 9. Luya was released without explanation on April 13.

On April 27, ANR agents arrested Paul Nsapu and Sabin Banza of the Electorate's League (Ligue des Electeurs), following their departure from the Belgian embassy, where they had just signed an aid

project contract and received embassy funds for that purpose. They were held on suspicion of being "spies" for foreign governments and remained in custody until early September.

On May 8, government security forces briefly detained two NGO leaders in North Kivu, Immaculee Birhaheka of PAIF (Promotion of Women's Initiatives), and Brigitte Mutambale of GEAD (Study and Action Group for Development). Birhaheka was arrested briefly after having met with a representative of an international democracy NGO, but was not held.

Also on May 8, authorities detained Human Rights Watch researcher Suliman Baldo at the end of a 3-week official mission to the country, was detained for 24 hours at the airport in Kinshasa before they allowed him to leave (see Section 4).

On May 15, Pascale Kambale, vice president of the Zairian Association for the Defense of Human Rights (AZADHO) and an AZADHO colleague were arrested by security agents May 15, following a press conference held by the two activists. The government had banned AZADHO formally in April (see Section 4), and apparently considered the press conference a violation of that banning order. The two were released May 16.

On May 18, the director of Congolese National Television and Radio (RTNC) and four colleagues were arrested by government agents following a televised program on atrocities in Africa that apparently was considered an affront to President Kabila. Three of them were released June 3, with the director and one other held until June 10.

On May 21, security forces arrested Thierry Kyalumba Kabonga, managing editor of The Vision newspaper, and charged him with propagation of false rumors, for an article about the

not-yet-released Congo franc. He was released on June 23.

On May 23, DEMIAP detained Kidimbu Mpese and Awazi-Karhomon of the newspaper Le Soft for an UDPS-sponsored article critical of Kabila that appeared in the Brussels edition of Le Soft. They were detained until June 8, 1998.

Also on May 23, security forces arrested several government ministers on corruption charges: Information Minister Raphael Ghenda, Minister Florent Kambale, Energy Minister Pierre Lokombe Kite-te, Plan Minister Etienne-Richard Mbaya, and Vice-Minister for Portfolio Biselele Kanumutambi. At year's end they remained in detention.

In early July, following the release from internal exile of Etienne Tshisekedi, security forces detained without charge approximately 40 of his followers and senior UDPS party officials in raids on his residence and elsewhere in the capital. All but one (UDPS advisor Marcel Mbayo) were released within 1 or 2 weeks. Mbayo remained in detention until early September, 1998.

On August 20, government security forces reportedly arrested two Agence France Press reporters at Kasumbalesa, a crossing point on the Zambian border, accused them of being spies, and detained them until August 22, when they expelled the journalists from the country.

Government security forces in Kinshasa reportedly arrested seven journalists employed by the state-owned radio station, La Voix du Peuple, on September 9 and again on September 18, detaining them for 10 days on the second occasion, on suspicion of having links with the RCD.

Former Finance Minister Fernand Tala Ngai was detained without charge in a Kinshasa prison from mid-October until the end of the year on suspicion of having used his office to pay contracts to members of President Mobutu's Mouvement Populaire de la Revolution (MPR) party, instead of paying civil servant salaries.

On October 13, police reportedly arrested and detained Belly Bosange and Albert Tumba, two journalists of Alerte, a Kinshasa newspaper, for publishing a false report that the Interior Minister had defected to the rebels. On October 30, DEMIAP officers reportedly arrested and detained a third Alerte journalist, Jean-Marie Nkanku, after Alerte published a photograph showing the Interior Minister with an RCD leader. Of these Alerte journalists, only Bosange remained in custody at year's end, serving a 1-year sentence pursuant to a trial in a military court.

On October 29, security forces in Kananga reportedly arrested and detained Baya Mukotso, a journalist for La Destinee newspaper, after the newspaper criticized the governor of Kasai Orientale Province. Also on October 29, ANR officers arrested and detained Bayard Kabango Mbaya, a journalist with La Flamme du Congo, a Kinshasa newspaper, after the newspaper published an article alleging corruption on the part of Kabila's Chief of Cabinet. He was freed on November 4, when security forces arrested and detained another La Flamme journalist, Gustave Kalenga, in connection with the same article.

On November 5, security forces in Kinshasa reportedly arrested and briefly detained Awozi Kharomon, editor-in-chief of Le Soft, a Kinshasa newspaper owned by former Mobutu aid and RCD supporter Kin-Kiey Mulumba, and two other journalists employed by the newspaper, after it reported that a Western government had suggested that Kabila either resign or negotiate with the RCD. All three journalists were released on November 7.

On November 13, Minister of Health Jean-Baptiste Sondji was dismissed from his ministry and arrested for telling a Western government's international radio news service that the Minister of Justice alone had determined which opinion groups were consulted about a proposal for a new Constitution. He was detained for 3 days and released on November 16.

In mid-November authorities arrested former Finance Minister Tala Ngai. He remained in custody at year's end. His case was to be heard by a military tribunal, but no date had been set.

On December 15, authorities arrested activists of the PALU opposition party; they were released the following day.

Several dozen high officials of the Mobutu regime, arrested by the Government in June 1997 for corruption, were released during the year. The Government released 26 on February 18, 16 were set entirely free, but subject to further legal action, and 10 were kept under a form of house arrest. In March another 11 were released, at least 1 after reportedly paying a substantial sum of money as restitution.

Professor Kalele Ka Bila and free-lance journalist Jean-Francois Kabanda, both UDPS supporters, were detained in October 1997 for allegedly distributing a document calling on citizens to overthrow the "Tutsi invaders." They were convicted in May by a special military tribunal and given 2-year sentences (see Section 1.e.).

Roger Sala Nzo Badila and Professor Nyabirungu Mwene Songa, leaders of the National Human Rights Center (CENADHO), were detained in November 1997 for publishing an unflattering report of the Kabila Government's human rights record. They were released uncharged February 12.

