

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	214
Land:	DR Congo
Kilde:	Freedom House.
Titel:	Countries at the Crossroads 2010. Country Report – Congo, Democratic Republic of (Kinshasa).
Udgivet:	7. april 2010
Optaget på baggrundsmaterialet:	16.juni 2010



Countries at the Crossroads 2010

Country Report - Congo, Democratic Republic of (Kinshasa)

Introduction

With an estimated population of over 68 million, the Democratic Republic of Congo (DRC—formerly Zaire) is situated on a territory one quarter the size of the United States. Despite one of Africa's most brutal encounters with colonial exploitation, Congo's abundance of natural resources led to high expectations upon attaining independence in 1960. However, prospects for national development deteriorated quickly and were subsequently ruined by three decades of autocratic, patrimonial rule headed by late president Mobutu Sese Seko. In April 1990, Mobutu made a political volte-face by lifting the ban on partisan politics, raising citizens' hope for a new era of stability and social justice. But the national euphoria was short-lived, as the DRC would soon be rent by ethnic strife and two consecutive wars touched off by a massive influx of refugees from neighboring Rwanda and Mobutu's failure to deliver on his promise to restore democratic rule. Conflict was fueled by a broad set of domestic and international actors intent on controlling economic and political power in portions of the Congo's resource-rich zones.

Now in the third year of its renewed experiment with multiparty governance, the future of the Congolese state remains precarious. The second war, which included numerous regional states and irregular armed groups, has largely subsided, but parts of the country, especially in the east, remain unstable and insecure. Nevertheless, most of the country is calm and relatively stable. Five years of the bloody conflict ended when the government and key rebel groups signed the so-called Global and All-Inclusive Peace Agreement, otherwise known as the Sun City Accord, in December 2002. The peace settlement paved the way for the formation of a transitional government of national unity headed by Joseph Kabila, who had been serving as interim president since his rebel-turned-president father was assassinated in January 2001. The transitional constitution required power sharing between the president and four vice presidents, two from the former rebel groups, one from the political opposition, and one from Kabila's political movement. In addition, the central government was assigned five critical responsibilities: reunification, restoration of peace, reconstruction of the country, restoration of territorial integrity, and state control over the entire national territory; national reconciliation; formation of a restructured and integrated national army; organization of free and transparent elections at all levels, with a view to the creation of a democratic constitutional government; and the establishment of institutional structures for a new political order.^[1]

Following its inception in 2003, the transitional government began to attempt the disarmament, demobilization, and reintegration (DDR) into civilian life of an estimated 150,000 government troops and irregular combatants, with an additional 150,000 unified into a national army.^[2] Progress toward national unification has been slow, however, as the country remains divided into different zones of de facto military and political control. Also, as demonstrated by the resurgence of conflicts in the eastern provinces of Orientale, North Kivu, and South Kivu, many senior militia commanders, determined to maintain a grip on political power and economic resources, have been resisting the unification programs. Furthermore, the DDR and military reform programs have proved extremely complex due to the country's size and constraints, as well as inadequate funding and poor coordination and management.^[3]

In December 2005, roughly two-thirds of eligible voters turned out to approve a new democratic constitution. The new charter, which entered into force on February 18, 2006, protects a wide range of civil and political rights. Constitutional provisions on citizens' voting rights were regulated by a March 2006 electoral law. The creation of a constitutional and legal framework paved the way for the organization of historic multiparty presidential and parliamentary elections later that year.

A peace agreement signed in January 2008 by the government and 22 armed groups active in eastern Congo, including the National Congress for the Defense of the People (CNDP), marked an important step towards restoration of peace and stability in the region. The agreement called for an immediate cessation of hostilities, disengagement of troops, the creation of a buffer zone, and the return of Congolese refugees from neighboring countries under the supervision of the United Nations, the DRC government, and countries of asylum.^[4]

It is difficult to overstate the destruction caused by the violence in the east. Roughly 1.4 to 1.6 million people were displaced between 1998 and 2008, most of them women and children. According to the International Rescue Committee, by early 2009 over 5 million people had died in the DRC as a result of the direct and indirect effects of the war. Numerous testimonies confirm the misery wrought, especially in the three eastern zones—Ituri district in Orientale province and North and South Kivu provinces—that continue to experience active conflict.^[5]

Notably, the economic dimension of the brutal conflict was initially neglected, though it now receives significant international attention. In the absence of strong regulation and a reliable system of oversight—let alone a more diversified economy—individual buyers and companies involved in the minerals trade continue to enrich the warring parties.^[6] A new factor in the resource equation is the presence of China. In December 2007, Congo and China signed a US\$9 billion development loan agreement that commits Chinese state-owned companies to undertake massive infrastructure projects and develop Congolese mines. The deal will give China great influence in a country with a long history of bad governance, prompting the International Monetary Fund and Western donors to express concerns about the potential negative economic, human rights, and environmental consequences. However, as in other parts of Africa, much depends on oversight. If Congolese leaders are able to demonstrate firm commitment to good governance and ensure that the agreement is carried out well, it can be positive for the country.^[7]

Against this backdrop of collapsed social institutions and infrastructure, which has left the DRC with a national ranking of 168 out of 177 countries on the UN Development Program's Human Development Index, the Kabila government is faced with the herculean task of providing essential goods and services. It is estimated that 1,000 people continue to die daily from hunger, disease, and other effects of war. With 80 percent of the population living under the poverty line, life expectancy at birth is 46 years. Maternal and infant mortality remain high and one out of every five children does not reach the age of five.^[8] While the government has taken some steps to improve state services, grave questions remain unanswered about its commitment to the basic tenets of democracy and the political will to address the wide spectrum of past failings.

Accountability and Public Voice – 1.53

The 2006 elections took place in a very challenging environment, with numerous difficulties faced by the organizers, including insufficient preparation time, inadequate resources, transportation and communications bottlenecks, inexperience with multiparty elections, insecurity in the east, and unreliable population data, to name but a few. Furthermore, the elections were conducted in the context of four decades of autocratic rule and a dismal legacy of corruption, intra-elite rivalries, armed conflict, and human rights abuses. Insecurity not only impeded electoral preparations and participation but also public confidence in the balloting. Despite the fact that all parties signed and committed to a code of conduct, political debates were fraught with personal attacks, bad-faith accusations between parties and individuals, and, at times, repetition of unsubstantiated rumors in the media and elsewhere. Many political parties expressed concerns over insufficient funding for their election campaigns.

In spite of the logistical challenges, nearly 18 million of the 25 million registered voters participated in the July 30 presidential and parliamentary elections, while more than 15 million voters participated in the October 29 presidential run-off and provincial elections. Election monitors noted with satisfaction the degree of enthusiasm with which the parties and their supporters engaged in the voting process.^[9] On the other hand, international observers including the Carter Center noted several procedural flaws that weakened the transparency of the elections.^[10]

During the first round, 70 percent of the 25 million registered voters participated in choosing among the 9,709 candidates contesting 500 parliamentary seats in the National Assembly (NA). In all, 69 of the 275 registered political parties won NA seats. While President Kabila's PPRD won only 111 seats, he eventually built an alliance known as the Alliance of the Presidential Majority (AMP) that comprised 332 seats. The opposition alliance led by Movement for the Liberation of Congo (MLC) presidential candidate Jean-Pierre Bemba won 116 seats. Only 42 women were elected to the new body. The establishment of the new parliament was completed in January 2007 with indirect elections to the 108-member Senate, in which the AMP garnered 58 seats.^[11] The extremely large number of parties makes political fragmentation a serious threat to the legislative and oversight capacity of the new parliament. Other factors that work to undermine Congo's fledgling democracy include opposition incapacity, lack of infrastructure, and the dominance of patronage within all levels of public administration.^[12]

From the start, Joseph Kabila was the favorite to win the presidential race despite his political inexperience and nagging questions about his nationality. His popularity was strongest in the east, where he was generally regarded as the man who ended the war. Moreover, considering the poorly regulated nature of national affairs in Congo, Kabila's incumbent status gave him an obvious advantage over his two main opponents, Bemba and Oscar Kashala, a Harvard professor who returned from exile only a few months prior to the elections. According to one international commentator, Kabila's "campaign team was shocked by the surprisingly effective campaigns of his main opponents...in the run-up to the election day, he dominated the state television and radio. His opponents started to face more and more obstacles."^[13] For instance, when Kashala appeared to be posing a serious threat to Kabila's political fortunes, the "authorities ...grounded his chartered aircraft on safety grounds. When he found an alternative, he suddenly discovered a nationwide shortage of aviation fuel."^[14] Bemba, for his part, ran the risk of being assassinated by Kabila's security operatives in the heat of the presidential contest despite the fact that he still surrounded himself with his MLC rebel militia.^[15] Other pressure was also applied: in January 2006, broadcasts at two private television stations and a radio station owned by Bemba were suspended after airing a press conference featuring remarks critical of President Kabila.

