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## Report

8 February 2007

MONUC Human Rights Division

Office of the United Nations  
High Commissioner for Human Rights

### The Human Rights Situation in the Democratic Republic of Congo (DRC)

During the period of July to December 2006

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## I. Executive Summary

1. Between July and December 2006, the human rights situation in the Democratic Republic of Congo (DRC) was cause of grave concern. As historical elections took place and marked the end of a three-year transition, the United Nations Human Rights Integrated Office in the DRC (UNHRO) monitored and documented a substantial increase in the number of politically-motivated incidents during the electoral process. The National Intelligence Agency (ANR), the Republican Guard (RG), the Congolese National Police (PNC) and the Presidential Protection Division of Jean-Pierre Bemba (DPP) were responsible, in a climate of total impunity, for summary execution, enforced disappearance, mass arbitrary arrest, ill-treatment and torture of civilians suspected of having certain political affiliations.

2. Public demonstrations were often dispersed by the police on the orders of the Congolese authorities whether or not these demonstrations threatened public order. In most cases, a number of civilian casualties was reported. Journalists and human rights defenders continued to be targeted for their professional activities. A summary execution and incidents of threats, arbitrary arrests and cruel, inhuman and degrading treatment in holding cells and other detention centres were investigated by the UNHRO.

3. The number of cases involving the armed forces of the DRC (FARDC) decreased from 53% of all violations reported to the UNHRO in the period of January – June 2006 to 40% of violations reported from July to December. However, the FARDC continued to be responsible for an alarming number of human rights violations, including mass killings of civilians, especially in Ituri District. The use of physical violence against civilians, including summary executions, beatings and rape, committed by soldiers of integrated and non-integrated brigades of the FARDC, continued to be widespread.

4. The number of human rights violations committed by the PNC and investigated by the UNHRO increased in the second half of 2006 by 15%. Throughout the country, policemen continued to carry out arrests of civilians in flagrant abuse of their power and subject detainees to cruel, inhuman and degrading treatment. In addition to these violations, police officers were responsible for three cases of mass rape in Equateur Province.

5. Large portions of South Kivu province continued to be controlled by Rwandan Hutu groups, who repeatedly committed serious human rights abuses such as abductions, killings and rape. The presence of armed groups in some areas of northern Katanga, North Kivu and Ituri District also caused the insecurity and led to a number of incidents of human rights abuses.

6. Sexual violence remained widespread throughout the country with some of the worst reports coming from Equateur and North Kivu. Only in a limited number of cases were the perpetrators brought to justice. The proportion of sexual violence cases committed by the PNC rose from 7% of all cases in the first half of the year to 23% during the period in review.

7. The UNHRO is concerned about the continued practice of appointing and promoting, among the ranks of the FARDC, suspected human rights violators. Not only does this completely undermine the fight against impunity, but it also perpetuates the cycle of violence by preserving or enhancing the power of human rights abusers and creates a feeling of frustration among the population. Despite a handful of trials in the last six months of 2006, the vast majority of serious human rights violations were not prosecuted or even investigated. One of the main causes of this lack of progress was the systematic interference in the administration of justice by military and political actors, which continued to occur openly and in total impunity, including in cases of gross human rights violations. The limited means and lack of logistical support to the judicial system also continued to contribute to the culture of impunity. Serious crimes committed during the two wars have never been addressed by a comprehensive investigation. On a positive side, the UNHRO notes that the use of mobile courts has been very effective in increasing access to justice for residents of rural areas.

8. Efforts to bring the perpetrators of human rights violations to justice were invalidated by the dilapidated state of national penitentiary facilities, which facilitated prison escapes. At least 429 detainees, including some convicted of serious human rights violations, escaped from the prisons and detention centres throughout the DRC during the



reporting period. Detainees were subjected to appalling conditions of detention – many prisons lack electricity, food, drinking water and basic medical care – which continued to put their lives at risk.

9. In provinces where natural resources are exploited, such as the diamond-mining areas of the Kasais, the cassiterite-rich territories of North Kivu, or the gold mines of Katanga, UNHRO human rights officers routinely received allegations of serious human rights violations implicating mostly the military and police, such as forced labour, torture, cruel, inhuman and degrading treatment and arbitrary arrests. The police and military resorted to excessive use of force and committed other human rights violations when forcibly evicting artisanal miners from exploitation sites.

10. The UNHRO continued their work on capacity building and promotion of human rights with judicial authorities, civil society, political actors, journalists, national police officers and the military. In Kinshasa and in the provinces, more than 1,300 representatives of human rights non-governmental organisations (NGOs) and other civil society actors received training in basic investigations techniques, data collection for legal prosecution, victim and witness protection and reporting. Special training programmes were organised for FARDC officers, policemen and judicial police officers. In close collaboration with the National Human Rights Observatory (ONDH), a seminar organised to discuss and finalise recommendations for a project for a law on the establishment, organisational structure and functions of a National Human Rights Commission.

11. The UNHRO urges the new government to take urgent measures in order to curb human rights violations and address their root causes. The fight against impunity and the reform of the FARDC will not be sustainable unless the FARDC high-ranking officers, suspected of committing serious violations of human rights and international humanitarian law, are suspended from their duties until cleared by an independent and impartial (judicial or non-judicial/vetting) investigation. Strong political will and radical measures are needed to end impunity and Parliament should promptly pass a Law implementing the Rome Statute. The mandate and status of security forces, including, but not limited to the ANR, should urgently be revised to make these services accountable and respectful of human rights. This measure will also contribute to the creation of the environment in which political opponents, journalists and human rights defenders work without fear of persecution. An independent and credible National Human Rights Commission should be established as a priority measure.

12. The successful and relatively peaceful conclusion of the electoral process in the DRC was a key step towards achieving stability in this vast and war-torn country. As the DRC enters an unprecedented and crucial historical period in its history, the respect for human rights remains a major element of sustainable peace. The UNHRO hopes that the public commitment to fight impunity made by President Kabila during his inaugural speech will be translated into actions and that the newly elected Government will take the necessary measures to lead the DRC towards the rule of law.



## II. Recommendations

### 13. To the Government

- End impunity for officers who have ordered, committed or condoned human rights violations by instructing regional commanders and military intelligence to fully cooperate with judicial investigations. Ensure that high ranking military personnel suspected of committing serious violations of human rights and international humanitarian law and officers interfering in the administration of justice are immediately suspended from duty and investigated. High-ranking military judges should be deployed to the provinces to ensure effective investigations of human rights violations;
- Demonstrate a zero tolerance policy with respect to the practice of arbitrary arrests, ill-treatment, torture and sexual violence committed by all branches of security forces. Publicly commit to the respect of civil liberties;
- Take urgent action to ensure that the security services, most notably the ANR, Republican Guard, Military Intelligence and Police Special Services, uphold and enforce the law and ensure the rights and security of Congolese citizens. Clarify their mandate in accordance with international standards and increase their accountability. Carry out the demobilisation of the DPP soldiers or their integration into the regular army;
- Address urgently the lack of security and the appalling conditions in DRC's prisons and detention centres. Take measures to prevent further escapes and improve the material and legal conditions of detention centres; adequate funds must be allocated to provide food for the prisoners and medical care when needed. Mechanisms should be put in place to address the enormous volume of cases of preventive detention;
- Develop a comprehensive set of measures that address the link between the exploitation of natural resources exploitation and human rights violations. These should include verification mechanisms to ensure that mining sites are secured by mandated security services acting in conformity with the law and human rights standards. Military and law enforcement officials involved in illegal exploitation activities or human rights violations should be promptly investigated.

### 14. To the Parliament

- Prioritise the adoption of three fundamental laws: a Law on the Supreme Council of the Judiciary, a Law enshrining the ICC Statute into Congolese legislation and a Law on the Establishment of a National Human Rights Commission;
- Bring existing legislation, when required, into conformity with international standards. For example, make necessary amendments to the law on the jurisdiction of military courts so that civilians are not tried before military jurisdictions;
- Undertake a debate to consider the proposal of establishing specialised mixed chambers to address the enormous volume of cases involving gross human rights violations which need to be brought to trial.

### 15. To Congolese Human Rights Defenders

- Fulfil their role as a watchdog and to carry out their activities in the most independent, impartial and professional way.



### III. Introduction

16. The MONUC Human Rights Division (HRD) is mandated by UN Security Council Resolution 1565 (October 2004), as confirmed by Resolution 1736 (December 2006), “to assist [the Government] in the promotion and protection of human rights, with particular attention to women, children and vulnerable persons, investigate human rights violations to put an end to impunity, and continue to cooperate with efforts to ensure that those responsible for serious violations of human rights and international humanitarian law are brought to justice, while working closely with the relevant agencies of the United Nations” (S/RES/1565 para. 5 (g)). The HRD is to ensure the protection of individuals under imminent threat of physical violence, notably witnesses, victims and human rights defenders (S/RES/1565 para. 4 (b)). The HRD monitors and documents human rights violations across the country. Special attention is paid to violations of the rights to life, liberty and physical integrity; to violations of civil liberties and to the link between the exploitation of natural resources and human rights violations. MONUC also participates in the training and monitoring of the security sector institutions, while ensuring that they fully respect human rights and fundamental freedoms.

17. The Office of the High Commissioner for Human Rights in the DRC, established 1966 by an agreement between the High Commissioner and the Government of the Democratic Republic of Congo, is mandated to monitor the human rights situation in the country either directly or through human rights NGOs and other civil society actors; to present reports on the human rights situation to the office of the High Commissioner and provide information about individual cases of human rights violations that require urgent measures on behalf of the Independent Expert on the human rights situation in the DRC and/or special procedures; to reinforce national institutions, both governmental and non-governmental, working on human rights issues in order to ensure that the Democratic Republic of Congo is able to better respect provisions of international and regional treaties to which the DRC is a party.

18. In its last report on the human rights situation in the DRC for the period from January to June 2006, the HRD urged the Government to adopt a zero tolerance policy for serious human rights violations committed by members of the police, the military and the intelligence agencies. The HRD also called on the authorities to clarify the status and mandate of a number of security services, such as the RG and the ANR, who are politicised, unaccountable and consistently responsible for serious human rights violations. Unfortunately, no substantive action was taken, and the reporting period was marked by an increase in the number and gravity of human rights violations committed by these services. The HRD also urged the government to guarantee the right to freedom of expression and association regardless of political affiliation during the electoral period. However, no adequate measures were taken to guarantee these rights and the number of politically motivated human rights violations increased significantly during the reporting period.

19. The purpose of this report is to present the human rights situation in the DRC in the last six months of 2006. The report starts with an overview of the human rights situation and the political context in which violations occurred. The findings are substantiated by the analysis of cases that were entered into the UNHRO database. The following part of this report outlines activities carried out by specialised units that were set up to ensure the protection of victims, witnesses and human rights defenders and to promote human rights in the DRC.