Arthur Z'ahidi Ngoma was arrested on November 24, 1997 with three colleagues from the political think tank Forces du Futur for violating the ban on public political activities. He was convicted by a military tribunal in May and given a suspended

12-month sentence and released (see Section 1.e.).

Commandant Enselme Masasu, a founder of the ADFL, was arrested on November 26, 1997 and later accused by President Kabila of a series of crimes, including drug trafficking and maintaining private prisons. He was tried by a military tribunal in May and sentenced to 20 years' imprisonment (see Section 1.e.).

Pastor Theodore Ngoy was arrested on December 17, 1997 after he accused President Kabila at a church-run seminar of generating a cult of personality. He remained in detention until July 2.

In August the Government systematically arrested and detained Tutsi civilians throughout the country. Many were killed (see Section 1.a.) and some were tortured (see Section 1.c.). However, many survived. At year's end, at least 130 Tutsis remained detained without charge at Camp Kokolo in Kinshasa, and at least 520 more remained detained without charge in Katanga, President Kabila's home province. Hundreds--perhaps thousands--of Tutsis remained incarcerated, ostensibly for their own protection. The Government granted the International Committee of the Red Cross (ICRC) access to at least some of these detainees. The Government also held prisoners of war after August, but little is known about its treatment of them. However, the ICRC did have access to prisoners of war.

At year's end, the Government held fewer than a dozen political detainees, excluding Tutsis and prisoners of war.

During the civil war, RCD rebel forces reportedly detained persons repeatedly. Many of those whom the rebels detained were Hutus. The rebels also detained, and allowed the International Committee of the Red Cross to visit, many prisoners of war. However, the RCD was not reported to have held large numbers of persons in prolonged detention on the basis of their ethnicity.

Although the law prohibits and the Government did not practice forced exile, the Government sent UDPS party leader Etienne Tshisekedi into internal exile at his home village in East Kasai on February 12, releasing him in July.

Denial of Fair Public Trial

The Transitional Act of the Mobutu regime and Kabila's Decree Law No. 3 provide for the independence of the judiciary; however, in practice the judiciary was not independent of the executive branch, which could and did manipulate it. The Kabila administration did not establish mechanisms to ensure the independence of the judiciary by year's end. A judicial reform decree, reportedly awaiting presidential approval since 1997, was not promulgated. The judiciary also is ineffective and suffers from corruption.

The judiciary includes lower courts, appellate courts, the Supreme Court, the Court of State Security, and a new military tribunal organized in August 1997. This tribunal ordered the executions of dozens of soldiers and civilians in Bukavu, Goma, Kinshasa, and Lubumbashi during the year for various violent criminal offenses, including murder and armed robbery. Local human rights groups expressed concern at the summary nature of the justice dispensed by this military court, with no automatic right of appeal to a higher court, and many of the accused apparently lacking defense counsel. The tribunal also began to sentence civilians for nonviolent offenses with political overtones.

In May a university lecturer, Kalele Ka Bila, and a free-lance journalist, Jean-Francois Kabanda, received 2-year sentences for spreading false rumors, after originally being charged with endangering state security. They allegedly published an article appealing to ethnic prejudices in advocating resistance to "Tutsi invaders" (see Section 2.a.).

Also in May, the special military tribunal tried Commandant Anselme Masasu, co-founder of the ADFL, Arthur Z'Ahidi, head of Forces du Futur, and Joseph Olenghankoy, head of FONUS, on various charges. Masasu received a 20 year sentence for treason, Z'Ahidi, a 12-month suspended sentence for violating the political ban, and Olenghankoy 15 years also for violating the ban on political activity. Many observers considered all three sentences to be politically motivated; Olenghankoy and Z'Ahidi were heads of opposition political parties, and Masasu was a potential rival to President Kabila within the ADFL.

Also in May, journalist Albert Bonsange Yema, who was arrested by the Government February 12 for an article criticizing the arrest of Joseph Olenghankoy, was convicted by the State Security Court on the charge of endangering state security and sentenced to 1 year in prison (see Section 2.a.).

Civil and criminal codes are based on Belgian and customary law. The Legal Code provides for the right to a speedy public trial, the presumption of innocence, and legal counsel at all stages of proceedings. Defendants have the right to appeal in all cases except those involving national security, armed robbery, and smuggling, all of which are adjudicated by the Court of State Security, and cases adjudicated by the special military tribunal, whose jurisdiction appears ill defined. The law provides for court-appointed counsel at state expense in capital cases, in all proceedings before the Supreme Court, and in other cases when requested by the court. The Kabila administration has not stated a position on providing counsel, but has done so at its discretion.

Corruption remains pervasive, particularly among magistrates, who are very poorly and intermittently paid and poorly trained. The system remains hobbled by major shortages of personnel, supplies, and infrastructure. The Kabila Government has acknowledged that the judiciary is dysfunctional, and took one step to improve it by firing 315 magistrates in October, and hiring others.

At year's end there were fewer than a dozen known political prisoners, including Anselme Masasu and Joseph Olengansky.

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

Security forces routinely ignored legal provisions for the inviolability of the home and of private correspondence. They ignored the requirement for a search warrant, entering and searching homes at will. Opposition party leaders' residences often were raided by police, with arrests made and files seized. (see Sections 1.c. and 1.d.) The headquarters of various political parties were under surveillance (see Section 2.b.) The Government is widely believed to monitor telephone communications.