There were also reports of isolated cases of violence. In July, participants in a Kinshasa campaign rally for Bemba—the leading alternative contender—killed a civilian and several security agents. On run-off day, October 29, a crowd burned down several polling stations in Equateur province after security forces accidentally killed a bystander. As a capstone, on November 21, Bemba's supporters set the Supreme Court building on fire to protest the election results, in which Kabila was declared the winner with 58 percent of the vote. These incidents were isolated overall; for the most part, Congolese voters conducted themselves peacefully and the results of the 2006 elections received an overall positive assessment from international observers.^[16] Notably, most voters rejected the group that controlled their territory during the war, including in Kinshasa, where Bemba garnered 70 percent of the vote.^[17]

The predominantly nonviolent conduct of Congolese voters during the elections was meant to signal to political elites their collective yearning for genuine democratization of the country. Unfortunately, the prevailing configuration of political forces in the country has so far been an impediment to such an outcome. President Kabila and his supporters have continued to subordinate democracy to the maintenance of order and stability. In the three years following the elections, "there have been disturbing signs that the Congo's democratic transition is not only fragile, but that the newly elected government is brutally restricting democratic space."^[18]

Excessive use of force against political opponents in western Congo has been fueled by the government's lack of popularity in the region. In August 2006 and again in March 2007, government troops launched military operations against Bemba and his supporters, whose support base is in Kinshasa. According to Human Rights Watch, soldiers and Republican Guards who took part in those operations claimed that they were acting on Kabila's orders to eliminate Bemba. Hundreds were killed and hundreds more detained, including many who were tortured.^[19] After a long series of threats and maneuverings, Bemba ended up in Belgium, where he was arrested and remanded to the International Criminal Court (ICC) in May 2008 on war crimes charges. The government continues to view natives of Equateur province, Bemba's home region, as potential threats, and incidents of harassment and arbitrary detention are frequent. In July 2008, prominent MLC member Daniel Botethi was killed by Republican Guards.

The focus of abuse in Bas-Congo were adherents of the Bundu Dia Kongo (BDK) politico-religious group, who were viewed as challengers to government power, and singled out for harassment and attacks by government security agents, because of their political alliance with Bemba and the BDK's role in promoting greater provincial autonomy. In June 2006, FARDC soldiers fired on a demonstration by BDK activists, and in January 2007, the police and FARDC soldiers clashed with BDK adherents in a bloody fight that resulted in more than 100 deaths.^[20] Finally, in March 2008, police took preemptive action against future BDK strikes by killing over 200 followers, destroying BDK temples, and banning the group. As Human Rights Watch noted, the actions against both the MLC and the BDK are illustrative of a phenomenon in which small-scale violence by the government's opponents elicits a response of an altogether greater magnitude by the state security forces.^[21]

The constitution vests extensive executive, legislative, and military powers in the president, who is the head of a cabinet of 45 ministers. The judiciary is only nominally independent. While a process of decentralization is nominally underway, the anticipated expansion from 11 provinces to 26—and the accompanying increase in revenue transfers—has yet to occur. Local elections scheduled for 2008 have not been held, and 10 of the 11 provincial governors are allied with the AMP. The institutionalization of separation of powers via checks and balances ranks low on the agenda of the Kabila government, a situation attributable in part to the fact that recent peace settlements kept power largely in the hands of former belligerents. Furthermore, the 2006 elections resulted in only a limited infusion of new blood into the executive branch. With the notable exception of Antoine Gizenga, leader of the Unified Lumumbist Party (PALU), who served as prime minister in Kabila's government until his resignation and replacement by Adolphe Muzito in 2008, most ministries have been occupied by the president's acolytes from the defunct transitional government. Opposition incapacity and fragmentation has rendered the parliament ineffective in challenging the ruling coalition. The opposition lacks the unity and sense of purpose to rally public opinion behind an alternative agenda.^[22] Despite its limitations, parliament passed a number of important bills and attempted to establish a nascent oversight capacity in its first two years. But since the forced resignation in March 2009 of NA speaker Vital Kamerhe, who criticized the administration's joint operations with Rwanda (see Civil Liberties), most observers consider the legislature to have regressed in activity, ambition, and independence.

Overall, the government appeared uninterested in fulfilling popular aspirations for a government of national unity. The Union for Democracy and Social Progress (UDPS), the principle anti-Mobutu party, which spearheaded the prodemocracy movement in the 1990s, boycotted the elections and has no presence in the government. Similarly, Kabila did not co-opt the former rebel coalition RCD, which played a major role in the 1998 military revolt and served as the main political vehicle for Congolese Tutsi and Rwandan influence in the course of the war. Instead, Kabila allied with one of Mobutu's sons, François Joseph Zanga Mobutu, who was brought into the cabinet in an attempt to broaden Kabila's political base; this move reinforced public suspicions that the current government strongly prioritizes maintaining power over meaningful change.^[23]

Like many African countries, post-conflict Congo has a limited capacity to respond to the country's staggering governance challenges. This situation, coupled with donor pressure, has served as catalyst to the growth of the civil society sector, with thousands of local and international NGOs emerging over the past decade to provide critical services in place of the state. Civil society still faces some difficult limitations. Many groups became politicized during the democratic transition, especially prior to the 2006 elections.^[24] The government sometimes reacts harshly to criticism, as evidenced in the July 2009 description of Human Rights Watch and other groups as "humanitarian terrorists."^[25] Both national and provincial-level officials at times forcibly restrict civil society activists from performing their work. Rights activists are at particularly high risk of arrest, threats, and attacks, especially if their denunciations involve security force actors. Meanwhile, increased parliamentary subservience following Kamerhe's resignation has denied civic groups what had been a promising forum in which to press their views.

The new Congolese constitution provides for freedom of speech and of the press. However, these rights are limited in practice by the Kabila government and its supporters. Local press watchdog Journaliste en Danger reported 110 attacks on freedom of expression in 2008.^[26] Officials have used an array of onerous licensing requirements as well as criminal libel laws to restrict free speech and suppress political criticism, imprisoning journalists and clamping down on broadcasters and newspapers critical of the authorities. In March 2009, the mayor of Likasi ordered the closure of Radio Communautaire du Katanga (RCK) and Radiotélévision Likasi 4 (RTL4), alleging that their coverage of a local strike included defamatory remarks.^[27] In January 2007, Rigobert Kwakala Kash, editor of *Le Moniteur*, was sentenced to 11 months in prison for libel against the governor of Bas-Congo; although he was released after 35 days, the publication was suspended for six months.^[28] Security laws are also employed. In September 2008, a Global TV technician was arrested on charges of "inciting rebellion" after the station was forced off the air following its broadcast of a press conference featuring anti-government remarks.^[29]

Economic circumstances make the practice of journalism difficult. According to the Committee to Protect Journalists, as of 2007 an estimated 80 percent of Congolese journalists who did not have employment contracts accepted payment from politicians.^[30] However, violence and intimidation against journalists, particularly those critical of the government, pose an even greater threat. In October 2007, Higher Education Minister Sylvain Ngabu purportedly ordered policemen to beat several journalists after the private broadcaster Horizon 33 aired a news program discussing Ngabu's decision to suspend the chancellor of a local university.^[31] The pattern of violence against reporters remained similar in 2008 and 2009, with journalists routinely threatened and assaulted and assailants generally going unpunished. Intimidation and violence—including repeated kidnappings and murders of journalists—are particularly rampant in the east; several journalists for Radio Okapi, run by the UN and a Swiss foundation, have been killed in South Kivu in recent years, and both foreign and domestic reporters have been harassed and abducted by armed groups. Radio Okapi journalists Serge Maheshe and Didace Namujimbo were shot and killed in June 2007 and November 2008, respectively, and on August 23, 2009, Radio Star presenter Bruno Koko Chirambaza was stabbed to death in Bukavu.^[32] Investigations into these murders have been slow, and trials have been severely flawed.^[33] In November 2009, the lead suspect in the Namujimbo case, who had admitted his guilt before military prosecutors, escaped from prison five days after his arrest.^[34]