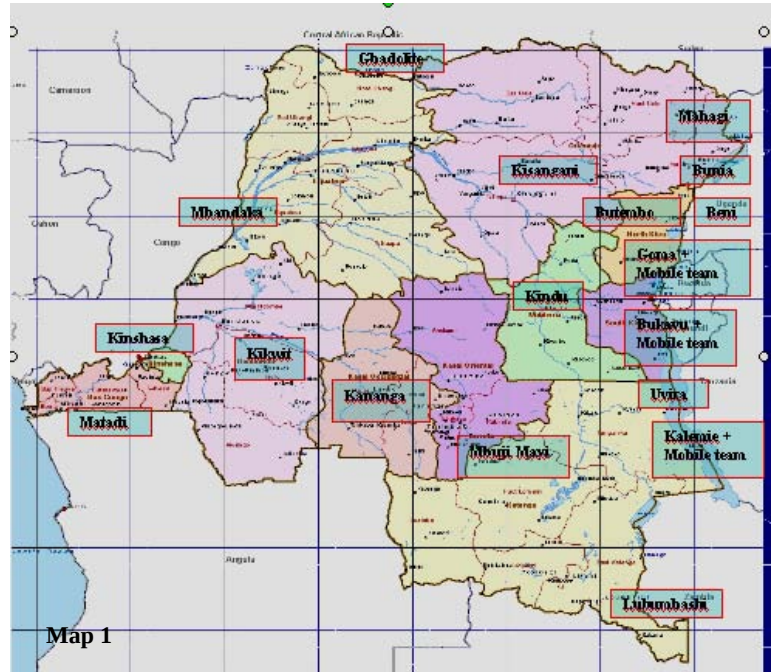
### IV. Methodology and Operational Structure

20. During the period under review, the integration of the MONUC HRD and the Office of the High Commissioner for Human Rights (OHCHR) in the DRC was concluded and the two offices have been since operating as an integrated structure, the United Nations Human Rights Integrated Office in the DRC (UNHRO). The UNHRO has, therefore, the mandates described in paragraphs 16 and 17.

21. The UNHRO, with a total of 141 staff, including some administrative personnel, has an established presence throughout the country with 18 field offices (Bandundu, Beni, Bukavu, Bunia, Butembo, Gbadolite, Goma, Kalemie, Kananga, Kindu, Kinshasa, Kisangani, Lubumbashi, Mahagi, Matadi, Mbandaka, Mbuji Mayi, Uvira) and four mobile teams in Bukavu, Bunia, Goma and Kalemie. One hundred and twenty human rights officers (HRO) and human rights assistants (HRA) in 18 field offices gather information on human rights violations or abuses and verify, using established methodology, allegations and reports of human rights violations by cross-checking the



information received and carrying out site visits. Most cases are then followed up by engaging the relevant national authorities in order to provide justice and redress to victims and to address the causes of the incidents. They also monitor respect for criminal procedure law and minimum conditions in detention facilities, including prisons, and police, military and security service holding cells. Human rights field officers work in close collaboration with other MONUC substantive sections, in particular with Rule of Law and Child Protection, as well as with MONUC military and UN Police (see Map 1). Some UNPOL officers are assigned to the UNHRO, some full time and others on part time basis.



22. Apart from 18 field offices, the UNHRO has five specialised units that are based in Kinshasa. The Transitional Justice and Fight against Impunity Unit has the responsibility to assist efforts to bring the perpetrators of gross human rights violations to justice. The Special Investigations Unit (SIU) is tasked to carry out in-depth investigations into serious incidents of human rights violations, especially in remote areas of the DRC. Four investigative mobile teams in the two Kivus, North Katanga and Ituri operate under the supervision of the SIU. These teams have special field communication and logistical equipment and work closely with MONUC military. The Victims, Witnesses and Human Rights Defenders Protection Unit is tasked with ensuring the protection of individuals falling under its mandate and to strengthen local capacity in the field of witness protection. The Human Rights Information and Analysis Unit is responsible for the collection and in-depth analysis of the incoming information and further reporting, as well as the management of the UNHRO database. Capacity building and technical cooperation activities are carried out by the Technical Assistance and Cooperation Unit, as well as all the field offices in close coordination with the Unit and with its guidance.

## V. Overall Human Rights Situation and Political Context

23. The second half of 2006 was a crucial and defining period in the history of the DRC as the presidential, legislative and provincial elections marked the end of the transitional government installed in 2003. The first round of presidential and parliamentary elections took place on 30 July 2006, and the run-off and provincial elections were held on 29 October 2006. The National Assembly was inaugurated on 22 September 2006. On 27 November 2006, the DRC Supreme Court confirmed Joseph Kabila as the new President of the DRC. The following day, the other presidential contender, Jean-Pierre Bemba, accepted the results and voiced his intention to continue his political engagement in the opposition.

24. While the first and second rounds of elections took place without significant human rights incidents, the period surrounding the first electoral campaign and following the proclamation of the provisional results of the presidential elections was marred by serious human rights violations and incidents of violence. On 27 July, following a pro-Jean-Pierre Bemba rally in Kinshasa that degenerated into violence and resulted in the killing of four PNC agents, two important institutions of the Transition, the High Media Authority (HAM) and the National Human Rights Observatory (ONDH), were looted. This incident greatly reduced the capacity of these two organisations to guarantee respect for human rights and civil liberties during this critical political phase. On the same day, the church of a pastor perceived as being a supporter of President Kabila's candidacy for president was looted by supporters of Jean-Pierre Bemba. Based on testimonies collected by MONUC, confirmed by video material, men



identified as belonging to Jean-Pierre Bemba's personal security squad were present during some of these incidents.

25. The announcement of the provisional results of the first round of the presidential elections, on 20 August, was marked by the eruption of three-day heavy fighting in central Kinshasa between forces of the two second round contenders, Joseph Kabila and Jean-Pierre Bemba, and an attack on the residence of Jean-Pierre Bemba. The fighting of 20-22 August left 23 persons dead and 43 wounded, according to figures provided by the Ministry of Interior. Following these incidents, the human rights situation in Kinshasa significantly deteriorated and the number of serious politically-motivated human rights violations committed by both the RG<sup>1</sup> and the DPP increased. Demonstrations, organised in Kinshasa on 19 September in the aftermath of the fire that destroyed TV and radio stations belonging to Vice-President Bemba, were marred by several violent incidents.

26. Tension peaked again shortly before and after the announcements of the provisional results of the second round of the presidential elections, on 15 November, which gave 58.08% of the vote to Joseph Kabila. An exchange of fire between the DPP and RG soldiers took place in Kinshasa city centre on 11 November 2006. The incident was followed by mass arrests of street dwellers by the PNC. On 21 November, the police guarding the Supreme Court fired warning shots and used tear gas to disperse the crowd gathered around the Court building where the hearing of Vice-President Bemba's appeal to contest the IEC<sup>2</sup> provisional results of the second round of the presidential elections was taking place. This provoked several incidents of violence and unidentified men set alight a building adjacent to the Supreme Court's main courtroom. As a result, the hearings were disrupted. Although no arrests or injuries were reported, election materials related to the legislative elections were reportedly destroyed. On 24 November, the Court reconvened at the Ministry of Foreign Affairs.

27. The end of 2006 was marked by clashes between FARDC and insurgents in North Kivu. On 25 November 2006, fighting broke out in Sake – 25 km west of Goma – between FARDC (ex-ANC<sup>3</sup>) soldiers of the 81<sup>st</sup> and 83<sup>rd</sup> Brigades loyal to renegade General Laurent Nkunda<sup>4</sup> and the 11<sup>th</sup> and 14<sup>th</sup> Integrated Brigades of the FARDC. Military clashes continued sporadically until the end of the year in Rutshuru and Masisi territories of North Kivu and caused a mass displacement of the local population<sup>5</sup>.

28. The process of integrating troops from different belligerent factions, known as *brassage*, was due to conclude before the end of the transition<sup>6</sup>. Although the majority of troops has undergone the process and has since been deployed, a number of troops in the Kivus (eight Brigades in South Kivu and four in North Kivu) remain disinclined, or hostile, to *brassage*. The Naval Force of Katanga and Ituri, a number of battalions in Katanga and Orientale provinces, RG and DPP soldiers still remain mostly outside the army integration process. According to MONUC sources, 78,832 soldiers are yet to go through the process. On the other hand, CONADER<sup>7</sup> proved to be unable to provide regularly demobilised soldiers with the promised packages. As a result, the soldiers stay in *brassage* centres too long, causing insecurity for the local population as was the case in Beni area, Aru (Ituri District) and in Lubumbashi.

29. The disarmament, demobilisation and reintegration process (DDR) continued despite lack of funds. In Katanga, more than 1,000 Mayi-Mayi combatants disarmed in the reporting period. In Ituri, negotiations between the FARDC and the three remaining armed groups – Cobra Matata's FRPI<sup>8</sup>, Peter Karim's FNI<sup>9</sup> and Mathieu

<sup>1</sup> Until February 2006, Republican Guard (RG, *Garde républicaine*) was known as GSSP - *Garde Spéciale pour la Sécurité Présidentielle* (Special Presidential Security Guard)

<sup>2</sup> Independent Electoral Commission

<sup>3</sup> ANC- National Congolese Army (*Armée nationale du Congo*)

<sup>4</sup> Laurent Nkunda is one of the most well-known perpetrators of serious human rights violations in the DRC. Several investigations point to his responsibility for the Kisangani massacre in May 2002 and for the widespread summary executions, rape and looting that followed the Bukavu invasion in June 2004 among other incidents. Nkunda is named in three public UN reports in which an explicit demand that he be brought to justice was made by the UN High Commissioner for Human Rights.

<sup>5</sup> In January 2007, a new process, known as *mixage* was started in North Kivu in order to mix 81<sup>st</sup> and 83<sup>rd</sup> Military Brigades loyal to Nkunda with the pro-government 1<sup>st</sup> Reserve non-Integrated Brigade and 110<sup>th</sup> and 116<sup>th</sup> non-Integrated Brigades of the FARDC (who had been moved from South Kivu).

<sup>6</sup> This process was part of the Global and All-Inclusive Agreement on the Transition in the DRC (*Accord global et inclusif sur la Transition en République Démocratique du Congo*) signed by the Congolese parties in Pretoria on 17 December 2002.

<sup>7</sup> National Commission for Demobilisation and Reinsertion

<sup>8</sup> FRPI – Ituri Patriotic Resistance Front (*Front de Résistance Patriotique de l'Ituri*)





Ngoudjolo's MRC<sup>10</sup> – continued throughout the second half of 2006. On 29 November, these armed groups signed a “Comprehensive Agreement for Peace in Ituri” with the Congolese government, by which they agreed to surrender their arms and enter the army integration process. The FRPI, MRC and FNI accepted to give up their weapons at the regrouping points in the presence of the FARDC and in collaboration with MONUC. Three hundred and eighty-one out of 4,500 militiamen laid down arms in the month of December alone. However, on 24 December, clashes resumed in Ituri between the militiamen allied to Peter Karim and FARDC troops, continuing until 29 December 2006 and jeopardising the disarmament process.

30. These events shaped the political landscape of the country and also, to a large extent, the nature of human rights violations committed during the reporting period.