According to an Amnesty International Report, the FAC, the RCD, and the Rwandan Armed Forces used forcible conscription, and many of those forced to enlist were children. However, most such abuses were attributed to the rebels and the Rwandans.

g. Use of Excessive Force and Violations of Humanitarian Law In Internal Conflicts

During the last 5 months of the year, there was a civil war with external intervention on both sides. The war began in early August, when Kabila tried to expel from the country Rwandan military forces that had helped him overthrow Mobutu. Congolese Tutsis and the governments of Rwanda, Uganda and Burundi all relied on these Rwandan forces for protection from hostile nongovernmental armed groups operating out of the eastern part of the country. These groups included: the Interahamwe militia of ethnic Hutus, mostly from Rwanda, which fought the

Tutsi-dominated Government of Rwanda; Hutu members of the former Rwandan Armed Forces believed to be responsible for the 1994 genocide of Tutsis in Rwanda, which also fought the Government of Rwanda; the Mai Mai, a loose association of traditional Congolese local defense forces, which fought the influx of Rwandan immigrants; the Alliance of Democratic Forces (ADF), made of up Ugandan expatriates and supported by the Government of Sudan, which fought the Government of Uganda; and several groups of Hutus from Burundi fighting the Tutsi-dominated Government of Burundi. Consequently, Kabila's attempt to expel the Rwandan armed forces was frustrated by the outbreak on August 2 of a rebellion, led by a group that called itself the Congolese Rally for Democracy. The RCD was dominated by members of the Tutsi ethnic minority, but from the outset depended heavily on troops, materiel, and direction from the Government of Rwanda and, to a lesser extent, the Governments of Uganda and Burundi. The rebellion began in the eastern provinces of the Kivus and spread to the province of Lower Congo immediately to the southwest of Kinshasa, as rebels and their allies attempted to capture the capital and overthrow the Kabila Government in late August. Military intervention by Angola, Chad, Namibia, and Zimbabwe on the side of the Government resulted in the defeat of the rebel drive on Kinshasa and the rapid extirpation of rebel forces in Lower Congo. However, the rebels continued to win ground in the eastern provinces. At year's end, the RCD controlled more than one-third of the country's territory. Elements of the armed forces of Burundi, Rwanda, and Uganda continued to operate inside the country in support of the rebels; elements of the armed forces of Angola, Chad, Namibia, and Zimbabwe operated inside the country in support of the Government; and the nongovernmental armed groups operated inside the country on the side of the Government, often as guerrillas inside RCD-occupied territory. In this conflict, both sides repeatedly used excessive force and committed numerous abuses.

There were reports that in August some government military units received orders instructing them to kill all Tutsis in those units or in the civilian population of the areas in which those units were stationed (see Section 1.a.). There were reports, at least some of them credible, of mass killings of ethnic Tutsis by security forces in cities and towns in the eastern regions, typically days or hours before these towns or cities were captured by the rebels (see Section 1.a.). Government security forces conducted mass arrests of Tutsis at many locations in August and detained at least hundreds of Tutsis in Kinshasa and Katanga Province through the end of the year; there were reports of torture and killings of some of these detainees (see Sections 1.a., 1.c., and 1.d.).

During the rebels' August march on Kinshasa, and for several days in late August when rebel troops successfully infiltrated the city and fought street battles with government troops, there were many credible reports of executions by security forces of ethnic Tutsis and of suspected rebels. Although precise estimates are unavailable, these included the random killing of those suspected of being Tutsis, or of aiding the Tutsi rebels. In many cases, suspected rebels were stopped at impromptu checkpoints and killed on the spot. Mobs of civilians also took to the streets, burning suspected rebels alive with tires around their necks filled with gasoline. (See Section 1.a.)

During the rebel march on Kinshasa in August, government and private media publicized remarks by government officials calling on the general population to fight and kill the "Tutsi" or "Rwandan" invaders. Some of these appeals called for the eradication of Tutsis in the Congo. These statements may have contributed to widespread societal and official extrajudicial killings of Tutsi civilians in August. However, later public statements by the FAC called for civilians to turn over suspected rebels to the FAC unharmed. The FAC later reportedly arrested some soldiers involved in abuses of civilians, subjected them to corporal punishment, and began investigations of their acts through the military justice system. However, it was not known at year's end whether the Government had punished any soldiers or officials for killing unarmed Tutsi civilians or unarmed suspected rebels during the civil war.

Security forces also began round-ups of ethnic Tutsi civilians during the early days of the rebellion, holding approximately 170 civilians at the FAC's Camp Kokolo in Kinshasa, and reportedly holding more civilians at other detention facilities in the city (see Section 1.d.). Credible reports of beatings, rapes, and killing of civilians at Camp Kokolo and the other facilities were received throughout the rebel offensive on Kinshasa (see Section 1.c.).

The Government recruited soldiers as young as 10 years old. There were also credible reports that during August government authorities in some areas hastily organized youth paramilitary groups and urged them to seek out and destroy suspected rebels, notably including Tutsis. According to credible reports, the RCD deployed hastily conscripted and poorly trained child soldiers, some only 10 to 12 years old. In May the UN Secretary General's Investigative Team for the Congo issued its report on serious human rights and humanitarian law violations from March 1993 to May 1997. Regarding allegations of massacres during the 1996-97 rebellion, the report concluded that in October and November 1996, ADFL troops played a lead role in attacking refugees camps in North and South Kivu that housed both unarmed civilians and armed soldiers and militia. The report notes that senior Rwandan officials have admitted publicly that Rwandan forces participated in the attacks.

The attacks caused heavy casualties among the civilian population. In some cases attacking troops deliberately executed unarmed persons, including women and children. In Magunga camp, hundreds of unarmed persons were captured and executed by attacking troops. The report further concludes that many of the Hutu refugees who fled the camps into the interior of the Congo were hunted down and killed deliberately by ADFL troops and Mai Mai militia. In February, March and April 1997, ADFL troops deliberately killed groups of unarmed civilians during attacks on refugee camps set up in the Congolese interior to receive those fleeing North and South Kivu. The report acknowledges that the number of victims, and the extent of Rwandan participation in these attacks, is unknown. The report concludes that in May 1997, ADFL troops, apparently under the effective command of the Rwandan army, killed hundreds of Rwandan Hutus in Mbandaka and Wendji.