The government has also harassed media outlets, banning stations from operating and censoring the content of their broadcasts. The High Authority of Media continues to regulate outlets despite a constitutional provision mandating its dissolution. Outlets affiliated with the opposition, especially those owned by Bemba, have been particularly targeted. In March 2007, the broadcast signals of several of Bemba's stations were interrupted after he publicly claimed that the army was embezzling money from its payroll.^[35] That October, then Communications Minister Toussaint Tshilombo Send banned 22 television stations and 16 radio stations for alleged noncompliance with registration procedures. In September 2008, then Communications Minister Emile Bongeli banned several radio television stations and ordered police to impound the broadcasting equipment of Molière Télévision. He granted the station's frequency to TVS1, which is owned by Prime Minister Adolphe Muzito, subsequently ignoring a court order that overturned the act.^[36] Finally, on July 26, 2009, the government suspended Radio France Internationale's broadcasts for the third time that year, alleging that one of its programs had encouraged soldiers to revolt.^[37]

There are scores of newspapers and periodicals in circulation. However, daily newspapers reach only 6 percent of the population. Most media outlets are either owned or funded by Congolese politicians, who utilize them to forward their personal agendas.^[38] During the 2006 election campaign, party-funded television channels and radio stations aired biased, propaganda-laden broadcasts, while the state-run television channel featured predominantly pro-Kabila coverage.^[39] While broadcasting has undergone notable expansion, it is still largely dominated by the government-controlled state broadcaster, Radio-Télévision Nationale Congolaise (RTNC). Radio has the broadest reach in the country and stations often operate in remote areas. The state-owned La Voix du Congo broadcasts nationally in French, Swahili, Lingala, Tshilubu, and Kikongo. As of 2007, internet use remained highly limited; of the 21 internet service providers operating in the country, 12 were limited to the city of Kinshasa.^[40] The government does not restrict internet use.

Civil Liberties – 1.98

The 2006 constitution includes important human rights protections. However, the government has failed to assure that legislation is consistent with constitutional norms. Constitutional language banning torture is not complemented by legislation defining it, nor has the parliament acted to align the penal code with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Likewise, a draft law to implement ratification of the Rome Statute of the ICC has sat in parliament since September 2005. Other international treaties have also been signed; however, implementation again lags far behind.^[41]

The Kabila government inherited an elaborate system of repression from its predecessors. In addition to Kinshasa's notorious Camp Kokolo, the government currently maintains various large and small prison facilities under the control of an array of security force agencies. The National Intelligence Agency (ANR) and Republican Guard, both of which often engage in actions that exceed their legal mandates, report directly to the president, and certain intelligence agencies and units within the Congolese National Police (PNC) have also been implicated in high-profile cases of arbitrary detention and abuse.^[42]

Those detained face bleak conditions. In 2006, the Ministry of Justice, supported by the international community, initiated a formal process of prison reform in Congo. Despite efforts to reform the penitentiary system, prisons across the country remain among the worst in Africa.^[43] Nearly all facilities are characterized by harsh and even life-threatening conditions, including severe overcrowding, inadequate or nonexistent health care, and abuse by guards. Family members and friends are generally the only source of food and other necessities for inmates, leading to malnutrition and occasional death. Small prisons generally do not have separate facilities for women and juveniles.^[44] Prison buildings are in such disrepair that jailbreaks are common, including by soldiers and other convicted rights violators. Human Rights Watch estimated at least 200 political prisoners at the end of 2008.^[45]

Abuses by nonstate actors continue to plague the DRC. In particular, despite a series of initiatives aimed at achieving peace and national reconciliation, armed groups continue to operate in North and South Kivu, as well as Ituri. Two of the primary combatants in recent years were the Democratic Forces for the Liberation of Rwanda (FDLR), led by Hutus who took part in the 1994 genocide in Rwanda and fled in its aftermath, and their opponents, the previously Rwanda-supported CNDP, headed by renegade General Laurent Nkunda until his detention by Rwandan forces in January 2009. Relations between the Kinshasa government and both groups have vacillated between hostility and tacit agreement. A cease-fire agreement signed in January 2008 with 22 groups, including the CNDP, ended that August, when heavy fighting between the government and CNDP commenced. Despite its freedom-fighter rhetoric, CNDP fighters frequently engaged in various appalling human rights abuses, including abductions, forced displacement, extortion, and recruitment of child soldiers. Following Nkunda's arrest in January 2009, the CNDP agreed to integrate with the Armed Forces of the Democratic Republic of the Congo (FARDC) and continue the fight against the FDLR. To the outrage of human rights groups, the Congolese government agreed to allow Nkunda's deputy Bosco Ntaganda to join FARDC despite the existence of an ICC warrant for his arrest. Indeed, the ICC's first trial, which began in January 2009, seeks to convict Ntaganda's former rebel associate Thomas Lubanga of conscripting child soldiers into a militia in Ituri.

Joint operations with Rwanda against the FDLR occurred during January and February 2009, with MONUC taking Rwanda's place starting in March in an operation known as Kimia II. Rights groups considered MONUC's participation tantamount to complicity with FARDC's abuses, but MONUC considered it preferable from a military and ethical perspective to staying on the sidelines. It is estimated that around 6,000 FDLR fighters remain in the DRC; several thousand were repatriated to Rwanda between 2007 and 2009.^[46]

According to Human Rights Watch, abuses by all sides increased substantially during Kimia II, with both the FDLR and FARDC punishing civilians in horrific ways as revenge for communities' alleged cooperation with the other side.^[47]

Well over a dozen other armed groups continue to operate in the east. Despite a 2006 ceasefire agreement between government forces and ethnic militias in Ituri, human rights violations by the militias increased in 2008 because of the failure to address "the social, structural, and distributional injustices; the absence of state institutions; and the plundering of the region's resources for the benefit of a few."^[48] The Lord's Resistance Army (LRA), a notorious Ugandan militia that fled into a remote region in Orientale in 2005, inflicted massive damage on civilians after a government offensive began in December 2008. Local militia groups known as Mai Mai commit abuses in a number of regions in the country. Notably, a Mai Mai commander was convicted, along with 20 associates, of crimes against humanity in March 2009.^[49]

Even in non-conflict zones, dismal economic conditions continue to foster crime and instability. Crime poses a serious threat to property and personal safety in Kinshasa, and has been on the rise in Goma, Bunia, and other cities in the east. Vehicle theft, burglary, and armed robbery, are frequent throughout the country. A large number of crimes are believed to involve security force personnel, and impunity is near-total in many areas, especially in the east. Congo is a source and destination country for men, women, and children trafficked for the purposes of forced labor and sexual exploitation; much of this trafficking occurs within the unstable eastern provinces and is perpetrated by armed groups outside government control.^[50] There is little available redress for victims of violations. There is no national ombudsman or human rights commission, although a draft law to create a national commission passed the Senate in July 2008.^[51] A truth and reconciliation commission was formed in 2004 but clear rules were never established, violators were represented within the body, and it was disbanded in 2006 without having held a hearing. Reestablishment of the commission was discussed in 2008 and 2009.

Despite constitutional provisions upholding the equality of the sexes and mandating the elimination of discrimination against women, Congolese women continue to face unequal treatment in virtually every sector of society. Patriarchal cultural and religious traditions, which are particularly entrenched in rural areas, contribute to these restrictions and the generally difficult environment. According to National Union of Congolese Workers (UNTC) vice president Marie Josée Lokongo Bosiko, "husbands, traditions, religions, and sects" are the main obstacles preventing Congolese women from assuming positions of responsibility in society.^[52] The family code requires a married woman to "obtain her husband's authorization to effect legal acts" and receive permission before accepting a salaried job. The government has submitted a draft revised family code aimed at bringing regulations in line with the new constitution and international standards, but the code remained unreformed as of mid-2009.^[53]

Violence against women, including rape and sexual slavery, has reached epidemic levels in the last decade, particularly in the Kivus. Combatants from all sides in the conflict have routinely utilized rape as a weapon of war, a practice that groups such as Human Rights Watch have recounted in horrific detail.^[54] In addition to physical and emotional trauma, victims of sexual violence often contract diseases including HIV and are rejected by family members and the local community. A landmark law passed in 2006 explicitly recognized the crimes of sexual slavery, harassment, pedophilia, and forced pregnancy within the penal code, while increasing criminal penalties and protections afforded to victims.^[55] The law is conspicuously silent, however, about legal protection against spousal rape.