## A. Human Rights and Elections

### 1. Freedom of Assembly

31. Throughout the reporting period, Congolese authorities often violated the right to freedom of assembly and ordered the breaking-up of elections-related demonstrations, on a selective basis, whether or not these demonstrations threatened public order. These operations were often justified on the grounds that the demonstrations in question were “unauthorised”, despite provisions in the new Congolese Constitution and in the Electoral Law – publicly confirmed by the Ministry of the Interior – which stipulate that organisers of an electoral demonstration do not require authorisation from the local authorities, as long as there was a prior notification<sup>11</sup>. Police deployed to control demonstrations made significant improvements in terms of crowd control techniques, although some instances of excessive use of force by security forces occurred.

32. In Likasi (Katanga Province), a UDPS<sup>12</sup> demonstration was stopped by police, on 1 July 2006, on the orders of the Mayor. The Mayor claimed that he had not been informed in time; however, according to the UDPS, the demonstration had already been postponed after the Mayor insisted that he required six days' notice for such an event to be authorised. On 11 July 2006, a peaceful demonstration in Kinshasa was illegally broken-up by police, although organisers had informed local authorities the required 24 hours before the demonstration. Several people were injured as a result of the police intervention, including one man who was seriously injured and another who fell into a coma after succumbing to tear gas thrown by the police. On 11 September 2006, ten civilians, including six women, were arbitrarily arrested by the police in Tshikapa – 300 km west of Kananga – during a peaceful demonstration that was brought to a stop by the PNC with the use of the tear gas. The demonstration was organised by a political movement called “Solidarity for National Development”<sup>13</sup> in order to contest the provisional results of the elections to the National Assembly announced on 7 September by the IEC. The organisers claimed that they had informed the local administration about the demonstration more than 24 hours in advance required by the Electoral Law. According to the Mayor, he gave orders to stop the demonstration on the grounds that he had not been informed and because the behaviour of participants presented a threat to public order. Several protesters were detained for 24 hours and released the following day. A clash between the police and students resulted in 19 civilians and eleven policemen being injured in Buta – 325 km north of Kisangani – on 9 October. During the incident, four students were reportedly subjected to cruel, inhuman and degrading treatment while a young girl was a victim of an attempted rape by policemen. The incident occurred when PNC agents violently broke up a demonstration organised by students to protest against the arrest of a *Préfet des études*.

### 2. Summary Executions, Enforced Disappearances and Political Arrests

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<sup>9</sup> FNI – Nationalist and Integrationist Front (*Front Nationaliste et Intégrationniste*)

<sup>10</sup> MRC – Movement of Congolese Revolutionaries (*Mouvement des Révolutionnaires Congolais*)

<sup>11</sup> The authorities, in agreement with organisers of a demonstration, may change the date, place or the itinerary of the event as necessitated by security reasons.

<sup>12</sup> UDPS – Union for Democracy and Social Progress (*Union pour la démocratie et le progrès social*)

<sup>13</sup> “Solidarité pour le développement national” (SODENA)

33. Since the beginning of the first electoral campaign in July 2006, there was a marked increase in politically-motivated arbitrary arrests<sup>14</sup>, especially in the capital. Summary executions and enforced disappearances were also documented. Most of the 170 political arrests investigated by the UNHRO were followed by ill-treatment and even torture of the victims. The main perpetrators were the RG, the ANR, the PNC and its Special Services<sup>15</sup> and the DPP. Intervention by MONUC in politically-motivated cases, including those raised under the auspices of the Joint Verification Commission<sup>16</sup>, was critical in order to alleviate tension between the parties. However, no action has been taken by any of the commanding officers of the concerned services to put an end to politically-motivated attacks and no alleged perpetrators were brought to justice. Joint Verification Meetings in Kinshasa involving the RG and DPP have proved substantially ineffective in reducing the incidence of political arrests, as they were pervaded by an atmosphere of mistrust and were at times characterised by transparent attempts to manipulate the mechanism by both RG and DPP representatives. This fact, combined with the perception on both sides that these manifestly illegal acts go entirely unpunished, provided armed men with an excuse to take matters into their own hands.

## 2.1 The Republican Guard

34. Since its creation in 1997, the RG has lacked a clear mandate. Pursuant to Article 136 of the Law on General Organisation of the Defence and Armed Forces<sup>17</sup>, the mission of the RG is to ensure the protection of the President and presidential premises and facilities, and to provide escorts and “honours” at the presidential level. However, these duties have never been further defined by deliberation of the Council of Ministers, as required by Article 140 of the same Law. The RG has interpreted Article 136 in an extremely liberal fashion – from denying access to the DRC to foreign journalists at border control to the positioning of RG soldiers armed with rocket launchers outside the RTNC<sup>18</sup> building in Kinshasa, to the arrest and torture of civilians to settle personal vendettas<sup>19</sup>.



A victim of cruel, inhuman and degrading treatment in Kinshasa

35. Throughout the DRC, the RG was used to intimidate political opponents during and after the electoral campaigns. Following the announcement of the results of the first round presidential elections, the RG was responsible for more than 100 cases of torture and cruel, inhuman and degrading treatment of civilians accused of being MLC<sup>20</sup> supporters. In the worst incident, 84 fishermen, most of them from the Equateur province, were arbitrarily arrested, illegally detained in underground pits, threatened with death, mistreated or tortured by RG soldiers in Tshatshi military camp in Kinshasa, on 22 August. The fishermen were later released after MONUC intervention.

36. Jean-Pierre Bemba’s medical advisor disappeared, on 20 August, after last being seen in central Kinshasa. According to three testimonies gathered by the UNHRO, he might have been held for some days at Camp Tshatshi,

<sup>12</sup>Arbitrary arrest is a criminal offence punishable pursuant to Article 67 of the Penal Code. The ill-treatment and torture of detainees are also illegal under the Congolese Constitution and according to international standards. It must also be remembered that any pre-planned arrest of a civilian by the RG or the DPP is *prima facie* illegal.

<sup>15</sup>*Services spéciaux de la Police nationale congolaise*

<sup>16</sup>Created in Kinshasa under the auspices of MONUC in the aftermath of the unrest of 20-22 August 2006 to verify allegations into violations committed by both the RG and DPP and as a confidence building measure. Daily meetings presided by MONUC and attended by RG and DPP delegates, continue to be held in the capital at MONUC Western Brigade Headquarters.

<sup>17</sup>*Loi portant organisation générale de la défense et des forces armées*

<sup>18</sup>RTNC - *Radio télévision nationale du Congo* (Congolese National Radio and Television)

<sup>19</sup>A RG Colonel ordered his men to start a manhunt for two youths who had reportedly beaten up his younger brother on 29 July 2006 in Kinshasa for wearing a Kabila t-shirt. The Colonel confirmed to human rights officers that he had managed to locate one of his younger brother’s attackers, that he had had this man arrested, tortured and had refused to allow him to receive medical treatment. The Colonel also refused to divulge the location of this person. Such a case shows the climate of impunity which a high-ranking RG officer can expect to enjoy.

<sup>20</sup>MLC - Congolese Liberation Movement (*Mouvement de Libération du Congo*) of Jean-Pierre Bemba

where he was reportedly subjected to cruel, inhuman and degrading treatment, and later taken to an undisclosed location, possibly a military intelligence facility. RG officers allegedly contacted people close to the doctor, on 23 August, in order to negotiate his release for a ransom. This further suggested RG implication in this case, although this has been denied by the Unit in question. On 28 August, a member of the RG shot and killed a woman in the commune of Ngaliema in Kinshasa. Several RG soldiers had gone to a couple's residence to arrest the husband, whom they accused of harbouring supporters of Vice-President Jean-Pierre Bemba. One group of soldiers left with the husband and another remained behind to search the house. When the wife reportedly questioned the soldiers about the reason for her husband's arrest, one of them shot at her at point blank range. The alleged perpetrator was arrested and is awaiting trial.

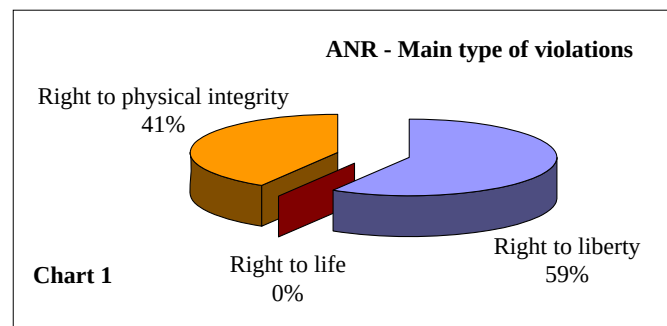
37. The political instrumentalisation of the RG, its vague mandate and its undisciplined soldiers represent a threat to all Congolese, from the Minister of Commerce, whose Kinshasa residence was surrounded by armed RG soldiers for several hours on 27 July 2006<sup>21</sup>, to ordinary citizens who express a political opinion at the wrong place and the wrong time. The case of one civilian, arrested, beaten and illegally detained from 23-26 August 2006 by RG soldiers after making an innocuous political comment on a taxi-bus, is a good illustration of a typical case, whereby people are arrested on the pretext that their actions or opinions are "a threat to State security" in order to extract a ransom for their release.<sup>22</sup>

38. The RG also lacks accountability. Despite the high frequency with which the RG is accused of involvement in criminal offences, including political arrests, very few RG soldiers were prosecuted in 2006. The UNHRO was granted access to Tshatshi military camp, where numerous civilians have been illegally detained, only once in 2006, and this at the explicit request of the MONUC Force Commander. In all probability, however, instructions had been sent in advance to hide the prisoners who were the object of the UNHRO's verification visit of 9 December 2006.

## 2.2 The ANR

39. The ANR is an intelligence agency whose mission is to safeguard the internal and external security of the State.<sup>23</sup> In Kinshasa, the UNHRO has not been able to visit the ANR's holding cells since February 2006, and access to detainees was consistently denied by the ANR in several provinces. The UNHRO has solicited, since May 2006, a meeting with the *Administrateur Général*, but the meeting has yet to be granted.

40. Most of the violations committed by the ANR were violations of the right to liberty, including political arrests during the electoral campaign. These violations constituted 59% of all cases involving the ANR and investigated by the UNHRO in the reporting period. These arrests were often accompanied by the violation of the right to physical integrity (41% of the violations) (see Chart 1).



41. The ANR, like the RG, was involved in politically-motivated cases. The ANR arrested, during the night of 27-28 June 2006, twelve UDPS members in Mbuji Mayi. The local ANR Chief claimed, in a meeting with the UNHRO, that the twelve had been arrested in connection with an operation aimed at finding weapons caches in Mbuji Mayi city, and that it was pure coincidence that these persons had been arrested just before the key date of 30 June<sup>24</sup>, and that they were all UDPS members.

<sup>21</sup> In the evening of 27 July 2006, Mme Chantal Ngalula, Minister of Commerce (and wife of presidential candidate Roger Lumbala) called MONUC to say that her residence had been surrounded by RG soldiers, and that she felt her life was in danger. The report was confirmed by a human rights officer who saw two RG jeeps leaving the vicinity upon arrival.