The report also notes the impediments raised by the Kabila Government to the investigation (see Section 4), which resulted in little testimony and made it impossible to confirm or disprove most of the allegations concerning serious violations of human rights and humanitarian law.

There were reports of indiscriminate bombing of the city of Kisangani, after its seizure by rebel forces, by several Angolan and/or Zimbabwean jets in late August, with loss of life among the civilian population.

There were many reports, at least some of them credible, that rebel forces committed mass extrajudicial killings on several occasions, usually in reprisal either for mass killings of Tutsis in the same area by government forces and local paramilitary groups, or for attacks in the same area on RCD forces by local paramilitary groups such as the Mai Mai (see Section 1.a.). For example, there were credible reports that rebel troops killed Catholic clerics and lay persons at a mission in South Kivu August 23 and 24, as an indiscriminate reprisal attack for an earlier ambush of rebel forces. Estimates of the number of persons killed ranged from several dozen to over 200 (see Section 1.a.).

During their August operations in Lower Congo province, rebel forces seized Inga Dam, the principal source of electricity for Kinshasa, and the port of Matadi, the capital's principal source of foodstuffs. Rebels subsequently cut the power to Kinshasa several times, and disrupted the normal course of commercial shipments to the city, causing serious shortages of food supplies and endangering medical services and the water supply. On October 10, a civilian airliner was shot down near Kindu, killing approximately 40 passengers whom the Government claimed were civilians, mostly women and children. Rebel leaders admitted downing the aircraft, but claimed that it was ferrying government troops.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Statutes that predate Decree-law No. 3 provide for these rights, and remain in effect; however, in practice the Government restricted these rights. Incidents of harassment, intimidation, and detention of journalists declined immediately after Kabila overthrew Mobutu, but increased toward the end of 1997. The increased harassment and arrest of journalists continued unabated into 1998 (see Section 1.d.). Of the many journalists who were arrested and detained, few were tried; most were released after a few days. However, several journalists were sentenced to jail terms by the special military tri-

bunal or the State Security Court (see Section 1.e.). Charges in these courts were usually for treason or offenses against state security. Criminal libel laws exist, but were not used against journalists.

Almost 400 newspapers were licensed to publish, but only a score appeared regularly in Kinshasa. There was also an active private press in Lubumbashi, and some private newspapers published in other provincial cities. Of the Kinshasa-based newspapers, seven were dailies; the rest of the newspapers that appeared regularly were published between one and three times a week. Most private news publications relied on external financing, often from political parties and individual politicians. News publications tended to emphasize editorial commentary and analysis rather than factual descriptions of events; many are highly critical of the Government.

Government security forces sometimes seized individual issues of various newspapers or printing equipment. In January soldiers seized three printers from the offices of the magazine *Le Moniteur de L'Economie*. In February and again in March, several thousand copies of *Le Soft International*, printed in Brussels and distributed in the Congo, were seized at the airport and burned. Also in March, authorities seized 1600 copies of AZADHO's annual report on human rights in the Congo (see Section 4). In May, authorities pressured opposition newspapers into running a series of progovernment articles supposedly authored by a foreign professor. In November, security forces arresting journalists at the offices of *Le Soft* (see Section 1.d.) also seized much of that newspaper's equipment, leaving it virtually unable to operate through year's end.

The newspaper industry is regulated by a press law enacted in 1996. Publishers must continue to deposit copies of their publications with the Information Ministry. However, there is no longer a formal censorship regime.

Due to limited literacy and the higher costs of newspapers and television, radio remained the most important medium of public information. At year's end, seven private radio stations operated in Kinshasa alone. In 1997, the Kabila Government lifted the Mobutu regime's ban on news programming on private radio. However, private radio was markedly less critical of the Government than private newspapers. The Government's licensing of radio broadcasting appeared to be nonrestrictive and nondiscriminatory. However, the Kabila Government has closed down private radio stations because they broadcast news unfavorable to the Government or commentary critical of the Government. In April the Government shut down Radio Amani, a privately-owned radio station affiliated with the Catholic Church, because it carried British Broadcasting Company news programming and commentary unfavorable to the Government.

Five television stations broadcast in the Kinshasa area. One was state-controlled, four were privately owned.

Foreign source broadcasts were also available through local outlets. In the spring the Government attempted to restrict access to foreign source news broadcasts. However, after protests from independent media and dissention within the government, the broadcasts resumed.

At year's end, there were two domestic Internet service providers. Because of technical difficulties and high costs, the Internet is not widely used.

There are no overtly government-controlled newspapers. However, the editors of at least two newspapers, L'Avenir and L'Ouragon, work respectively at the Presidency and the Ministry of Justice. Le Forum and Les Palmes have close ties to the security services. Only Les Palmes appears daily; its editor traveled to Europe with Kabila in December. State-owned radio and television operate throughout the country; some of its broadcasting facilities were in rebel hands between August and year's end. Government radio and television did not exercise editorial independence. The head of the state-owned broadcasting company and several colleagues were arrested briefly after the company broadcast a television program on human rights atrocities in Africa (see Section 1.d.). Opposition parties were unable to gain access to state-owned broadcast media.

During the civil war, members of the government security forces repeatedly have detained foreign journalists, including employees of the Associated Press, Reuters, and the World Television Network, and reportedly have beaten some of them. In August government security forces detained two Agence France Press journalists and expelled them from the country (see Section 1.d.).

Academic freedom generally is respected. In January three academics at regional universities in the province of South Kivu were detained without charge until mid-April on suspicion of sympathizing with Mai Mai militia.

Little reliable information on freedom of the press and academic freedom in rebel-held areas was available. However, RCD authorities reportedly restricted these rights. Amnesty International reported that many university campuses were closed and students threatened after some students reportedly verbally challenged Ernest Wamba dia Wamba, the RCD political leader, during a public meeting in Bukavu.

b. Freedom of Peaceful Assembly and Association

There is no legal protection for freedom of assembly, and the Government continued to restrict this right severely. The Government considers the rights to assemble and associate subordinate to the maintenance of "public order." The Government requires all organizers to apply for permits, which are granted or rejected at the Government's discretion. Public activities generally are dispersed by government security services. After the arrest of UDPS leader Etienne Tshisekedi and several other party officials in February (see Section 1.d.), the Ministry of the Interior issued an announcement reminding the public that demonstrations disrupting public order were strictly banned and would be punished severely.