In the absence of capacity and will to investigate and prosecute such violence, both government soldiers and militias in the east, and to a lesser degree in other parts of the country, continue to commit mass rape with impunity. The UN Population Fund reported over 15,000 incidents of sexual violence in 2008, and Human Rights Watch reported a substantial increase in 2009, noting that 65 percent of the new cases were committed by FARDC soldiers.^[56] The group also stated that the 7,700 recorded rape cases in North and South Kivu in 2008 had resulted in just 27 convictions of soldiers.^[57] In spite of the strengthened laws, law enforcement officials and magistrates continue to grant bail or disproportionately lenient sentences to men accused of rape and urge or force female victims to settle out of court, abusing those who fail to comply.^[58] Slow progress in the prosecution of ordinary soldiers for sexual violence has generally not extended as far as bringing senior military officers to justice for either their own crimes or those committed by soldiers under their command.^[59] In 2009, however, several officers, including at least one colonel, were convicted on rape-related charges.

The DRC is comprised of upwards of 250 ethnic groups concentrated regionally, and the new constitution confers legal equality on all citizens regardless of ethnic origin, gender, age, or religious affiliation.^[60] Identification with the Congo as a nation-state is relatively strong, but ethnicity has been a prominent factor in politics and the formation of armed groups.^[61] Discrimination on the basis of ethnicity remains a common practice by members of virtually every group and is evident in private hiring patterns in some cities. Although President Kabila's cabinet and office staff are geographically and ethnically diverse, a significant amount of political influence remains in the hands of individuals from Katanga. Conversely, natives of Equateur province are often singled out for abuse by the security forces, especially in Kinshasa, as it is assumed that they are Bemba partisans.

Birth within the national territory does not automatically confer citizenship on a person. The 2003 constitution and the nationality law of 2004 provided means for immigrants and long-term residents to acquire citizenship. However, this development brought only partial relief to the Banyamulenge Tutsi residents of South Kivu, whose nationality has been the subject of heated controversy on account of their Rwandan ancestry. To make matters worse, the latest constitution does not allow dual citizenship.^[62] Congo has a population of approximately 600,000 Pygmies, who are believed to be the original inhabitants of large swathes of the country. Pygmies living in remote areas were often caught in the crossfire during the wars, and discrimination against them remains pervasive. The government has done little to encourage them to participate in the political process.^[63]

Life for disabled citizens is likewise fraught with difficulty. Although discrimination is banned, the state is not required by law to provide government services to the disabled, and both educational and employment opportunities for disabled people are severely constrained. The government has few resources to address these inequities, although it has contributed some minimal funding towards the construction of vocational educational centers geared toward providing the disabled with sewing, carpentry, and other skills.^[64]

The constitution provides for freedom of religion. Approximately 50 percent of the national population is Roman Catholic, while 20 percent is mainline Protestant. A Christian sect, the Kimbanguistes, and Muslims both comprise 9 percent. Congo prides itself on providing a setting for peaceful coexistence among religious groups. Registration of religious groups is governed by a relatively straightforward process.^[65] The Kabila administration has generally upheld the constitutional guarantee of religious freedom. However, there are growing concerns that religious groups that challenge the legitimacy of the government could be punished. The banning of the politico-religious BDK in March 2008 represented a turn in this direction.

Historically, unions have been an important part of civil society. Throughout the colonial and postcolonial eras, they served as institutional forums where workers met to articulate demands for improved working conditions and political reform. During the 1990s, unions played an important part in the prodemocracy protests that led to the collapse of the Mobutu dictatorship. The law permits workers to form and join trade unions without prior authorization. Although discrimination against unions is illegal, the law has not been enforced effectively. In recent years, labor unions have functioned throughout the country, albeit in weak form. Only a small percentage of workers are formally organized. Collective bargaining is limited, and public sector wages are set by decree. In the private sector, the government has failed to prevent or counteract a rash of parallel and sham unionism centered on the extractive industries.^[66] In 2007, 6,000 employees of the Bakwanga Mining Company (MIBA), the main diamond mining company in Eastern Kasai, were denounced by local officials and MIBA management and received several death threats from anonymous sources following a decision to strike in protest of poor working conditions.^[67]

Although freedom of assembly is constitutionally protected, government insecurity leads to restrictions in practice. Organizers of public events are required to register with local authorities. According to the law, organizers are authorized to hold an event unless the local government specifically denies authorization. In keeping with a pattern that dates back to the Mobutu era, government security forces often disperse unregistered protest marches or meetings, often under the pretext of restoring public order.

Rule of Law – 1.15

Congo's civil law system is a legacy of Belgian rule, but customary law is still in force in many parts of the multiethnic, largely rural country. Traditional private domain issues such as marriage and divorce, inheritance, and land tenure are regulated by customary laws in the various traditional communities.^[68] The 2006 constitution institutionalized the principle of judicial independence by removing the executive's power to appoint magistrates and judges, granting this power instead to the Supreme Council of the Judiciary (CSM), which was finally created in August 2008 but remained non-functioning as of mid-2009. The constitution also divided the Supreme Court of Justice's functions into a Constitutional Court, a Court of Appeals, and a Council of State empowered to oversee constitutional, judicial, and administrative issues, respectively. These bodies are charged with overseeing a system of lower civilian and military courts.^[69] However, the government has been slow in implementing the new system. It has yet to pass legislation providing for the creation of the three Supreme Court bodies.^[70]

Regardless of constitutional intent, Congolese judges are subject to undue influence from government officials and powerful individuals. The CSM, which should be the linchpin of judicial independence, remains unable to act as a disciplinary body. Executive interference in the judicial system is routine. In February 2008, while the parliament was still deliberating on the creation of constitutionally mandated judicial institutions, President Kabila forced 89 magistrates into retirement, including the president of the Supreme Court and the prosecutor general.^[71] While Kabila depicted the dismissals as a corruption purge, the 28 new magistrates hired to fill the posts were unqualified for their new positions, and most analysts—though not necessarily most citizens—viewed the president's actions as undue interference in the judiciary. In response, the Magistrates' Union organized a strike.^[72] In July 2009, the president dismissed another 165 magistrates, again on the basis of alleged corruption. His actions were viewed by some as an attempt to distract public attention from executive malfeasance.^[73] Overall, the combination of government neglect and incapacity results in a justice system plagued by corruption, particularly among magistrates, who receive a monthly salary of less than US\$200.^[74] This systemic weakness is exacerbated by both the lack of a functioning judicial training body to instill ethical and legal standards.^[75]

Due to underfunding and understaffing, access to justice remains extremely limited outside of Kinshasa. In 2007, only 0.75 of the budget was allocated to the judicial branch.^[76] Of the mere 2,000 magistrates serving in the country, fully two-thirds work in Kinshasa, Matadi, and Lubumbashi; only 50 of the country's 200 courts were operational in 2008.^[77] In rural areas, citizens often resort to vigilante justice rather than rely on either the clogged lower courts or informal local systems where judicial decisions are dispensed by any authority present.^[78] Moreover, in approximately 70 percent of all cases, judicial decisions go unenforced due to scarcity of resources and the inability of citizens to pay enforcement costs.^[79] In an effort to provide remedies, the Ministry of Justice in 2007 announced a Plan of Action for Justice Reform that included judicial training and an expansion in the number of judicial officers; it was followed in 2009 by a Ministry of Justice Roadmap on similar themes.^[80] Implementation will be planned and monitored by the Mixed Committee on Justice (CMJ), which includes both international and domestic planners and has helped coordinate some successful initiatives.^[81]

Although the constitution provides for the presumption of innocence until guilt is proven, this right is often violated in practice. Lawyers are frequently denied access to their defendants, and both defendants and lawyers are sometimes prevented from being present at trials, which are often closed to the public. The right to appeal is not legally guaranteed in cases related to national security, armed robbery, and smuggling.^[82] The 2006 constitution limits military justice to members of the armed forces and police. However, because penal codes have not been changed to reflect the new charter, civilians are still prosecuted in military courts, where they possess fewer rights.^[83] Military court judges and prosecutors, while often dedicated, find their independence limited by the atmosphere of impunity, which provides sound reasons to fear retribution if they issue orders that displease officers.

Civilian control over the military remains extremely feeble, and is essentially an abstract concept considering the degree to which power is held by former combatants and the fluidity between state and nonstate fighters over the evolution of the conflict. On the level of citizen interaction, the government remains unable to rein in the military and police, who are so woefully underpaid that corruption and illegal behavior are inevitable. Both active and demobilized soldiers, deserters, and police continued to harass and rob civilians and abuse women, with the eastern Congo most affected. Searches without warrants and forced labor are frequent as well. Lines of authority within the military are opaque, with reintegrated ex-combatants often taking orders from their former commanders even though dismantling and dispersing former units was a specific objective of the reintegration process. Payroll theft by officers has been a major problem, though some mechanisms introduced in recent years by the government have decreased its prevalence. The international community has invested substantial resources in collaboration with the Kabila administration to create inertia within the DDR and military reform processes, but in the context of ongoing conflict, progress remains limited and fragile.