<sup>22</sup> This man was freed after his wife raised \$120 for his release. While not technically a political arrest (the real motive being extortion) the victims were often from the political opposition, or people who have simply expressed a negative view of the President. All the other security services mentioned in this report were guilty of exactly the same type of racketeering, except, of course, that the DPP's victims generally hold a different political affiliation to those of the other services cited in this report.

<sup>23</sup> The ANR was established by the Décret-loi N°003/2003 of 11 January 2003.

<sup>24</sup> 30 June is Congolese Independence Day, marred in recent years by civil unrest and violent clashes between security forces and demonstrators.



The ANR was extremely uncooperative with the UNHRO, constantly refusing access to the detainees and transferring four of them to underground cells at a military camp where they were allegedly beaten. Four were released within the time limit stipulated by the law,<sup>25</sup> but four others were held until 1 July 2006, one other until 12 July, and the final three until 29 July.

42. In Lubumbashi, ANR officers continued to act beyond their powers and illegally arrest and detain civilians on the basis of their political affiliations. On 27 December 2006, an independent candidate to the post of Vice-Governor and a member of the AMP<sup>26</sup> were allegedly arrested and interrogated by the ANR in Lubumbashi. The victim claimed that the arrest was linked to the electoral campaign as he had opposed a candidate supported by President Kabila. A DGM<sup>27</sup> agent, believed to be an MLC supporter, was arbitrarily arrested, together with four other civilians, including a minor, on 2 November. The victims were held in ANR custody where they were allegedly subjected to cruel, inhuman and degrading treatment for more than three days.

43. In Uvira, the ANR played a role in a campaign of intimidation against the MLC party. A civilian, an MLC supporter, was arbitrarily arrested by the ANR, on 16 November 2006. An ANR representative could not explicitly state the official motive for the arrest. According to local sources in Uvira, the ANR had compiled a list of all MLC supporters and started locating them. The victim was released on 17 November 2006 without charge.

44. In Punia – 175 km north-east of Kindu – the ANR arrested the head of a local MLC branch on the orders of the Governor of Maniema, on 31 October 2006. The victim was accused of insulting provincial authorities between two rounds of presidential elections.

### 2.3 The PNC, including Kin-Mazière

45. The Police Special Services, known as *Kin-Mazière*<sup>28</sup> and formally a branch of the PNC, was also involved in cases of political nature and carried out most politically sensitive arrests in the capital. Kin-Mazière, like the ANR, has the legal power to arrest and detain civilians, but, again like the ANR, it often abuses this power for political purposes. It also regularly detained people beyond the legal time limit, was accused of torture and ill-treatment and systematically denied visits from lawyers and family to detainees. Kin-Mazière played a key role in the intimidation and arrests of a number of political opposition figures such as Maître Nlandu<sup>29</sup> and six of her collaborators, who were allegedly ill-treated while in detention in Kin-Mazière. During interviews conducted by the UNHRO, human rights officers saw injuries on the victims' bodies consistent with these allegations.

46. The PNC carried out several mass arrests in Kinshasa. On 21 September, two days after violent demonstrations in Kinshasa, more than 800 street dwellers, including 181 children, commonly known as “*shégués*”, were arbitrarily arrested by the PNC during a round-up and taken to the Police Inspectorate in Kinshasa (IPK). After the intervention and with the support of international institutions and humanitarian organisations, the detained children were released and transferred to shelters, where they would stay pending reunification with their families. On 20 October, MONUC was informed that all 95 persons remaining in the IPK had been officially charged with ‘*vagabondage*’ and begging<sup>30</sup> on the basis of outdated legislation<sup>31</sup> and transferred to the Courts of Gombe and Kalamu in Kinshasa. Despite the official charges, the link with the demonstration was informally acknowledged by police authorities on several occasions.

47. Arrests of street dwellers continued in Kinshasa in November. On 11 November 2006, more than 500 street dwellers, including 87 children, were arrested by the police following the exchange of fire between the DPP and RG soldiers in the city centre. These arrests were followed by the round-up of more than one hundred street dwellers in

<sup>25</sup> In general, according to Congolese Law, a person can be held for not more than 48 hours after which time he or she must be presented before a judge.

<sup>26</sup> AMP – Alliance of the Presidential Majority (*Alliance de la majorité présidentielle*)

<sup>27</sup> DGM - General Migration Directorate (*Direction Générale de Migration*)

<sup>28</sup> Named after the building occupied by this service in Kinshasa

<sup>29</sup> In June 2006

<sup>30</sup> Mendicité

<sup>31</sup> Décret du Roi-Souverain, 23 May 1896



several communes of Kinshasa, on 18 and 19 November. Two hundred and sixty-nine men<sup>32</sup> were subsequently sent to the *Centre Pilote de Kanyama Kasese*, an agricultural camp located 178 km north-west of Kamina, North Katanga, by the Congolese authorities to participate in the National Service<sup>33</sup> programme, on 18 November. They were sent without any form of judicial process and after having illegally spent one week in detention. On 14 December, a UN multidisciplinary team, including the UNHRO, visited the camp and interviewed 47 “*shégués*”, held meetings with the Administrator of the territory and the officials of the centre and inspected the living conditions in the Camp, which turned out to be harsh. On the basis of the interviews conducted, the Team established that the street dwellers interviewed had been transferred to Kanyama Kasese without their consent, which is a condition for participation in the National Service. MONUC raised its concerns with the authorities about these illegal detentions.



Labour Camp Kanyama Kasese, Northern Katanga

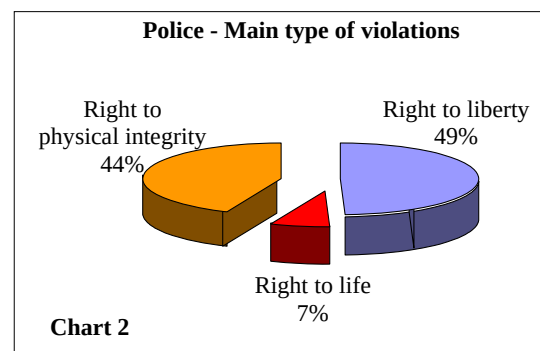
## 2.4 The DPP

48. The DPP also carried out a number of illegal arrests in Kinshasa, especially in the lead up to the second round of elections, and in the wake of the fire of 18 September 2006 at CCTV<sup>34</sup>. Civilians were arrested and detained illegally by DPP soldiers, in the CCTV building itself, in MLC offices, and in residences near Vice-President Bemba’s compound in Gombe/Kinshasa. These arrests were often followed by ill-treatment and torture. The DPP delegate at the Joint Verification Meetings admitted having detained and interrogated, on 13 October 2006, three civilians inside the MLC offices next to CCTV, and having physically assaulted one of them during questioning. During their detention, all three prisoners had their cellular phones, money, and other personal effects confiscated and retained. This case was one of several of the same type raised at the Joint Verification Meetings.

49. On 19 August, an ANR agent was abducted from his office by DPP soldiers. According to the testimony obtained, the agent left his home after receiving a phone call from his supervisor asking him to report to work. On 24 August, the ANR Director reportedly told the family that the agent had been questioned by MLC officials at that party’s headquarters on 19 August. According to the ANR Director, his office tried to negotiate the release of the agent but did not succeed. The UNHRO was not able to advance much in its investigation of this case because of the refusal of the MLC to cooperate.

## B. Human Rights Violations by the PNC

50. The number of human rights violations committed by the PNC and investigated by the UNHRO increased in the second half of 2006 by 15% (see Chart 4). The gravity of these incidents was also on the increase (see Chart 2). Apart from the politically-motivated arrests carried out mostly in Kinshasa, police officers were increasingly responsible for incidents of mass rape of women and girls throughout the country. Cases of rape in police custody were reported in most of the provinces. The involvement of policemen in situations related to the exploitation of natural resources was reported in the



<sup>32</sup> Children, women and the sick were subsequently released

<sup>33</sup> Created by the Décret-Loi 032 of 15 October 1997

<sup>34</sup> CCTV - *Canal Congo Télévision* owned by Jean-Pierre Bemba

Kivus and in Katanga<sup>35</sup>. The trend is particularly worrying given the efforts made and the funds spent by the international community to train and strengthen the police force in the DRC.

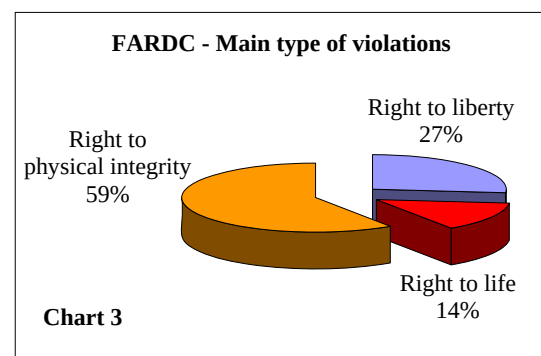
51. Mbuji Mayi, where PNC officers, supported by the FARDC, continue to violate human rights in a climate of total impunity, was one of the areas of most concern. Reports of armed robberies by police, often accompanied by killings of civilians, mostly in Bipemba neighbourhood of the city, came from the UNHRO/Mbuji Mayi on an almost weekly basis. The pattern of these robberies appeared to remain the same, as large groups of armed persons in police uniform (up to 12) forced their way into private residences in order to loot them or to demand money. During these raids, civilians were frequently killed or suffered serious injuries, and many victims had to be taken to hospital for medical treatment. For example, an armed robbery in which one civilian allegedly died and another one was seriously injured was carried out by PNC officers in the night of 17-18 December 2006, after a group of nine armed policemen broke into a private house and adjacent shop belonging to the victims. Another civilian was killed on the spot when a group comprised of eight armed policemen and soldiers shot at him in Kanshi neighbourhood of Mbuji Mayi, in the night of 23-24 November. On the same night, a civilian had to have three fingers amputated when an armed group of policemen and soldiers reportedly tried to force their way into his residence. MONUC raised the issue with local police authorities who pledged to carry out internal investigations into the alleged police involvement in these incidents.

52. PNC officers continued to carry out arbitrary arrests of civilians in flagrant abuse of their power, often subjecting the victims to cruel, inhuman and degrading treatment or torture while in detention. Civilians were sometimes arrested on false or absurd pretences and released only after their families collected money for this purpose. In Luberizi – 47 km north of Uvira – on 4 September, where a civilian was arrested and severely beaten with a baton on the orders of the local PNC commander. The victim was allegedly arrested for his failure to buy clothes for his so-called spouse. He was released upon the payment of a ransom. Three women were reportedly arrested on suspicion of stealing money from a judicial police officer (OPJ) in Kailo – 72 km north-east of Kindu – on 6 November 2006. In order to extract information from them, the OPJ called for a local sorcerer, who used a heated machete which he applied to the victims' bodies.

53. In rural areas, the police sometimes resorted to violence while committing acts of extortion. A woman was reportedly killed by a policeman in Musenge – 30 km south of Walikale, 120 km west of Goma – on 3 November. The perpetrator fired a bullet at a civilian as the latter resisted his attempt at extortion. The perpetrator was reportedly arrested. In another incident, a civilian was reportedly killed by a PNC agent in Katwiguru – Bwisha collectivity – 100 km north of Goma – on 2 August 2006. The victim was shot dead by the perpetrator, who allegedly tried to extort money from him. Holding out little hope for a just and fair investigation, an angry mob extracted the perpetrator from the FARDC 9<sup>th</sup> Brigade camp where he had sought refuge, and burnt him alive. Incidents when civilians resort to popular justice are not uncommon in the DRC.