The law provides no protection for freedom of association, and the Government severely restricted this right. Upon assuming power in 1997, the Kabila government suspended political party activities, but not political parties themselves. Kabila announced in November that the ban on political party activity would be lifted in January, 1999. Individuals from parties outside the ADFL served in Kabila's Government, but in their individual capacities (see Section 3). Political party offices by and large remained open and parties continued internal administrative functions, although the headquarters of the UDPS were closed at mid-year and were used as a police station. At different times and for different periods, the headquarters of various political parties were under surveillance, padlocked, or patrolled by soldiers. The Government effectively prevented public political gatherings, although oppo-

sition party leaders remained able to conduct small, private meetings. The effect of the party suspensions varied widely throughout the country, but was enforced less strictly in some provinces.

In theory anyone wishing to form a new political party would be able to do so by registering with the Minister of Interior. No one has tried to do so since Kabila overthrew Mobutu. Nongovernmental organizations (NGO's) are required to register with the Minister of Justice, filing copies of internal regulations and organizational structure. Following the banning of AZADHO in April (see Section 4), the Government announced that a commission would review the registration of other human rights NGO's to determine their "good standing" with the Government. These NGO's were given 3 days to update materials on file at the Justice Ministry. Of 132 organizations that complied, the Government subsequently declared only 22 to be in good standing. The legal status of those not approved by the government was unclear; many continued to function.

c. Freedom of Religion

Freedom of religion is recognized, and the Government generally respected this right in practice, with the reservation that the expression of this right neither disturb public order nor contradict commonly held morals. The process for official recognition of religious groups is simple and was not abused; exemption from taxation is among the benefits of official recognition as a religious organization. There is no legally established or favored church or religion. The population is believed to be about 50 percent Catholic, 20 percent Protestant, and 10 percent Muslim.

Security forces detained Pastor Ngoy Ilunga for 4 days in December 1997 for criticizing President Kabila and his Government during a church-sponsored seminar. Ngoy was taken into detention again on December 16, 1997, and was released on July 2.

In April, the Ministry of the Interior banned the operations of Radio Amani, the Catholic Church station in Kisangani, ostensibly because it lacked proper operating licenses (see Section 2.a.).

A 1971 law regulating religious organizations grants civil servants the power to establish and dissolve religious groups. Although this law restricts the process for official recognition, officially recognized religions are free to establish places of worship and to train clergy.

Many recognized churches have external ties, and foreigners are allowed to proselytize. The Government generally did not interfere with foreign missionaries. There has been no known persecution of Jehovah's Witnesses or any other groups for practicing their faith in recent years.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Although the law allows for freedom of movement, the Government, and in particular the security forces acting independently, continued to restrict this freedom and the Government increased its restrictions after the civil war began. The civil war also brought new restrictions on internal travel even within the government-controlled and rebel-controlled zones, and made movement between the two zones difficult and dangerous.

Even before the civil war, security forces throughout the country established and manned many roadblocks at which they demanded that travelers produce documents and bribes. There were far more such roadblocks than could be justified by public safety considerations; both their numbers and the conduct of the security force members manning them indicated that their main function was to enable security force members to supplement their below-subsistence official wages. This made internal travel costlier, more time-consuming and more dangerous, since violence including shootings was not uncommon at these roadblocks. However, before the outbreak of the civil war, the number of such roadblocks and the extortion committed by those who manned them had diminished after Kabila overthrew the insolvent Mobutu regime.

After the start of the civil war, the Government began to require exit visas for all foreign travel. No data on the refusal rate for exit visa applications was available; there was one known case in which a political leader was denied an exit visa during the year. Security forces occasionally hindered foreign travel by citizens, including journalists. For example, on July 11, the editor of *Le Potential*, Modest Mutinga, was detained for 4 hours at Njili International Airport in Kinshasa; his papers were confiscated, and his luggage was searched. The Government imposed a curfew in Kinshasa from midnight to 6 a.m., and prohibited vehicles from entering the city after dark. These restrictions were still in effect at year's end.

There reportedly was substantial freedom of movement within the rebel-controlled territories. However, travel across the war front was often inconvenient and sometimes impossible.

The significant risk of rape, sometimes perpetrated by uniformed persons, restricts freedom of movement at night for women in many neighborhoods. Groups of citizens implemented neighborhood watch programs, but women in many parts of Kinshasa and Lubumbashi do not leave their homes at night for fear of attack.

The country is a signatory to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, as well as to the Organization of African Unity's 1969 Refugee Convention. The Government continued to provide first asylum. Tens of thousands of refugees were accepted into the country following the outbreak of civil war in the Republic of Congo in June 1997. Refugees from Uganda and Angola also continued to live in the country.

The Government's cooperation with the U.N. High Commissioner for Refugees (UNHCR) and other international agencies fluctuated widely. The Government denied the UNHCR access to various groups of refugees scattered around the country. During the High Commissioner's February visit, she was not allowed to visit Goma. In April three local UNHCR staff members were arrested, briefly detained, and mistreated.

The Government's policy toward Burundian Hutu refugees often has varied from its stated view that the situation in Burundi precludes forcible repatriation. On April 1, Government military authorities delivered an ultimatum to the local UNHCR office, threatening expulsion of all 6,500 Burundian refugees who had recently arrived, unless they were repatriated by April 5. On April 3, the authorities agreed to allow the refugees to stay but required male refugees to transfer to another location. Approximately 250 of these refugees, including men, women, and children, were returned forcibly to Bu-

rundi on April 6. This action may have been taken by the military without consultation with the central Government.