The treatment of top CNDP commanders incorporated into the military who have been explicitly accused of appalling human rights violations is an extremely sensitive topic. According to MONUC, integration of the CNDP into FARDC has been a particularly troubled process.^[84] Nkunda's case could potentially be an embarrassment to both the Rwandan and Congolese governments, given prior cooperation by both with the CNDP. Kabila was willing to co-opt each rebel leader when he saw an opportunity to use the alliance to broaden support for his military and political strategy. For the same reason, Kabila co-opted former RCD officers who are widely believed to have engaged in flagrant human rights abuses. Although some reports indicate that ICC prosecutions have affected the behavior of militia leaders,^[85] the fact that Bosco Ntaganda and other wanted—and in some cases, convicted—officers remain active within FARDC illustrate the government's ongoing prioritization of peace over justice. In May 2009 an amnesty law for acts in North and South Kivu since 2003 went into effect. Although it specified that crimes against humanity were exempt, observers feared the further entrenchment of impunity.^[86]

The law provides relatively clear definitions of property rights, but such provisions are frequently violated by both state and private actors. The combination of a convoluted property code and an ineffective, overburdened administrative and judicial enforcement system renders the protection of property rights extremely difficult. While the government has made some attempts to improve and harmonize its legal framework with the 2006 constitution, implementation has lagged.^[87] Property rights remain especially unstable in the east, where land conflicts resulting from forced displacement and ongoing plundering and land seizures by armed groups and bandits are prevalent.^[88] Furthermore, restricted land access, a legacy of past government policies that stripped Congolese of their land rights under customary law and led to the appropriation of their land by wealthy elites and foreigners, has been a driving force in the current conflict.^[89]

Anticorruption and Transparency – 1.06

The Mobutu era created a system in which power and corruption were synonymous, and its legacy will be difficult to overcome. The Congolese believe that corruption is rampant in the country. Transparency International's 2009 Corruption Perceptions Index ranked the DRC 162 out of 180 countries.^[90] Corruption is endemic at all levels of society and the scale of the government's anti-graft efforts has been wholly inadequate to the immense task. In addition, insufficient salaries, which often are not paid for months at a time, fuel petty corruption among civil servants, police, and soldiers. Administrative disruptions designed to solicit bribes, known as *tracasseries*, are considered a part of everyday life by the Congolese. Little progress to combat them has been made in recent years, although some local-level initiatives have reported success.^[91]

Institutional mechanisms to ensure accountability are thin at all levels of the Congolese government. The 2006 constitution and the Code of Ethics of Public Officials require the head of state, government officials, and civil servants to submit assets declarations to the Constitutional Court.^[92] However, public access to the statements is not stipulated. Owing to the weakness of the judicial system, prosecution for corruption, particularly of government officials, is too infrequent to act as a credible deterrent, though dismissals sometimes occur. The independent press generally has not shied away from investigating corruption in the public sector or criticizing government policies. However, reporters exposing graft expose themselves to the risk of arrest, intimidation, and violence on a constant basis.

State presence in the economy has diminished from the height of the Mobutu era, when state mining company GECAMINES controlled mineral production. Accelerating mismanagement led to the company's collapse by 1990. Since then, direct state production has been subordinated to partnerships with corporations as well as artisanal mining. Both during the conflict and after, the government attempted to impose greater order, but the incentives for improved oversight have, unfortunately, often been based more on opportunities for rent seeking than maximization of state resources to benefit citizens. A new mining code was enacted in 2002 and a complementary mining registry created the next year, but the registry ended up linked to the presidency and in the hands of a Kabila ally.^[93]

The situation in Katanga, the DRC's key copper and cobalt producing region, illustrates the unfortunate continuities between the Mobutu era and the present. Despite continuous government control, the region's riches have not translated into sustained benefits for the local population, with corruption and misguided regulation playing important roles. According to Global Witness, "...at the end of 2005, at least three quarters of the minerals exported from Katanga were leaving illegally."^[94] Attempts to achieve greater state control have not always benefited either the state or local populations. For instance, tens of thousands of artisanal miners were expelled from mining sites, with no alternative income source, as private companies moved in during the 2004-2008 commodities boom.^[95] Similarly, state attempts to maximize revenue through high export taxes and royalties have resulted in a massive, complex smuggling system in which corrupt officials have enormous opportunity to profit from graft. Conflicts of interest are also legion, as political officials in resource-rich areas are often closely tied to the mining companies.

The Katangan mining trade is rational in comparison to operations in North and South Kivu and Ituri, where officials of regional governments, rebel groups, and FARDC members have scrambled for natural resources for over a decade. The region is rich in cassiterite, gold, coltan, and wolframite, and the quest to gain and maintain control of these strategic minerals played an important part in prolonging the war.^[96]

Taxation represents another area in which the pathologies of Congolese institutions are evident. The essential tax relationship between citizen and state, in which taxes act as investment in state services, is only minimally functional. Most fee collection by government agents occurs informally and illegally, with little citizen knowledge of what fees are legal. The education sector is plagued by various forms of corruption.^[97] According to a recent report by TWN Africa, mining companies use numerous negotiating and tax avoidance schemes to minimize payments to governments, while also taking advantage of the inability of national tax authorities to ensure compliance.^[98] Given the volume of mining, significant revenues do reach the state—at least when commodities prices are high—but a lack of transparency in revenue distribution creates conflict between local and national authorities and provides incentives for individual officials and local agencies to seek informal solutions.^[99] Deficiencies in customs administrations have created a vicious circle: rampant smuggling leads the state to raise export taxes in search of revenue, thereby encouraging further smuggling.^[100]

Against this backdrop, the government's anticorruption campaign has not yielded significant results. The primary anticorruption law was enacted in 2005 and is considered an adequate framework, should it ever be consistently utilized. A largely ineffective Ethics and Anti-Corruption Commission was created in 2003 as one of five so-called citizen institutions mandated by the transitional constitution, but did not cross over to the new constitution. The DRC lacks both a national ombudsman and a complaints mechanism whereby victims of corruption seek redress for corrupt acts. The State Auditor, which is in charge of reviewing expenditures, is generally ineffective.^[101]

A number of reviews of resource-exploitation contracts have occurred since the 2002 peace agreement. The first report, by a commission within the transitional parliament led by Christophe Lutundula, produced a damning indictment of mining sector management but no procedural overhaul. Another government-initiated review of 61 mining contracts began in 2007 and led to the cancellation or renegotiation of numerous deals. However, the Carter Center noted that in terms of both process and final results, the review failed to either attain its stated goals or set a precedent for more rational, transparent concessions processes.^[102] Finally, a review of logging contracts resulted in the October 2008 announcement that numerous deals would be canceled, with an ongoing moratorium on new concessions.

The achievement of any significant governmental transparency remains largely aspirational, and many officials do not share this goal. There is no freedom of information or other comprehensive law governing the provision of government data. In addition, the dissemination of information remains extremely weak, and many citizens are unaware of important laws and regulations that affect their personal interests.^[103] Since February 2008 the DRC has been a candidate to join the Extractive Industries Transparency Initiative (EITI) but must abide by multiple steps to promote transparency before it is in compliance with EITI principles. According to the Open Budget Index, the country provides no information about its budget other than the final enacted document.^[104] The government has been working with the World Bank to institute a new procurement code, but as of mid-2009 it remained unimplemented. In general, while individual agencies and officials at times act to improve management and transparency, most such progress is compelled by NGOs and international donors.

Recommendations

- Create an independent media regulation body mandated with applying clear and consistent rules and processes prior to suspending or closing media outlets.
- Prioritize the prosecution of war crimes, beginning with vetting the human rights record of all FARDC commanders and removing suspected violators from their command positions.
- Adopt a multifaceted strategy to end impunity for crimes of rape and sexual violence that include gender-sensitivity educational initiatives, rehabilitation for victims of sexual violence, and a comprehensive protection program to ensure that victims can testify against their attackers.
- With the assistance of the international community, work to improve the judiciary by improving judicial training, adding infrastructure and technical capacity, expanding the territorial coverage of courts, and providing salaries to judges and judicial staff at a level sufficient to diminish incentives for corruption.
- Systematically review and strengthen laws, policies, and institutions that govern financial payments made by mining corporations to the national government while also revising the tax system to diminish incentives for evasion and smuggling.

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Notes

[1] Amnesty International, *DRC: DDR and Reform of the Army* (London: Amnesty International, January 2007), <http://www.amnesty.org/en/library/asset/AFR62/001/2007/en/bc0c5b7e-d3c4-11dd-8743-d305bea2b2c7/af620012007en.pdf>.