### C. Human Rights Violations by the FARDC<sup>36</sup>

54. During the reporting period, the UNHRO noted a decrease in the proportion of human rights violations committed by FARDC soldiers in the DRC from 53% of all violations reported to the HRD in the period of January – June 2006 to 40% of violations reported from July to December (see Chart 4). However, during, but not limited to, military operations, FARDC Integrated and non-Integrated Brigades continued to be responsible for summary executions, torture and rape, as well as arbitrary arrests and intimidation of civilians exercising their political rights (see Chart 3). On a monthly basis, the SRSG addressed letters to the DRC Minister of Defence raising concerns about human rights violations committed by FARDC soldiers, but no action followed. Lack of, or insufficient payment, and irregular food supplies were among the



<sup>35</sup> For PNC involvement in politically-motivated cases, in sexual violence and exploitation of natural resources, see the relevant sections.

<sup>36</sup> For FARDC involvement in sexual violence and exploitation of natural resources, see the relevant sections.



causes of numerous human rights violations committed by the Army.



Mass graves of Bavi, Ituri District

55. Human rights violations frequently implicated, or were condoned by, high-ranking FARDC officers. No action has been taken to date to bring these men to justice and remove them from the army. In the worst incident registered in the period under review, at least 32 civilians were summarily executed by the Intervention Battalion of the 1<sup>st</sup> Integrated Brigade and their bodies buried in mass graves in Bavi – around 32 km south of Bunia<sup>37</sup>. The UNHRO/Bunia carried out several missions to the area and supported the investigations of the Military Prosecutor. According to eyewitness reports, the victims – mainly civilians rounded up during patrols or at check points – were summarily executed by soldiers of the Intervention Battalion of the 1<sup>st</sup> Integrated Brigade between August and November 2006. A 14-year-old girl was allegedly raped before being executed. With MONUC assistance, the Battalion's Commander, Captain François Molese, and nine other officers were arrested.

56. When fighting broke out in North Kivu, at the end of November 2006, between FARDC soldiers of the 11<sup>th</sup> and 14<sup>th</sup> Integrated Brigades and FARDC (ex-ANC) soldiers of the 81<sup>st</sup> and 83<sup>rd</sup> Brigades loyal to renegade General Laurent Nkunda, the UNHRO/Goma began to receive regular reports of human rights violations, including widespread looting, committed by both belligerent parties. Although the fighting erupted in Sake – 25 km west of Goma in Masisi territory – it spread to Rutshuru territory, north of Goma, and continued sporadically until the end of 2006, causing several civilian casualties and mass displacement of 113, 000 persons<sup>38</sup> in November and December. Throughout this period, a half of the town of Sake was looted by FARDC soldiers of the 11<sup>th</sup> and 14<sup>th</sup> Integrated Brigades. The villages of Tongo and Bunagana were extensively looted by the FARDC 9<sup>th</sup> Integrated Brigade and the 1<sup>st</sup> Reserve Brigade (non-integrated). Kimoka village near Sake was allegedly looted by soldiers of the 81<sup>st</sup> and 83<sup>rd</sup> Brigades. Due to the insecurity in the area, an in-depth investigation was impossible to carry out; however, at the



Nyakakoma village looted by the FARDC, North Kivu

time of writing this report, the UNHRO was investigating a number of cases of possible summary execution and allegations of rape.



A house burnt by two soldiers of a FARDC Integrated Brigade in Nyamilima village, North Kivu

57. A large concentration of FARDC troops in North Kivu, redeployed to the area in order to participate in counter-insurgency operations, combined with a lack of sufficient food supplies, resulted in a number of killings of civilians as FARDC soldiers tried to extort money and food from them. On 10 December 2006, a 14-year-old child was killed by two FARDC soldiers of the 116<sup>th</sup> Brigade (non-integrated) in Kirotshe village – approximately 30 km from Goma. The perpetrators came to the victim's house to ask for money, and, when the residents refused to open the door, the soldiers fired several times at the house, killing the boy on the spot. An FARDC soldier of the 14<sup>th</sup> Integrated Brigade is allegedly

<sup>37</sup> For details see Special Investigations section.

<sup>38</sup> According to OCHA estimates



responsible for killing a civilian in Rutobogo village, near Sake – 30 km north-west of Goma, on 14 December 2006. The perpetrator was attempting to break into the victim's house and loot it.

58. Military operations in North Kivu also gave rise to some allegations of ethnically-motivated incidents. The UNHRO received dozens of reports of arbitrary arrests by the Congolese security forces<sup>39</sup> of civilian members of the Tutsi community and also of Laurent Nkunda supporters belonging to other ethnic groups. The UNHRO carried out the necessary advocacy in all the cases and obtained the release of the victims in most of them. Despite claims by Laurent Nkunda's side, the UNHRO did not find any solid evidence of a systematic and planned campaign against the Tutsi community.

59. Also in North Kivu, FARDC military operations against Mayi-Mayi groups raised concerns about possible disproportionate and indiscriminate use of force. In September 2006, up to 40 Mayi-Mayi combatants were reportedly killed by FARDC soldiers around Mbilinga and Mashua villages – 55 km south-west of Beni – while the FARDC reported no casualties on their side and retrieved only about 15 weapons belonging to the Mayi-Mayi. After the incident the FARDC took away approximately 60 cows owned by local farmers. In another incident, on 2 December 2006, fourteen civilians, including women and children, and two Mayi-Mayi fighters were allegedly killed in an attack launched by the FARDC in Busamba – 75 km south-west of Beni – aimed at capturing two Mayi-Mayi combatants. Four days after the killings, the FARDC allegedly buried the corpses in two mass graves. In both cases MONUC urged the military authorities to open an investigation.

60. Demobilised soldiers continued to be subjected to human rights violations by soldiers from their former battalions, particularly in North Kivu. A demobilised soldier was allegedly killed by FARDC soldiers under the command of Major Beaudouin Ngaruye of the FARDC 813<sup>th</sup> Battalion in Nyakigano, Masisi territory – 65 km north-west of Goma – on 9 August 2006. On the same day, in Maymoya – 40 km north of Beni – a demobilised soldier was allegedly threatened with death, beaten up and had his belongings extorted by an FARDC lieutenant and a soldier of the 891<sup>st</sup> Battalion. He was threatened with a machete and beaten with a baton. Another demobilised soldier, accused of being a deserter, was threatened with death, ill-treated and had his belongings extorted by a lieutenant and a corporal of the FARDC 89<sup>th</sup> Battalion in Mulekera – 6 km north of Beni – on 10 August 2006.

61. The practice of appointing and promoting, among the ranks of the FARDC, suspected human rights violators continues in the DRC. Not only does this completely undermine the fight against impunity, but it also perpetuates the cycle of violence by preserving or enhancing the power of human rights abusers. Arrest warrants issued against a number of well-known perpetrators of human rights violations were never executed due to high-level interference. On a number of occasions, MONUC drew the attention of the FARDC authorities to the problem, but no action followed<sup>40</sup>.

62. FARDC Major Gervais Kambale was arrested in early April 2006 in Bunia for allegedly ordering the severe beating of one of his soldiers, in an affair apparently linked to illegal activities conducted by the Major in Ituri. Following interference in the matter by the FARDC hierarchy, he was released a few days later. On 18 April, the Military Prosecutor issued a new arrest warrant, but his FARDC superiors refused to deliver the Major to the judicial authorities. It is to be recalled that Major Kambale is one of the prime suspects in the December 2004 Nyabyondo massacre in North Kivu, where more than 60 cases of summary execution and several dozens cases of rape were recorded by the UNHRO. Despite the opening of a judicial investigation into this incident by the judicial authorities in North Kivu, who concluded that serious violations had been committed by the FARDC Battalion under the command of Major Kambale, he was neither interrogated by a magistrate, nor charged for the crimes. Reports received by the UNHRO suggest that Major Kambale returned to duty in Ituri in December 2006 where he reportedly resumed his functions as Commander of the 2<sup>nd</sup> Battalion of the 4<sup>th</sup> Integrated Brigade based in Bavi.

63. The Deputy Commander of the 8<sup>th</sup> Military Region (MR), Col Delphin Kahimbi, allegedly illegally arrested and detained persons in his private residence in Goma. One of the victims, arrested in Goma on 18 December 2006, was beaten with a soldier's belt and tortured with electric shocks. The UNHRO discussed the issue of illegal detention with Col Kahimbi on several occasions but no progress was reached as the Colonel claimed to have the

<sup>39</sup> This includes FARDC 8<sup>th</sup> Military Region, RG, PNC and ANR.

<sup>40</sup> A letter regarding Lieutenant Colonel Mutepeke was sent on 15 August 2006 and a letter regarding Colonel Beaudouin Nyakabaka was sent on 23 August 2006.



support of the Presidency. The fact that the Deputy Commander of the 8<sup>th</sup> MR can detain people illegally and with impunity is a reason for serious concern and needs to be addressed at the highest levels.

64. The Commander of the FARDC 109<sup>th</sup> Brigade (non-integrated), Lt. Col. Mutupeke, and soldiers under his command based in Uvira, continued to act in absolute impunity. They continued to arbitrarily arrest civilians and members of the security services and subject them to cruel, inhuman and degrading treatment. Several cases of rape committed by the soldiers of the 109<sup>th</sup> Brigade were also investigated during the reporting period. Lt. Col. Mutupeke continued to be responsible for a number of ethnically-based arbitrary arrests. The Deputy Director of the ANR in Uvira was arbitrarily arrested and tortured in order to make him confess that he had incited ethnic hatred. The victim, who belongs to the Bafuliru ethnic group, was released on 14 September, after two days in detention. Lt. Col. Mutupeke and his Deputy, Lt. Modeste Kitunda, belong to the Bembe ethnic group. Lt. Col. Mutupeke prohibited MONUC access to the holding cells of his Brigade.

65. Despite the fact that an arrest warrant for the rape of a 14-year old girl against Lt.Col. Mosala, the Commander of the 110<sup>th</sup> Brigade (non-integrated), based in Luvungi, was issued, the commanding officer and men under his command continue to benefit from a blanket of impunity. A civilian was reportedly killed by an FARDC soldier of the 112<sup>nd</sup> Battalion of the 110<sup>th</sup> Brigade, near Kamanyola – 68 km north of Uvira – on 4 December 2006. In Uvira, a woman claims to have been a victim of severe beating and looting committed by two FARDC soldiers of the 110<sup>th</sup> Brigade in the night of 1-2 November 2006. A group of four FARDC soldiers allegedly broke into her house, beat her on the head with machetes and took all her belongings, house utensils and money.

66. Throughout the electoral period, FARDC soldiers also got involved in a number of politically-motivated incidents, punishing individuals for exercising their political rights. In Equateur, the village of Mobayi was repeatedly targeted in August 2006 by a group of soldiers from the 101<sup>st</sup> Battalion of the 10<sup>th</sup> Integrated Brigade for the villagers' alleged massive vote in favour of candidates other than Joseph Kabila during the first round of presidential elections. Soldiers reportedly illegally occupied some public buildings and committed several acts of extortion at the local market.