The UNHCR signed two tripartite agreements concerning the mutual return of refugees on April 25 and 26, the first with the Government and Uganda, and the second with the Government and Burundi. The Government's insistence that no new camps be constructed for refugees in the east complicated the ability of the UNHCR to assist new refugees. However, the Government agreed that those determined to be refugees by the UNHCR would be "treated according to international accords," and it apparently accepted the concept of temporary sites. Another accord between the Government and Burundi on June 13 formulated plans for the return of Congolese refugees in Burundi and Burundian refugees in South Kivu, including those who did not wish to be repatriated.

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

Citizens do not have the right to change their government peacefully. Citizens have not been able to change their government through free elections since independence in 1960.

In his May 1997 inaugural address, President Kabila promised a constitution and elections by 1999. After several months of delay, in October 1997 the Government completed the first series of steps in the Government's announced election calendar, including the creation of a Constitutional Commission. The Commission finished a draft constitution in March, accompanied by a list of approximately 250 persons who were potentially excludable from public office for commission of economic crimes or human rights abuses. Many prominent politicians from the Mobutu era were listed, as were some political opponents of the Kabila regime. The Government subsequently disavowed this list as a personal effort by the President of the Constitutional Commission that did not reflect the official recommendations of the Commission. By amendments in May to Decree Law No. 3 of 1997 the Government established a Constituent and Legislative Assembly to consider the draft constitution, and adopt a final version for submittal to the population by referendum. The Assembly also would establish election laws, and act as a quasi-parliamentary body during the remainder of the transition period. In June the Government accepted applications for positions in the Assembly. Selections were to be made by the President, but when war broke out in August, it was impossible to form a constituent assembly with countrywide representation. In September, President Kabila appointed a 12-member Presidential Commission of Institutional Reforms to take the place of a Constituent Assembly. The Commission reviewed the draft constitution and presented its recommendations to the President in November. However, as of year's end, the Government had not yet published the draft constitution, although the Government had send copies to the leaders of various NGO's and political parties, and purported versions of it had been printed in some private publications.

The suspension of opposition political party activities, announced soon after the Government's assumption of power in May 1997, continued; President Kabila announced in November that he would lift the suspension in January. Political parties themselves have not been banned, but their operations are restricted to internal administrative functions. At various times and for various periods, headquarters of various political parties were under surveillance, padlocked, or patrolled by soldiers (see Section 2.b.). The effect of the party suspensions varies widely throughout the country, but is less strictly enforced in some provinces.

The Kabila Government's ministers and other senior officials were drawn from diverse ethnic groups, geographic regions, and political parties. Those drawn from outside the ADFL are required by opposition parties to serve as individuals and not as party representatives. During the 1997 military campaign through the Congolese countryside, the ADFL held quasi-electoral selections--by acclamation--of provincial leadership (governor, vice-governor, mayor) in most provinces, where candidates, some drawn from outside the ADFL, were approved in public meetings of the local population.

The State continued to be highly centralized in many ways. Governors were generally appointed by the central Government executive, but once in the provinces they had considerable autonomy, due in part to poor communications and transportation infrastructure. During the year, presidential appointees gradually replaced governors popularly elected during Kabila's overthrow of Mobutu in 1997. Territorial administrators are also appointed from Kinshasa. Provincial government resources, both financial and logistical, have come almost exclusively from Kinshasa since Kabila took control of the Government.

There are no official restrictions on the participation of women or minorities in politics. However, in practice there are few women or Muslims in senior positions in the Government or in political parties. There were six female ministers and vice ministers in the Cabinet at year's end.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Kabila Government showed increased hostility to effective human rights organizations, local or international, operating in the country. Local human rights NGO's continued to investigate and publish their findings on human rights cases, but these activities took place in the context of significant government harassment.

Local human rights activists were subjected to frequent harassment, arrest and detention by security forces (see Section 1.d.). The legality of such arrests was often unclear, as was the authority of the security forces members effecting the arrests and detentions.

In March authorities seized 1,600 copies of the annual report on human rights of AZADHO, one of the principal human rights organizations in the country. On April 3, the government banned AZADHO for allegedly violating the prohibition on political activities. This banning order was issued while AZADHO vice president Pascal Kambale was in attendance at the UN Human Rights Commission session in Geneva, where a resolution critical of the Kabila Government's human rights performance was under consideration. Later in April the Government announced that a commission would review the registration of other human rights NGO's to determine their "good standing" with the government. These NGO's were given 3 days to update materials on file at the Justice Ministry. Out of 132 organizations, 22 were subsequently declared to be in good standing. The legal status of those not approved by the Government was unclear; many continued to function. After AZADHO was banned, its staff formed a substantially similar organization called the Association Africaine de Defense des Droits de l'Homme (ASADHO), which continued AZADHO's work with the same staff and operating out of the office of the organization's vice president. In May security forces briefly detained Pascal Kambale and an ASADHO colleague (see Section 1.d.).

In May Suliman Baldo, a foreign researcher for Human Rights Watch on a 3-week visit to the country, was detained for 24 hours by security forces at the Kinshasa airport, who seized documents in his possession, and then expelled him from the country.

In June the Government established an official NGO, Solidarity Among Us (SEN). The stated purpose of the NGO, among others, was to "coordinate the activities" of local and international NGO's. At year's end, the exact nature of SEN's responsibilities and authority remained unclear.

The United Nations Investigative Team appointed by the UN Secretary General to investigate reports of mass extrajudicial killings by ADFL forces and Rwandan forces supporting it during the 1996-97 rebellion against Mobutu recommenced its investigation in Mbandaka in February, following its withdrawal to the capital in December 1997 for security reasons after the team faced local protests. In March a forensics team that was attempting to investigate a reported massacre site at the village of Wendji outside Mbandaka met with protests from villagers, and withdrew to Kinshasa. Also in March a small investigative team deployed to Goma in North Kivu province to begin investigations. In April an investigator on this team was expelled from Goma, and detained at Njili airport in Kinshasa by members of the security forces, who seized investigation documents in his possession. On April 20, the U.N. Secretary General withdrew the Investigative Team from the country, citing a pattern of obstruction on the part of government authorities. In May the Investigative Team issued its report, which concluded that ADFL troops, with the participation of Rwandan forces, deliberately killed hundreds of unarmed civilian refugees in various incidents from October 1996 to May 1997 (see Section 1.g.).