- [2] Amnesty International, *Democratic Republic of Congo: Children at War: Creating Hope for Their Future* (London: Amnesty International, October 2006), 3, <http://www.amnesty.org/en/library/asset/AFR62/017/2006/en/c51c4605-d3f7-11dd-8743-d305bea2b2c7/af620172006en.pdf>.
- [3] Ibid.
- [4] "Peace Agreement Signed–But How Long Will It Last?" African Press International, January 31, 2008, <http://africanpress.wordpress.com/2008/01/31/peace-agreement-signed-but-how-long-will-it-last/>.
- [5] Patrick Vinck et al., *Living with Fear: A Population-based Survey on Attitudes about Peace, Justice, and Social Reconstruction in Eastern Democratic Republic of Congo* (Berkeley/New Orleans/New York: Human Rights Center, Payson Center for International Development, and International Center for Transitional Justice [ICTJ], August 2008), <http://www.ictj.org/images/content/1/0/1019.pdf>.
- [6] Global Witness, *Recommendations on Due Diligence for Buyers and Companies Trading in Minerals from Eastern Democratic Republic of Congo and for Their Home Governments* (Washington, D.C.: Global Witness, November 2008), http://www.globalwitness.org/media_library_detail.php/681/en/recommendations_on_due_diligence_for_buyers_and_co.
- [7] John Vandaele, "China Outdoes Europeans in Congo," *Asia Times*, February 8, 2008, http://www.atimes.com/atimes/China_Business/JB12Cb01.html; "DR Congo to Adapt China Deal to Appease IMF," Ghana Business News, June 6, 2009, <http://ghanabusinessnews.com/2009/06/06/dr-congo-to-adapt-china-deal-to-appease-imf/>.
- [8] Integrated Regional Information Network, "Democratic Republic of Congo Humanitarian Country Profile," February 2007, <http://www.irinnews.org/country.aspx?CountryCode=CD&RegionCode=GL>; World Bank, "Democratic Republic of the Congo, in *2007 World Development Indicators* (Washington, D.C.: World Bank, 2007), available at <http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS/0,,contentMDK:20535285~menuPK:1192694~pagePK:64133150~piPK:64133175~theSitePK:239419,00.html>; United Nations Children's Fund (UNICEF), "Democratic Republic of the Congo Background," UNICEF home page, http://www.unicef.org/infobycountry/drcongo_636.html.
- [9] John A. Pandeni, "SADC Electoral Observer Mission Preliminary Statement on the Presidential and Parliamentary Elections Held on 30 July 2006 in the Democratic Republic of the Congo," South African Development Community, August 1, 2006, <http://www.sadc.int/archives/read/news/799>.
- [10] The Carter Center, "Third Carter Center Post-Election Statement on the October 29 Elections in the Democratic Republic of the Congo," news release, November 27, 2006, http://www.cartercenter.org/news/pr/third_DRC.html.
- [11] Dieudonne N. Tshiyoyo, "Post-Transitional Elections in the Democratic Republic of Congo," Elections Today, ACE Electoral Knowledge Network, 2007, <http://aceproject.org/today/feature-articles/post-transitional-elections-in-the-democratic-republic-of-congo>; Freedom House, "Democratic Republic of the Congo," in *Freedom in the World 2009* (Washington, D.C.: Freedom House, 2009), <http://www.freedomhouse.org/template.cfm?page=22&year=2009&country=7739>.
- [12] Mirjam Stockel, "The Democratic Republic of Congo after Presidential and Parliamentary Elections 2006," Konrad-Adenaur-Stiftung European Office, December 1, 2006, http://www.kas.de/proj/home/pub/9/2/year-2006/dokument_id-9706/index.html.
- [13] Asuman Bisiika, "Who Will Be DR Congo's Next President?" *New Times*, August 13, 2006, available at <http://www.globalpolicy.org/component/content/article/181-congo/33639.html>.
- [14] Ibid.
- [15] Human Rights Watch (HRW), *"We Will Crush You": The Restriction of Political Space in the Democratic Republic of Congo* (New York: HRW, November 2008), available at <http://www.hrw.org/en/node/76188/section/1>.
- [16] Notably, according to the Carter Center, many provincial seats were determined by a few hundred votes or less. As a result, seemingly minor irregularities had a detrimental impact upon the results of individual races.
- [17] "A Wilderness that May Become a State," *Economist*, November 25, 2006, http://www.economist.com/world/middle-east/displaystory.cfm?story_id=8326082.
- [18] HRW, *"We Will Crush You."*
- [19] Ibid.
- [20] Ibid.
- [21] Ibid.
- [22] Jason Stearns, "Congo's Peace: Mirage or Miracle," *Current History*, April 23, 2007, available at <http://www.crisisgroup.org/home/index.cfm?id=4799&l=1>.
- [23] "Kabila, Mobutu's Son Sign Pact to Form Government," Integrated Regional Information Network (IRIN), October 18, 2006, <http://www.irinnews.org/report.aspx?reportid=61357>.
- [24] Laura Davis, *Justice-Sensitive Security System Reform in the Democratic Republic of the Congo* (Brussels: Initiative for Peacebuilding, February 2009), http://www.initiativeforpeacebuilding.eu/pdf/Justice_Sensitive_Security_System_reform_in_the_DRC.pdf.
- [25] HRW, "Letter to the Prime Minister of DR Congo Regarding Public Attacks on Human Rights Organizations," July 31, 2009, <http://www.hrw.org/en/news/2009/07/31/letter-prime-minister-dr-congo-regarding-public-attacks-human-rights-organizations>.
- [26] Journaliste en Danger, "Tableau Comparatif Annes 2008 et 2009," December 10, 2009, Journaliste en Danger home page, http://www.jed-afrique.org/fr/index.php?option=com_content&task=view&id=997&Itemid=9&id_alerte=849.
- [27] Committee to Protect Journalists (CPJ), "Two Radio Stations Shut Down in DRC," press release, March 31, 2009, <http://www.cpj.org/2009/03/two-radio-stations-shut-down-in-drc.php>.
- [28] CPJ, "DRC Newspaper Suspended, Director Jailed for Defamation," press release, January 11, 2007, <http://cpj.org/2007/01/drc-newspaper-suspended-director-jailed-for-defama.php>.
- [29] HRW, "Democratic Republic of the Congo," in *World Report 2009* (New York: HRW, 2009), <http://www.hrw.org/en/node/79181>.
- [30] Tom Rhodes, "Attacks on the Press 2007: Africa Analysis," CPJ, February 5, 2008, <http://cpj.org/2008/02/africa-analysis.php>.
- [31] CPJ, "In DRC, TV Reporters Beaten, 38 Broadcasters Banned," press release, October 25, 2007, available at <http://www.unhcr.org/refworld/country,,CPJ,,COD,,48243c52c,0.html>.
- [32] International Freedom of Expression eXchange (IFEX), "Journalist's Murder Highlights Deteriorating Press Freedom Situation in East," press release, August 26, 2009, http://www.ifex.org/democratic_republic_of_congo/2009/08/26/chirambiza_killed/.
- [33] Ambroise Pierre and Leonard Vincent, *Bukavu, Murder City: An Investigation into Murders of Journalists in the Capital of Sud-Kivu* (Paris: Reporters without Borders [RSF], March 18, 2009), http://www.rsf.org/IMG/pdf/rapport_bukavu_eng.pdf.
- [34] RSF, "Leading Suspect in Journalist's Murder Escapes from Military Cell in Bukavu," press release, November 24, 2009, <http://www.rsf.org/A-year-later-investigation-into.html>.
- [35] RSF, "Democratic Republic of the Congo, in *Annual Report 2008* (Paris: RSF, February 7, 2008), <http://www.rsf.org/Democratic-Republic-of-Congo.html>.
- [36] CPJ, "Democratic Republic of the Congo," in *Attacks on the Press 2008* (New York: CPJ, 2009), <http://www.cpj.org/2009/02/attacks-on-the-press-in-2008-drc.php>.
- [37] International Federation of Journalists, "IFJ Condemns Suspension of RFI Programmes in DRC," press release, July 29, 2009, <http://www.ifj.org/en/articles/ifj-condemns-suspension-of-rfi-programmes-in-democratic-republic-of-congo>; Tom Rhodes, "Clinton Must Call for an End to Congo's Media Censorship," World Focus, August 10, 2009, <http://worldfocus.org/blog/2009/08/10/clinton-must-call-for-an-end-to-congos-media-censorship/6727/>.
- [38] IFEX, "Press Still Exposed to Threats, Pressure and Censorship that Undermines Its Credibility, Says JED on World Press Freedom Day," press release, May 2, 2009, http://www.ifex.org/democratic_republic_of_congo/2009/05/04/press_still_exposed_to_threats/.