67. Wherever the FARDC are deployed, acts of abuse of power and attempts to illegally carry out law enforcement activities were documented. The Commander of the 3<sup>rd</sup> Military Region gave orders to destroy the Bontukutu neighbourhood of Mbandaka, on the grounds that the inhabitants had refused to move from that area which was considered to be a military zone. On 14 September 2006, approximately 40 houses were set ablaze and three civilians arrested by a group of about 30 FARDC soldiers of the military police. These civilians were arrested on the motive that they opposed the destruction of their own houses. The victims also claimed that they had been subjected to cruel, inhuman and degrading treatment and that they had had their houses looted by the military. According to several victims, they possessed authorisation to build houses in the area. At least ten incidents of abuse and forced labour were registered in the Songolo area – approximately 25 km south-west of Bunia, Ituri District, in the months of September and October 2006. The perpetrators allegedly belong to the 811<sup>th</sup> Brigade based in Songolo and to the 4<sup>th</sup> Integrated Brigade based in the surrounding hills. As a result of harassment and threats, most of the civilian population of the Songolo area is currently displaced. An ANR officer allegedly died after being subjected to forced labour by three FARDC soldiers in Mutara – 60 km north-east of Beni, on 3 September 2006. The alleged perpetrators, a Lieutenant and his two bodyguards belonging to the 21<sup>st</sup> Battalion of the 2<sup>nd</sup> Integrated Brigade, seriously beat and forced two ANR agents to carry heavy loads of assorted goods. One of the victims lost consciousness and died three hours later.

68. FARDC soldiers, who are ill-equipped, largely unpaid and unfed, continued to live on the back of the local population, harassing civilians and extorting their goods. Such violations are reported to the UNHRO's field offices on a regular basis. On 24 September, in Goma, four civilians were reportedly arbitrarily arrested and severely beaten by soldiers of the 11<sup>th</sup> Integrated Brigade. Three civilians were arrested at a checkpoint and detained in a military holding cell where they were severely beaten. They were all released following the intervention of the population. FARDC soldiers of the 8<sup>th</sup> Integrated Brigade allegedly continue to harass civilians and steal food in the area near Kanyola – approximately 55 km south-west of Bukavu. According to a local source, two serious incidents involving shooting were registered in the area during the last days of 2006. In the night of 27-28 December, in Cisaza – 54 km south-west of Bukavu – a group of FARDC soldiers broke into a private house, injuring a woman residing there and taking money and livestock. On 31 December, three FARDC soldiers allegedly injured a civilian and stole his cow in Mudurhi – 56 km south-west of Bukavu.

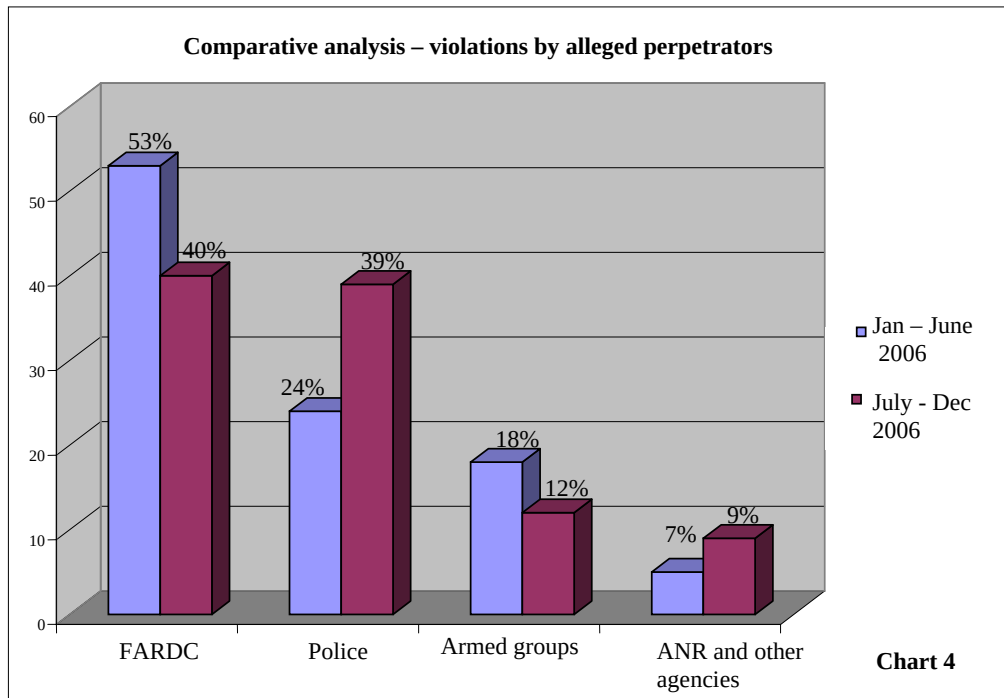


69. Illegal check points, erected by FARDC soldiers in order to extract money and food from civilians as “taxes”, continue to be commonplace throughout the country, especially in rural areas. For example, FARDC soldiers based in Kashusha – 29 km north of Bukavu – allegedly take up positions in isolated places at the entrance of the village and extort goods and money from villagers coming back to their homes in the evening. On 12 and 13 December, FARDC marines based in Kalundu Port – approximately 27 km south of Uvira – allegedly beat up three fishermen and robbed them of their catch. Passengers using the airport in Kitutu – 160 km south-west of Bukavu – are allegedly regularly subjected to extortion and illegal payments imposed by FARDC and PNC officers. On 12 December, FARDC soldiers based in Kibe and Kazuza villages (on the outskirts of Kitutu) threatened civilians and forced them to transport goods. On a positive note, the FARDC Commander based in Kitutu ordered the dismantlement of all illegal barriers erected by soldiers in the area. However, the local population is still obliged to bring food for them once a week.



The displaced in North Katanga

70. Such high levels of violence and insecurity are among the most serious impediments to the return of displaced civilians to their homes. According to estimates provided by OCHA, in Ituri, IDP numbers remain at approximately 234,717, while in Katanga they number around 33,315, in South Kivu around 172,000 and in North Kivu about 485,000.



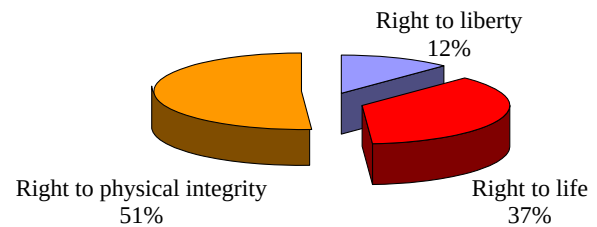
## D. Human Rights Abuses by Armed Groups

71. Abuses by armed groups continued to be committed regularly in Ituri district and three provinces: North and South Kivu and Katanga. They represented 12% of all violations monitored by the UNHRO field offices, which is lower than in the previous reporting period. Of these abuses, 37% were arbitrary killings and 51% violations of the

right to physical integrity (56% of which were directly related to sexual violence against women and girls). Twelve percent of cases involved violations of the right to liberty, mostly abductions of civilians (see Chart 5).

72. Large portions of South Kivu province are still under the control of Rwandan Hutu forces, who repeatedly committed abductions, killings, rapes and other serious human rights abuses. In one of the worst incidents, on 9 October 2006, a total of 29 civilians from Mule village, Kalehe territory – 80 km north-west of Bukavu, and Tshulwe village near Kalonge – 65 km north-west of Bukavu were abducted. According to seven out of 15 victims adducted in Mule village and interviewed by the Team, the abductees were forced to walk for 17 hours with their hands tied behind their backs until they reached the perpetrators' camp. A group of 14 civilians from Tshulwe village was detained in the camp at the same time. The victims claimed that two civilians from the second group died on 14 October and three others, from the first group, died on 15 October following cruel, inhuman and degrading treatment inflicted by their captors. Two others later died due to injuries sustained. All the abductees were released, on 26 October, after the requested ransom amount had been collected. Two of the persons released allegedly died subsequently from the injuries that they sustained while in captivity.

**Armed groups - Main type of violations**



**Chart 5**

73. In another incident, in the night of 5-6 November, one civilian was reportedly killed, another sustained gunshot wounds and seven others were abducted when a group of Rwandan Hutu combatants launched an attack on Mwirama village – 65 km south-east of Bukavu. The following night, a young girl was reportedly killed and another abducted during an attack on Murali village – 52 km south-east of Bukavu. In the same night, a civilian was wounded by a bayonet and four others were abducted when Lushebere village – 85 km north of Bukavu – was attacked and looted. On a whole, at least 109 civilians were abducted and ill-treated in this province during the reporting period. Also in South Kivu, combatants loyal to Colonel “106” (an FARDC dissident and an ex-Mayi-Mayi) remain active in the area 50-150 km north of Shabunda, west of Bukavu. According to local sources, the group abducted 33 persons in Nyambembe village – 150 km north of Shabunda – on 2 September 2006. Fifteen of them returned to the village, but the whereabouts of the others remain unknown.

74. In North Kivu, armed men, believed in most cases to be Rwandan Hutu (continued to carry out vehicle ambushes, looting and banditry especially in the areas bordering Virunga Park. In Binza *groupement*, Rutshuru territory – 101 km north of Goma – attacks were often carried out jointly with a group of Mayi-Mayi soldiers.

75. Attacks against the civilian population by armed groups continued unabated in Ituri District. FRPI, FNI, MRC and LRA<sup>41</sup> combatants were allegedly responsible for a number of killings, abductions and looting. A mass displacement of the population in Djugu territory in mid-September was caused by an attack of 200 MRC militiamen on the village of Tsumbe where five persons were abducted by the attackers. On 3 July, FRPI militiamen attacked six localities of Sidabo *groupement* – 25-30 km south of Bunia – burning most of the houses and causing the displacement of the local population. Two women were allegedly killed by machete during the attack. On 10 July, 14 IDPs returned to the fields near Tinda to get food, when they were abducted and ill-treated by the same militiamen. One woman was allegedly raped. On 27 July, FRPI militiamen abducted 13 persons and killed seven during an attack on Kakalaza village – 38 km south-west of Bunia. The abducted persons are allegedly still alive and are forcibly detained in Kanana village (on the way to Beni) and MONUC, together with the Military Prosecutor of Bunia, is trying to obtain their release. During their captivity, all the men have allegedly been subjected to forced labour and the women have been used as sex slaves. On 2 September, the killing of a civilian by a group of LRA soldiers was reported in Ovosuni, south of Aru.