Members of RCD forces also reportedly used violence to impede the work of human rights advocates. On August 6, RCD soldiers in Lemera reportedly killed Jacques Semurongo, a Protestant Christian clergyman and member of a Bukavu-based human rights NGO called Heretiers de la Justice; his killers allegedly told his wife that he was killed for passing information to foreign human rights organizations. On August 9, RCD authorities reportedly arrested and detained another member of the same organization, Jean Paul Bengheya. Armed RCD personnel reportedly were stationed outside the office of Heretiers de la Justice starting on August 23, and two members of the organization reportedly received threats and fled the RCD-controlled zone in September.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The previous Constitutions forbade discrimination based on ethnicity, sex, or religious affiliation, but the Government did not enforce these prohibitions effectively, and acted with extreme official prejudice against members of the Tutsi ethnic group after the start of the civil war. Societal discrimination remained an obstacle to the advancement of certain groups, particularly women, Tutsis, Muslims, and the indigenous Pygmy (Batwa) people.

Women

Domestic violence against women, including rape, is common, but there are no known government or NGO statistics on the extent of this violence. The police rarely intervene in domestic disputes. Rape is a crime, but the press rarely reported incidents of violence against women or children. Press reports

of rape generally appear only if rape occurs in conjunction with another crime, rarely because of the act of rape itself.

Women are relegated to a secondary role in society. They comprise the majority of primary agricultural laborers, and small-scale traders and are almost exclusively responsible for child rearing. In the nontraditional sector, women commonly receive less pay for comparable work. Only rarely do they occupy positions of authority or high responsibility. Women also tend to receive less education than men. Women are required by law to obtain their spouse'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. A 1987 revision of the Family Code permits a widow to inherit her husband's property, to control her own property, and to receive a property settlement in the event of divorce. In practice, sometimes consistent with customary law, women are denied these rights. Widows commonly are stripped of all possessions--as well as their dependent children--by the deceased husband's family. Human rights groups and church organizations are working to combat this custom, but there is generally no government intervention or legal recourse. Women also are denied custody of their children in divorce cases, but they retain the right to visit them. Polygyny is practiced although it is illegal. Father-child relationships resulting from polygynous unions are recognized legally, but only the first wife is recognized legally as a spouse.

Children

Government spending on children's programs is nearly nonexistent. Primary school education is not compulsory, free, or universal. In public schools, parents are required formally to pay a small fee, but parents often are expected informally to pay teachers' salaries. Dire economic circumstances often hamper parents' ability to cover these added expenses, meaning that children may not be able to attend school. Most schools function only in areas where parents have formed cooperatives.

There are no documented cases in which security forces or others targeted children for specific abuse, although children suffer from the same conditions of generalized social disorder and widespread disregard for human rights that affect society as a whole. These conditions sometimes render parents unable to meet their children's basic human needs.

Some children as young as 10 years of age were allowed to enlist as soldiers in the FAC. The Government has not taken comprehensive measures to remove all child soldiers from its armed forces. The number of very young soldiers appears to have declined as military training programs produced new adult recruits. However, child soldiers remain a very significant presence. Credible reports indicated that RCD rebel forces forcibly conscripted boys as young as 10 years.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is not widespread, but it is practiced on young girls among isolated groups in the north. The Government has not addressed the problem.

People With Disabilities

The law does not mandate accessibility to buildings or government services for the disabled. There are some special schools, many with missionary staff, that use private funds and limited public support to provide education and vocational training to blind and physically disabled students.

Indigenous People

There is a population of fewer than 10,000 Pygmies (Batwa), who are believed to have been the country's original human inhabitants. Societal discrimination against them continued. Although citizens, most Pygmies continued to live in remote areas and took no part in the political process.

National/Racial/Ethnic Minorities

The last official census was taken in 1984. It is estimated that the population is now 45 to 50 million, and comprises more than 200 separate ethnic groups. These groups generally are concentrated regionally and speak distinct primary languages. There is no majority ethnic group; the four largest ethnic groups are the Mongo, Luba, Congo and Mangbetu-Azande, who together make up about 45 percent of the population. Four indigenous languages-Kiswahili, Lingala, Kikongo and Tshiluba--have official status. French is the language of government, commerce, and education.

Societal discrimination on the basis of ethnicity is widely practiced by members of virtually all ethnic groups, and is evident in private hiring and buying patterns, and in patterns of de facto ethnic segregation in some cities; however, intermarriage across major ethnic and regional divides is quite common in large cities. There were accusations that President Kabila used disproportionate numbers of Katangans in his Government, but the distribution of ministerial and senior military positions did not appear to reflect such favoritism. The Government had representatives from all regions and major tribal groups before the August rebellion; afterwards, ethnic Tutsis were largely absent from the government.

Interethnic violence between Tutsis and Hutus in the east of the country, spilling over from neighboring Rwanda and Burundi, contributed both to the 1997 rebellion against Mobutu and to the civil war during the year, during which serious human rights abuses including mass extrajudicial killings were committed both by and against members of the Tutsi ethnic minority. The Mobutu government's failure to prevent Hutu nongovernmental armed groups from operating out of the country's eastern regions to attack Tutsis both in the country and in neighboring countries led Congolese Tutsi militias and the Tutsi-dominated Government of Rwanda to support Kabila's insurgency in 1996, and their support was instrumental to the success of that insurgency in 1997. The current civil war was precipitated by the Kabila Government's attempt to expel from the country Rwandan military forces on which Congolese Tutsis and the governments of Burundi, Rwanda, and Uganda relied for security against hostile nongovernmental armed groups operating out the country's eastern regions, including several groups composed chiefly of Hutu refugees from Rwanda and Burundi.