- [39] Article 19, "Democratic Republic of the Congo," in *20th Anniversary Book* (London: Article 19, 2008), <http://www.article19.org/speaking-out/democratic-congo/>.
- [40] Tiego Tiemboré, "DRC: No Electric Infrastructure, No Internet Backbone?" Association for Progressive Communications, August 21, 2007, <http://www.apc.org/en/news/openaccess/africa/drc-no-electric-infrastructure-no-internet-backbon>.
- [41] Amnesty International, *Democratic Republic of Congo: Submission to the UN Universal Period Review: Sixth Session of the UPR Working Group of the Human Rights Council* (London: Amnesty International, April 13, 2009), <http://www.amnesty.org/en/library/asset/AFR62/009/2009/en/536d63eb-4c71-4c19-bd19-c014966bb7cf/afr620092009en.pdf>.
- [42] HRW, "We Will Crush You."
- [43] United Nations Organization Mission in DR Congo (MONUC), "MONUC Supports the Government in Prison Reform," June 25, 2009, MONUC home page, <http://monuc.unmissions.org/Default.aspx?tabid=932&ctl=Details&mid=1096&ItemID=4498>; Thomas Hubert, "Congo's East Dire, Goma Prison Africa's Worst-UN," AlertNet, July 25, 2009, <http://www.alertnet.org/thenews/newsdesk/LP552918.htm>.
- [44] International Citizens United for the Rehabilitation of Errants (CURE), "Democratic Republic of Congo Assessment," in *Prison and Justice Assessments in Africa* (New York: International CURE, May 14, 2009), http://www.iccaweb.org/documents/CURE_Congo.pdf.
- [45] HRW, "Democratic Republic of the Congo," in *World Report 2009*.
- [46] HRW, "Q & A: DR Congo-Dossier for Hillary Clinton's Visit," August 10, 2009, HRW home page, <http://www.hrw.org/en/news/2009/08/10/faq-drc-human-rights-watch-dossier-hillary-clinton-s-visit>; James Karuhanga, "MONUC Claims over 10,000 FDLR Repatriated," *New Times*, July 5, 2009, available at <http://allafrica.com/stories/200907061213.html>.
- [47] HRW, "You Will Be Punished": Attacks on Civilians in Eastern Congo (New York: HRW, December 13, 2009), available at <http://www.hrw.org/node/87151>.
- [48] Vinck et al., *Living with Fear*, 14.
- [49] HRW, "DR Congo: Militia Leader Guilty in Landmark Trial," news release, March 10, 2009, <http://www.hrw.org/en/news/2009/03/10/dr-congo-militia-leader-guilty-landmark-trial>.
- [50] Office to Monitor and Combat Trafficking in Persons, "Democratic Republic of the Congo," in *Trafficking in Persons Report 2009* (Washington, D.C.: U.S. Department of State, June 16, 2009), <http://www.state.gov/documents/organization/123361.pdf>.
- [51] Democratic Republic of the Congo, *Replies by the Government of the Democratic Republic of the Congo to a List of Issues on Its Second, Third, Fourth and Fifth Periodic Reports* (Geneva: United Nations Economic and Social Council, August 2009),
- [52] "Unions to Increase Congolese Women's Part-Take in Politics," *afrol News*, April 10, 2009, <http://www.afrol.com/articles/18854>.
- [53] African Association for the Defence of Human Rights and World Organization against Torture (OMCT), *Violence against Women in the Democratic Republic of the Congo: Alternative Report Prepared for the Committee on the Elimination of Discrimination against Women* (Kinshasa: African Association for the Defence of Human Rights and OMCT, August 2006), http://www.peacewomen.org/un/ecosoc/CEDAW/36th_session/DRC/NGO_report.pdf; Committee on the Elimination of Discrimination against Women, "List of Issues and Questions with Regard to the Consideration of a Periodic Report," February 14, 2006, [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/f70a134d7dfa2dfdc12572dc0036e090/\\$FILE/N0624918.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/f70a134d7dfa2dfdc12572dc0036e090/$FILE/N0624918.pdf); Amnesty International, *Democratic Republic of the Congo: Submission to the UN Universal Periodic Review*.
- [54] HRW, *Soldiers Who Rape, Commanders Who Condone: Sexual Violence and Military Reform in the Democratic Republic of Congo* (New York: HRW, July 17, 2009), <http://www.hrw.org/sites/default/files/reports/drc0709web.pdf>.
- [55] African Association for the Defence of Human Rights and OMCT, *Violence against Women in the Democratic Republic of the Congo*.
- [56] HRW, "Q & A: DR Congo."
- [57] HRW, *Soldiers Who Rape*.
- [58] UN Human Rights Council (UNHRC) *Report of the Independent Expert on the Situation of Human Rights in the Democratic Republic of the Congo, Mr. Titinga Frederec Pacere* (Geneva: UNHRC, February 29, 2008), available at <http://www.ohchr.org/EN/countries/AfricaRegion/Pages/ZRIndex.aspx>.
- [59] HRW, *Soldiers Who Rape*.
- [60] Minority Rights Group International, "Democratic Republic of the Congo Overview," in *World Directory of Minorities and Indigenous Peoples* (London: Minority Rights Group International, 2008), <http://www.minorityrights.org/5082/democratic-republic-of-the-congo/democratic-republic-of-the-congo-overview.html>.
- [61] Bertelsmann Stiftung, "Democratic Republic of the Congo Country Report," in *Bertelsmann Transformation Index 2010* (Guterloh: Bertelsmann Stiftung, 2010), <http://www.bertelsmann-transformation-index.de/index.php?id=91>.
- [62] Congo Tutsis had for very long been subject to discrimination because of their Rwandan origin. They played a major role in the 1996-97 war, which led to the fall of the Mobutu dictatorship and again in the 1998-2002 effort to remove Laurent Kabila from power. Each time, their main reason for participating in the war was to install a friendly government they could count on to resolve the long-standing nationality question. The government's failure to investigate the killings of hundreds of Congo Tutsi soldiers and civilians across the country is partly behind the ongoing conflict between Tutsi rebels and the current Kabila government. For detailed analysis of the Banyamulenge nationality question and its relationship to the present conflict in North Kivu, see Osita Afoaku, *Explaining the Failure of Democracy in Democratic Republic of Congo: Autocracy and Dissent in an Ambivalent World* (New York: The Edwin Mellen Press, 2005).
- [63] Minority Rights Group International, "Batwa and Bambuti: Democratic Republic of the Congo," in *World Directory of Minorities and Indigenous Peoples*, <http://www.minorityrights.org/5090/democratic-republic-of-the-congo/batwa-and-bambuti.html>; Heritier Maila, "Democratic Republic of the Congo: Persecuted Pygmies Driven from Forest Home," Institute for War and Peace Reporting, May 23, 2009, available at <http://www.africafiles.org/article.asp?ID=20906>; Canadian International Development Agency, "Congolese Pygmy Women Realize the Power of the Ballot," April 24, 2007, <http://www.acdi-cida-gc-ca/CIDAWEB/acdicida.nsf/En/ANN-12138451-J5Q>.
- [64] Katharine Ganly, "Disabled Congolese Find Ways to Thrive," Global Voices Online, May 17, 2009, <http://globalvoicesonline.org/2009/05/17/disabled-congolese-find-ways-to-thrive/>.
- [65] Bureau of Democracy, Human Rights, and Labor, "Democratic Republic of the Congo," in *International Religious Freedom Report 2009* (Washington, D.C.: U.S. Department of State, October 26, 2009), <http://www.state.gov/g/drl/rls/irf/2009/127226.htm>.
- [66] International Trade Union Confederation (ITUC), "Democratic Republic of the Congo," in *2009 Annual Survey of Violations of Trade Union Rights* (Brussels: ITUC, 2009), <http://survey09.ituc-csi.org/survey.php?IDContinent=1&IDCountry=COD&Lang=EN>.
- [67] Peuples Solidaires, *Republique Democratique du Congo: Les Diamants de la Misere* (Montreal: Peuples Solidaires, May 2007), http://ancien.peuples-solidaires.org/article_print.php3?id_article=803 (accessed September 12, 2009).
- [68] Dunia Zongwe, Francois Butedi, and Clement Phebe, *The Legal System and Research of the Democratic Republic of the Congo (DRC): An Overview* (New York: New York University School of Law, Hauser Global Law School Program, December 2007), http://www.nyulawglobal.org/globalex/Democratic_Republic_Congo.htm.
- [69] The Electoral Institute of Southern Africa (EISA), "DRC: Constitution," Country Profiles: DRC, EISA home page, January 2007, <http://www.eisa.org.za/WEP/drc5.htm>.
- [70] International Bar Association (IBA) and International Legal Assistance Consortium (ILAC), *Rebuilding Courts and Trust in the Democratic Republic of the Congo: An Assessment of the Needs of the Justice System in the Democratic Republic of the Congo* (London: IBA and ILAC, August 2009), 26, http://www.ibanet.org/Human_Rights_Institute/DRC.aspx.
- [71] UNHRC, *Report of the Independent Expert on the Situation of Human Rights; Davis, Justice-Sensitive Security System Reform*, 21.
- [72] Laura Davis and Priscilla Hayner, *Difficult Peace, Limited Justice: Ten Years of Peacemaking in the DRC* (New York: ICTJ, March 2009), http://www.ictj.org/static/Africa/DRC/ICTJDavisHayner_DRC_DifficultPeace_pa2009.pdf; Bureau of Democracy, Human Rights, and Labor, "Democratic Republic of the Congo," in *2008 Country Reports on Human Rights Practices* (Washington, D.C.: U.S. Department of State, February 2009), <http://www.state.gov/g/drl/rls/hrrpt/2008/af/118995.htm>.