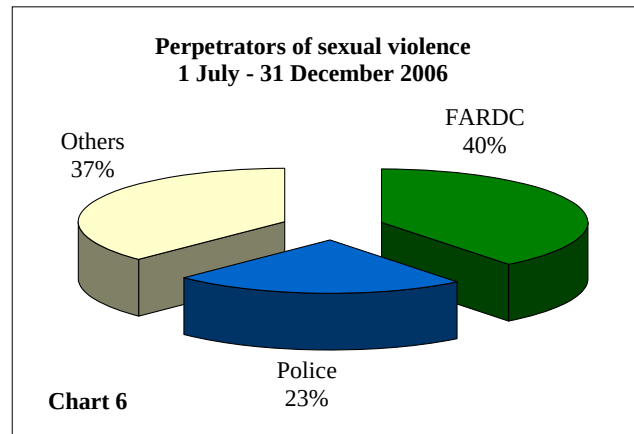
<sup>41</sup> LRA – Lord's Resistance Army (Uganda)



## E. Sexual Violence

76. Despite all initiatives undertaken to counter sexual violence and the adoption of two Laws on Sexual Violence on 20 July 2006<sup>42</sup>, rape continues to be widespread throughout the country. The proportion of sexual violence cases committed by the PNC increased significantly (from 7% to 23%) during the period July – December 2006 (see Chart 6).

77. During the reporting period, the UNHRO investigated four episodes of mass rape committed by the FARDC and the Police in Equateur and in North Kivu, in which the security forces used rape to retaliate against the targeted communities. Some of the worst reports continue to arrive from the northern province of Equateur. The UNHRO found evidence of mass rape, torture, cruel, inhuman and degrading treatment, looting and forced labour committed by a group of PNC agents together with two civilians in Bolongo-Loka – 530 km north-east of Mbandaka, on 5-6 August 2006. As many as 37 women and girls were victims of systematic rape and sexual assault. The UNHRO was able to interview a total of 87 victims, including twenty women who had been raped by twelve identified policemen, sixteen civilians (including five women and two young women) who claimed to have been subjected to cruel, inhuman and degrading treatment and torture and twenty-seven others who claimed to have been victims of looting and forced labour. As a consequence of the incident, hundreds of villagers were forced to seek refuge in the nearby villages and forest. Several sources claimed that the assailants, acting alongside other unidentified policemen, came from Botewa in order to recover pecuniary penalties from the residents of Bolongo-Loka in accordance with a decision of a local court. Nine perpetrators, including seven PNC agents and the two civilians involved in the violations, were arrested and are currently detained in a holding cell of the Military Prosecutor<sup>43</sup> in Lisala.



78. Also in Equateur, two collective rapes were allegedly committed by a PNC commander and several PNC officers in two localities of the Bongandanga territory – approximately 400 km north-east of Mbandaka. On 18 September, six women were allegedly raped while being illegally detained in the PNC holding cells in Bossomelo – 412 km north-east of Mbandaka. One month later, on 16 October, the same PNC officers allegedly raped an unknown number of women in the village of Bossomokili – 390 km north-east of Mbandaka.

79. In September, the team concluded the investigation in Kibirizi – 138 km north-west of Goma – and found further evidence that rape was used as a weapon of war during the Rutshuru crisis of January 2006 when between 40 and 90 women and girls were sexually assaulted by soldiers of the 83<sup>rd</sup> Brigade.

80. Throughout the country, young and old women, pregnant women and girls as young as six were allegedly raped at roadblocks and in private homes, on their way home from school or from the fields. During the night of 24-25 October, a 14-year-old girl was reportedly gang-raped by three policemen in the Dibindi neighbourhood of Mbuji Mayi. The incident took place after the perpetrators broke into the private residence, looted it and forced the victim to carry the stolen goods.

81. In Katanga, a seven-month pregnant woman was allegedly raped by a policeman in Mambwe – 95 km from Kongolo – 50 km west of Kalemie, on 1 October 2006. The victim miscarried as a result of the rape. A heavily pregnant woman was reportedly raped by a PNC agent, together with an accomplice, in the village of Ubeku Jupangbumba – 20 km south-west of Mahagi – on 23 October. The alleged perpetrators in both cases were arrested.

<sup>42</sup> Law 06/018 of 20 July 2006 modifying the Decree of 30 January 1940 and Law 06/019 of 20 July modifying the Decree of 6 August 1959

<sup>43</sup> *Auditeur Militaire*



82. Sometimes women are raped in police custody by the security guards of detention facilities. On 13 September 2006, a woman was allegedly gang-raped whilst in police custody in Mbuji Mayi. Four policemen allegedly handcuffed and tied up the victim, tore her clothes and gang-raped her. On 6 October, a woman, who is serving a 20-year prison term, was raped by a prison guard while in detention in Kinshasa's main prison (CPRK).

83. In Ituri, where the local population suffers hardships caused by the continuous military operations against armed groups still active in the District, the FARDC have carried out brutal acts of sexual violence in a legal vacuum without being held responsible for their actions. IDP camps, which are often located in close proximity to military camps, are inhabited mostly by women and children who easily become victims of soldiers. The IDP camp in Geti – 40 km south of Bunia (Irumu territory) – raises a particular concern, as at least three women were raped on their way home from the fields in the area in the month of November alone. A clinic in a rural area in Ituri registered 115 cases of rape committed by members of the security forces and armed groups in the month of September alone. The actual number of cases is believed to be higher.

84. Uvira, Kalemie and Mbuji Mayi are the areas where the problem of sexual violence worsened in the reporting period. Girls as young as six were allegedly raped in Kalemie by soldiers of the Naval Forces. Only two perpetrators were brought to justice and sentenced to prison terms by the Military Court of Kalemie in November 2006. FARDC soldiers of the 109<sup>th</sup> Brigade under the command of Lt.Col. Mutupeke based in Uvira were repeatedly accused of perpetrating acts of sexual violence. In Mbuji Mayi, the main perpetrators of rape, especially of young girls, were police officers.

85. Only in an insignificant number of cases were the perpetrators identified and brought to justice. Victims of rape are reluctant to report the violations due to the dysfunctional nature of the judicial system and the stigma of rape, among other reasons.

## **F. The Administration of Justice and the Fight against Impunity**

86. MONUC is very concerned that the Government does not seem to take into account the human rights records of individuals when appointing or promoting military officers to high-level positions within the FARDC. In a 2003 public report<sup>44</sup>, the UN High Commissioner for Human Rights requested that a FARDC General who was recently promoted to one of the highest positions in the FARDC, along with two other former RCD-Goma military commanders, “be immediately relieved of their command functions until conditions existed to carry out a proper investigation and trial by a legally recognised authority” for their alleged responsibilities in the serious violations of human rights and international humanitarian law committed in Kisangani in May 2002. To date, no inquiry has been held into these allegations. This General was previously Military Region Commander in Goma, and used his position to frequently interfere with the administration of justice in North Kivu.

87. The Commander of the 6<sup>th</sup> Military Region in Katanga, during the period covered by this report, was also accused of serious human rights violations. The atrocities, allegedly committed by MLC troops in Province Orientale between October 2002 and January 2003 during an operation called “Effacer le tableau” (“Erasing the Board”), were reported by the UN High Commissioner for Human Rights to the Security Council<sup>45</sup>. In a 2004 report<sup>46</sup>, the London-based NGO “Minority Rights Group International” alleged that General Ndimba was the Commander of MLC troops in Province Orientale at a time when, together with RCD/N troops, the MLC committed widespread and gross human rights violations, including killings, acts of cannibalism, torture and rape.

88. In the context of negotiations to disarm the remaining militia groups in Ituri and in an effort to bring peace and stability to the region, the three militia leaders (Peter Karim of the FNI, Mathieu Ngudjolo of the MRC, and Cobra Matata of the FRPI) were officially commissioned as Colonels in the FARDC. Karim is the prime suspect in the murder of two Nepalese peacekeepers in June 2005 and the kidnapping of seven others in February 2006. Ngudjolo, allegedly responsible for the massacre of more than 200 people in Bogoro, in February 2003, escaped from the Kinshasa central prison in March 2005. Cobra Matata-led militias allegedly participated in the most deadly attack

<sup>44</sup> (S/2003/216)

<sup>45</sup> Report of the UN High Commissioner for Human Rights on DR Congo (S/2003/216) as of 13 February 2003

<sup>46</sup> “Erasing the Board”, Minority Rights Group International, 2004



known in Ituri, in Nyankunde in September 2002, in which more than 1,000 people were reportedly killed.

89. While these and many other army officers and militia leaders suspected of human rights violations are to be presumed innocent until a court of law has established their guilt, the existence of serious allegations against them should be sufficient to prevent them from occupying high positions in the national army until such allegations are fully investigated in an independent and impartial way.

90. The agreement signed by the government and the three Ituri rebel groups (see above), on 29 November, included an amnesty provision for the militia groups. The exact scope of such an amnesty is not yet known, as a law needs to be passed by Parliament to implement this clause in the agreement. The Government clarified that it planned to extend the effects of the Amnesty Law passed on 30 November 2005, which clearly excludes serious human rights violations. However, on 27 November 2006, the Minister of Defence issued a circular to the Military Prosecutor General requesting him to suspend all prosecutions against members of these militia groups. This circular has already led to the liberation of one of the primary suspects in the murder of two UN military observers in Mongbwalu, Ituri District, in May 2003, a crime which clearly does not fall under the current Amnesty Law and which was qualified as a crime against humanity during the ongoing trial in Bunia. MONUC urges the Government to clarify the circular and refrain from granting amnesties for serious human rights violations, which would be contrary to the DRC's international obligations.

91. Interference in the justice system by military and political actors continued to occur openly and in total impunity. Following his predecessor, General Bob Kilubi, the new commanding officer of the FARDC in Ituri, General Nsiona, issued a directive<sup>47</sup> to the Military Prosecutor of Bunia forbidding him from issuing arrest warrants without his prior approval. These orders are manifestly illegal and seriously hinder the administration of justice. In Beni, a civilian accused of raping a minor and legally detained in the local prison was forcibly extracted by the Deputy-Mayor of Beni, the local FARDC Commander and the Head of the local branch of the ANR, on 14 October. No action was taken to sanction the perpetrators of this act.

92. Interference is blatant in some high-profile cases of massive human rights violations. Former Mayi-Mayi militia leader Kyungu Mutanga, alias "Gédéon", who surrendered to MONUC in May 2006 and was handed over to the judicial authorities, continues to be held at the FARDC in Lubumbashi, together with his pregnant wife, bodyguards and four children formerly associated to his armed group. Ample evidence has been gathered against Gédéon by the Military Prosecutor's Office, particularly during their joint mission with MONUC to Mitwaba in September, where at least 37 victims testified to the authorities about the violations they suffered. On several occasions, MONUC requested that the legal situation of Gédéon be clarified and that at least the four minors held with him be reunited with their families. The authorities ignored these requests and hinted that nobody outside the Presidency could take any decision with respect to Gédéon's case.

93. Interference is also preventing the case of another Mayi-Mayi leader, known as "Tshindja-Tshindja"<sup>48</sup> from advancing. The suspect has been in custody in Kinshasa since May 2005, but his file was kept at the DEMIAP<sup>49</sup> for over a year. In December, after almost 20 months in detention, the Military Prosecutor General presented the suspect to a military court to request the prolongation of his detention. The Prosecutor explained that it had been impossible to conduct an investigation in the field, despite a formal offer, reiterated several times by MONUC, to organise a joint investigation mission to the areas where the Mayi-Mayi of Tshindja-Tshindja allegedly committed crimes. The Senior Military Prosecutor in Katanga (the authority with jurisdiction to carry out the investigation) stated in December that he had no information about crimes committed by the suspect. This is in spite of the fact that MONUC officially transmitted a full case file on the suspect to the Military Prosecutor General in April 2006. The failure to prosecute this case is of great concern to MONUC.