Birth on national territory reportedly does not necessarily confer citizenship. The Government continued not to recognize the citizenship claims of longtime residents whose ancestors immigrated to the country, including the Banyamulenge Tutsis. According to some accounts, resentment of their noncitizen status contributed to the participation of many Tutsi residents of the country first in Kabila's rebellion against Mobutu and then in the RCD rebellion against Kabila.

After the start of the civil war in August, ethnic Tutsis were subjected to serious abuses, including extrajudicial killings, both in the capital and elsewhere, by government security forces and by some citizens for perceived or potential disloyalty to the regime (see section 1.a.). In Kinshasa and Katanga Province, Tutsis also were held in prolonged detention (see section 1.d.). After the start of the civil war, ethnic Tutsis were largely absent from government. There were reports, several of them credible, that Tutsi-dominated rebel forces repeatedly committed extrajudicial mass killings of non-Tutsi civilians, sometimes including Hutus, in reprisal for extrajudicial mass killings of Tutsi civilians or local guerilla attacks on rebel units (see Section 1.a.)

During the civil war, Congolese Hutu militias increased their recruitment from populations of Hutu refugees from Rwanda and Burundi in neighboring countries, including the Republic of Congo (Brazzaville) and Zambia. Large armed groups of Hutus crossed into the country from the Republic of Congo; according to credible reports, these recruitments and movements occurred with the knowledge and consent of the Government, which welcomed the support of these Hutu groups in its fight against the

Tutsi-dominated RCD rebels.

Senior government officials reportedly represented the civil war as part of a larger supranational conflict between Bantus and Nilotics; the Tutsis speak a language that is part of the Nilotic language group, whereas most inhabitants of the country and of neighboring countries are members of ethnic groups whose languages are part of the Bantu language group. Similar

Nilotic-Bantu rhetoric also appeared in private publications and broadcasts in the country.

Section 6 Worker Rights

a. The Right of Association

Legislation in effect from the Mobutu period permits all workers except magistrates and military personnel to form and join trade unions.

Before 1990 the law required all trade unions to affiliate with the National Union of Zairian Workers (UNTZA), the sole recognized labor confederation and which also formed part of Mobutu's Popular Movement of the Revolution (MPR) party. When political pluralism was permitted in April 1990, the UNTZA disaffiliated itself from the MPR and reorganized under new leadership chosen through elections deemed fair by outside observers. After the ADFL takeover, the union renamed itself the National Union of Congolese Workers (UNTC). Although the UNTC remains the largest labor federation, almost 100 other independent unions are now registered with the Labor Ministry and two other large federations are active. Some affiliated with political parties or associated with a single industry or geographic area.

The law recognizes the right to strike. However, legal strikes rarely occur since the law requires prior resort to lengthy mandatory arbitration and appeal procedures. Labor unions have not been able to defend effectively the rights of workers in the deteriorating economic environment. The law prohibits employers or the Government from retaliating against strikers, but this prohibition rarely is enforced.

Unions may affiliate with international bodies. The UNTC participates in the Organization of African Trade Union Unity, and the Central Union of Congo is affiliated with the World Confederation of Labor.

b. The Right to Organize and Bargain Collectively

The law provides for the right to bargain collectively, and an agreement between the UNTC and the Employers' Association formerly provided for wages and prices to be jointly negotiated each year under minimal government supervision. This system, which functioned until 1991, broke down as a result of the rapid depreciation of the currency. The professional unions and the Congolese Business Federation signed a cooperative agreement in September 1997. While collective bargaining still exists in theory, continuing inflation encouraged a return to pay rates individually arranged between employers and employees.

The collapse of the formal economy also has resulted in a decline in the influence of unions, a tendency to ignore existing labor regulations, and a buyer's market for labor. The Labor Code prohibits antiunion discrimination, although this regulation was not strongly enforced strongly by the Ministry of Labor. The law also requires employers to reinstate workers fired for union activities. In the public sector, the Government sets wages by decree; public sector unions act only in an informal advisory capacity.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and it is not known to occur, apart from forcible conscription (see Section 1.f.). The law does not specifically prohibit forced and bonded labor by children, but such practices are not known to occur, apart from the forcible conscription of children (see Sections 1.f. and 5).

d. Status of Child Labor Practices and Minimum Age for Employment

The legal minimum age for employment is 18 years. Employers legally may hire minors between the ages of 14 and 18 with the consent of a parent or guardian, but those under age 16 may work a maximum of 4 hours per day; those between the ages of 16 and 18 may work up to 8 hours. The law prohibiting forced or compulsory labor does not specifically mention children, but there were no reports of such practices, apart from forced conscription (see Section 6.c.). Employment of children of all ages is common in the informal sector and in subsistence agriculture, which form the dominant portions of the economy. Such employment is often the only way a child or family can obtain money for food. Neither the Ministry of Labor, which is responsible for enforcement, nor the labor unions make an effort to enforce child labor laws. Larger enterprises do not commonly exploit child labor. The availability of education for children is extremely limited in practice (see Section 5).

e. Acceptable Conditions of Work

Most citizens are engaged in subsistence agriculture or commerce outside the formal wage sector. The minimum wage, last adjusted by government decree in 1990, subsequently was rendered irrelevant by rapid inflation. The average wage does not provide a decent standard of living for a worker and family. Most workers rely on the extended family and informal economic activity to survive. The maximum legal workweek (excluding voluntary overtime) is 48 hours. One 24-hour rest period is required every 7 days.

The Labor Code specifies health and safety standards. The Ministry of Labor officially is charged with enforcing these standards, but it does not do so effectively. There are no provisions in the Labor Code permitting workers to remove themselves from dangerous work situations without penalty.

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