- [73] Heritier Maila, "Kabila Anti-Corruption Drive- A New Wave of Purges in the Justice System-But Will They Make a Difference," Institute for War and Peace Reporting, July 30, 2009, available at <http://allafrica.com/stories/200907310107.html>.
- [74] Institute of War and Peace Reporting, "Congo (DRC): Distrust of Judicial System Leads to Spread of Vigilantism and Lynching," The Norwegian Council for Africa, August 20, 2009, <http://www.afrika.no/Detailed/18627.html>.
- [75] UNHRC, *Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy* (Geneva: UNHRC, May 24, 2007), <http://www.universalhumanrightsindex.org/documents/842/1134/document/en/pdf/text.pdf>; IBA and ILAC, *Rebuilding Courts and Trust in the Democratic Republic of the Congo*.
- [76] UNHRC, *Report of the Independent Expert on the Situation of Human Rights*.
- [77] Bureau of Democracy, Human Rights, and Labor, "Democratic Republic of the Congo," in *2008 Country Reports on Human Rights Practices*.
- [78] Institute of War and Peace Reporting, "Congo (DRC): Distrust of Judicial System Leads to Spread of Vigilantism and Lynching"; UNHRC, *Report of the Independent Expert on the Situation of Human Rights*.
- [79] IBA and ILAC, *Rebuilding Courts and Trust in the Democratic Republic of the Congo*, 23.
- [80] UNHRC, *Combined Report of Seven Thematic Special Procedures on Technical Assistance to the Government of the Democratic Republic of the Congo*, (Geneva: UNHRC, March 5, 2009), 17, available at <http://www.unhcr.org/refworld/country,,UNHRC,,COD,,49d357fb2,0.html>.
- [81] IBA and ILAC, *Rebuilding Courts and Trust in the Democratic Republic of the Congo*, 20.
- [82] Bureau of Democracy, Human Rights, and Labor, "Democratic Republic of the Congo," in *2008 Country Reports on Human Rights Practices*.
- [83] Amnesty International, *Democratic Republic of the Congo: Submission to the UN Universal Periodic Review*.
- [84] UN Security Council, *Thirtieth Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo* (New York: UN Security Council, December 4, 2009), available at http://congoplanet.net/download/Ban-Ki-moon_report_on_DR_Congo.pdf.
- [85] HRW, "The International Criminal Court Trial of Thomas Lubanga," HRW home page, January 23, 2009, <http://www.hrw.org/en/news/2009/01/22/international-criminal-court-trial-thomas-lubanga>.
- [86] IBA and ILAC, *Rebuilding Courts and Trust in the Democratic Republic of the Congo*.
- [87] Bureau of Economic, Energy, and Business Affairs, "Democratic Republic of the Congo," in *Investment Climate Statements 2009* (Washington, D.C.: U.S. Department of State, February 2009), <http://www.state.gov/e/eeb/rls/othr/ics/2009/117424.htm>.
- [88] Heritage Foundation and the *Wall Street Journal* (WSJ), "Democratic Republic of the Congo," in *2009 Index of Economic Freedom* (Washington, D.C./New York: Heritage Foundation and WSJ, 2009), <http://www.heritage.org/Index/Country/DemocraticRepublicCongo>; Office of the United Nations High Commissioner for Refugees, *Supplementary Appeal: Protection and Assistance to IDPs in the Democratic Republic of the Congo* (Geneva: UNHCR, February 13, 2007), <http://www.unhcr.org/partners/PARTNERS/45d1837d2.pdf>.
- [89] Chris Higgins et al., "Conflict in the Great Lakes Region-How Is It Linked with Land and Migration?" *National Resource Perspectives* 96 (March 2005), <http://www.odi.org.uk/resources/download/1602.pdf>.
- [90] Transparency International, *2009 Corruption Perceptions Index* (Berlin: Transparency International, November 17, 2009), http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table.
- [91] Mary Louise Eagleton, Pamela Fessenden, and Victor Mangindula, *Strengthening the Capacity of Civil Society and Business to Promote Sustainable Economic Growth along the Congo River and Its Tributaries: Mid-Term Evaluation* (Washington, D.C.: U.S. Agency for International Development, September 2004), http://pdf.usaid.gov/pdf_docs/PDACD740.pdf.
- [92] Muzong W. Kodi, *Anti-Corruption Challenges in Post-Election Democratic Republic of the Congo* (London: Chatham House, January 2007), 18, http://www.chathamhouse.org.uk/files/3388_drc0107.pdf.
- [93] International Crisis Group, "Escaping the Conflict Trap: Promoting Good Governance in the Congo," Africa Report No. 114, July 20, 2006, <http://www.crisisgroup.org/home/index.cfm?id=4276&l=1>.
- [94] Global Witness, *Digging in Corruption: Fraud, Abuse, and Exploitation in Katanga's Copper and Cobalt Mines* (Washington, D.C.: Global Witness, July 2006), available at http://www.globalwitness.org/media_library_detail.php/154/en/digging_in_corruption.
- [95] Gregory Mthembu-Salter, *Natural Resource Governance, Boom and Bust: The Case of Kolwezi in the DRC*, (Johannesburg: South African Institute of International Affairs, June 2009), http://www.saila.org.za/images/stories/pubs/occasional_papers/saia_sop_35_mtehmbsalter_20090626_en.pdf.
- [96] Global Witness, "Control of Minerals by Warring Parties Threatens Peace Efforts in Eastern Congo," press release, September 10, 2008, http://www.globalwitness.org/media_library_detail.php/663/en/control_of_mines.
- [97] AfriMAP and the Open Society Initiative for Southern Africa (OSISA), *The Democratic Republic of the Congo: Effective Delivery of Public Services in the Education Sector* (Johannesburg: AfriMAP and OSISA, 2009), <http://www.afriMAP.org/english/images/report/AfriMAP-DRC-PublicServices-Educ-DD-EN.pdf>.
- [98] OSISA et al., *Breaking the Curse: How Transparent Taxation and FAIR Tax Can Turn Africa's Mineral Wealth into Development* (Johannesburg: OSISA et al., March 30, 2009), <http://documents.twafrika.org/breaking-the-curse-march2009.pdf>.
- [99] Mthembu-Salter, *Natural Resource Governance, Boom and Bust*.
- [100] Mthembu-Salter, *Social and Economic Dynamics of Mining in Kalima, DRC* (Pretoria: Institute for Security Studies, April 2009), <http://www.issafrica.org/uploads/PAPER185.PDF>.
- [101] AfriMAP and OSISA, *The Democratic Republic of the Congo*.
- [102] Carter Center, "The Mining Review in the Democratic Republic of the Congo: Missed Opportunities, Failed Expectations, Hopes for the Future," press release, April 3, 2009, http://www.cartercenter.org/news/pr/drc_040309.html.
- [103] Alison Hoare et al., *Towards Sustainable Management and Financing of the Democratic Republic of the Congo's Forests* (London: Chatham House, June 2008), http://www.chathamhouse.org.uk/files/11797_drcforestreport.pdf.
- [104] Open Budget Initiative, "Democratic Republic of the Congo," in *Open Budget Index 2008* (Washington, D.C.: Open Budget Initiative, 2009), http://openbudgetindex.org/files/cs_democraticrepublicofcongo.pdf.