94. North Kivu is probably the province where FARDC of both integrated and non-integrated brigades enjoy the highest degree of impunity. Not a single trial for serious human rights violations has been conducted in the province to date, despite countless on-going violations and the abundance of evidence available to the prosecuting authorities in some cases. The new Deputy Military Region Commander, Col Kahimbi, apparently transformed a room in his

<sup>47</sup> On 24 July 2006

<sup>48</sup> Which means a "throat-cutter" in Swahili

<sup>49</sup> Military Intelligence

residence into a torture chamber for perceived political opponents. When confronted with these allegations by MONUC, he replied that he had been sent by President Kabila to North Kivu with a special mission, implying that he is untouchable. Despite clear evidence of criminal responsibility, military magistrates have shown little, if any, willingness to prosecute him.

95. The case of the eight Ituri warlords arrested in March 2005 (Goda Sukpa, Floribert Ndjabu, Germain Katanga and others) has proceeded at a very slow pace. After 20 months in preventive detention, the suspects were brought before a military court which was asked to prolong their detention. Despite numerous flaws, the judges granted 60 additional days to the Military Prosecutor General to complete the investigation and bring the case to trial. It was only after this hearing that a rogatory letter was prepared by the Military Prosecutor General's Office and sent to the Prosecutor in Ituri. Rogatory letters<sup>50</sup> are requests of cooperation from one judicial authority to another, to gather missing information in order to complete an investigation. In this case, it is not clear why it took 20 months before the Prosecutor in Ituri was asked to cooperate in the investigation. MONUC deplores this delay, and is working actively with the Prosecutor in Bunia to gather all the evidence required by the rogatory letter.

96. The administration of justice in trials implicating opponents of the government, however, is swift. After the speedy trial of Pasteur Kutino<sup>51</sup>, which is currently being appealed, the UNHRO is monitoring the trial of Marie-Therese Nlandu and others. Ms Nlandu was arrested on 21 November, for illegal possession of weapons and organization of an uprising. Ms Nlandu soon presented some health complications, which were visible at the beginning of the trial on 22 December. However, the Court refused to order proper medical examinations until the hearing of 27 December, when Nlandu's health was seriously and rapidly deteriorating. She was hospitalised in a military hospital, where she was diagnosed with bronco-pneumopathy and high arterial pressure.

97. The UNHRO is seriously concerned by the continued trial of civilians by military courts, in violation of all international principles, which require that civilians be tried by civilian courts. In Ms Nlandu's case, the defence raised this objection, claiming that such a practice was unconstitutional. Despite a clear constitutional obligation to suspend the trial and refer the matter to the Supreme Court (art. 162), the judges rejected this objection. Trial monitors had to conclude that the Court seemed to be determined to bring the case to a swift conclusion, despite the bad health of one of the accused and legitimate doubts about the competence of the Court.

98. Positive developments include the recent promulgation of the Law on the Status of Magistrates. This is a critical step forward in ensuring the independence of judges and prosecutors. However, a strong political will at the highest level is necessary to implement this law. Also on a positive note, one important trial for massive human rights violations has been held, and three others have started (see para. 99-102).

99. Chief Kahwa, a former UPC<sup>52</sup> militia leader, was sentenced, on 2 August, to 20 years' imprisonment by a military court in Ituri in an impressively well-argued and well-drafted judgment. He was found responsible for, *inter alia*, war crimes and crimes against humanity committed by his militia group during the attack on Zombe village on 15-16 October 2002. Kahwa is the first militia leader to have been convicted pursuant to the provisions of the ICC Statute. His case is being appealed.

100. The trial for the Kilwa massacre of October 2004 started before the Military Court of Katanga in Lubumbashi, on 12 December. Colonel Ademars, the former Commander of the 62<sup>nd</sup> Brigade, and eight other FARDC officers and sub-officers stand accused of war crimes, arbitrary arrest and detention, torture and murder. Three foreign Anvil Mining staff members were also indicted for aiding and abetting the war crimes



Colonel Ademars – one of the accused in the Kilwa trial

<sup>50</sup> *Commissions rogatoires*

<sup>51</sup> See para. 20 of the MONUC HRD's report, January – June 2006

<sup>52</sup> *Union des patriotes congolais*, or UPC (Union of Congolese Patriots), an armed group responsible for war crimes and crimes against humanity in the Ituri District of the DRC.



committed by the Congolese army. The UNHRO, which conducted the initial investigation of the case and lent considerable support to the judiciary, will continue to monitor the case and assist the authorities in the conduct of this landmark trial. However, MONUC learned that the Military Prosecutor has been pressured to drop the charges brought against the Anvil Mining staff. MONUC deplores any interference and will take every opportunity to remind the relevant authorities of their responsibility to respect the independence of the judiciary.

101. The trial for the murder of two UN military observers in May 2003 has opened before a military court in Bunia, on 28 December, despite the fact that not all suspects are appearing before the judges (see para. 90). The UNHRO is closely monitoring the trial.

102. The trial of the Bavi massacre (see para. 55 and 128) opened in Bunia on 27 December. Although the trial is in its early stages, the UNHRO is concerned that the hierarchical superiors of the accused, who were apparently informed of the crimes soon after they were committed, refrained from informing the judicial authorities, and did not take any measures against the suspects. These allegations must also be fully investigated. If verified, they trigger the responsibility of these superior officers in the crimes, according to the doctrine of command responsibility (Art. 28 of the ICC Statute).

103. The UNHRO assisted a Military Prosecutor's team in the investigation of the summary execution of 15 Mayi-Mayi suspects who had been captured and detained at Mitwaba prison by the 63<sup>rd</sup> Brigade in March 2005. The team carried out interviews with victims and witnesses in order to verify reports that Major Ekembe, Commander of the 63<sup>rd</sup> Brigade, who was arrested on 8 May 2006, deliberately made the alleged Mayi-Mayi combatants starve to death. Despite the evidence suggesting that Major Ekembe acted on the orders of Colonel Mario Tshisweka, the latter is neither arrested nor investigated.

104. Finally, the UNHRO notes that the use of mobile courts has been very effective in increasing access to justice for residents of rural areas. While this effort has been mainly driven by NGOs, it is time for the Government to integrate this initiative into its planning and budget. For example, several soldiers were found guilty of murder, rape, extortion with violence, armed robbery, grievous bodily harm and death threats against civilians by mobile military courts in Kpandroma, Mahagi and Aru Ituri District, in August 2006. In Katanga, five mobile courts heard cases of murder and rape in August 2006.

105. With respect to sexual violence cases, mobile courts can serve as an effective tool to gain recognition from rural populations that such offences are atrocities whose victims need to receive support from their communities, instead of being discriminated against. Great care should be taken, however, to ensure the protection of their dignity, especially in cases involving minors, with proceedings to be held preferably *in camera*.

106. A lot remains to be done by Congolese criminal justice institutions to ensure the prompt and fair investigation, prosecution, and judgement of serious crimes. The task of addressing all the shortcomings mentioned above and establishing a fully functional and effective judicial system, including an independent judiciary, requires a long-term and multifaceted effort, involving reconstructing courthouses, establishing a new system of appointment and discipline for judges and prosecutors, improving court administration, reforming legal education institutions, carrying out training programs and increasing public awareness.

107. The UNHRO believes that serious crimes have a strong destabilising effect, which may undermine these efforts, and that such crimes will need to be tackled before these initiatives produce results. One of the most promising initiatives to be implemented immediately could be the creation of specialised mixed jurisdictions, which was supported by the Ministry of Justice, a number of judicial authorities and civil society after a conference held in Kinshasa in June 2005.

## **G. Prisons and other Detention Centres**

108. Efforts to bring the perpetrators of human rights violations to justice risked being invalidated by the dilapidated state of national penitentiary facilities, which often lead to prison breakouts. At least 429 detainees, including some convicted of serious human rights violations, escaped from the prisons and detention centres throughout the DRC during the last six months of 2006. Moreover, both serving prisoners and pre-trial detainees are





subjected to appalling conditions of detention – many prisons lack electricity, food, drinking water and basic medical care. The prisoners are largely unfed, which, in its turn, leads to a high number of deaths in custody. Prisons continued to be overcrowded with a large number of prisoners in situations of prolonged preventive detention.

109. During the night of 21-22 October 2006, 26 detainees, including the soldiers convicted in the Songo Mboyo mass rape trial and in the prosecution for a July 2005 mutiny<sup>53</sup>, escaped from a military prison in Mbandaka. Four of the escapees were captured on 26 October, and the others on 11 November. Two soldiers sentenced to life imprisonment in the Songo Mboyo trial and four other detainees once again escaped from a holding cell of the Military Prosecutor's Office in Mbandaka, in the night of 3-4 December 2006. Two of the six soldiers sentenced in Songo Mboyo trial remain at large.

110. At least five detainees were reportedly killed and several others injured after police fired indiscriminately during a mutiny in Kinshasa's main prison (CPRK), on 26 October. The incident came in the wake of an escape by fourteen prisoners from CPRK, on 23 October, which led to the decision by the Commander of the PIR<sup>54</sup>, prohibiting all visits to detainees. This effectively cut off the prisoners' food supply, causing unrest among the CPRK's 3,000 detainees. The escapees had been convicted and sentenced to varying prison terms for their alleged involvement in the assassination of former President Laurent Désiré Kabila. Two escapees were allegedly captured in Brazzaville, Republic of Congo, and brought back to the DRC. In Beni, a detainee was killed by guards of the central prison as he was attempting an escape, in the evening of 3 November 2006. The victim, a former Mayi-Mayi combatant, had been arrested during FARDC operations and was in preventive detention in the prison. He was hit by at least six bullets fired by FARDC soldiers of the 2<sup>nd</sup> Integrated Brigade who were guarding the prison. After the incident the soldiers continued to fire shots in order to discourage other detainees from trying to escape.

111. The above escapes were possible due to the dilapidated state of the concerned facilities and the negligence, or even, in some cases, the assistance, of the guards and prison authorities. On 29 October 2006, in Goma, one detainee was killed while trying to seize a firearm from a guard and five others managed to escape from the holding cells of the Military Prosecutor. The Director of the central prison in Bukavu was sentenced to 18 months' imprisonment by the Military Tribunal in the trial of the escapes which occurred on 4 June 2004 and 15 July 2006. Seven detainees escaped from the holding cells of the Military Prosecutor's Office in Kalemie on 25 December. This was made possible because the guard of the holding cells was under the influence of alcohol. In Kindu, 84 out of 90 detainees of the central prison managed to escape on 24 December 2006. Ten escapees were later captured by the police. Five prison guards were arrested for their alleged complicity with the prisoners.

112. Malnutrition and lack of adequate medical care in detention facilities remain very serious problems. In one week of December alone, three detainees died in the Bunia central prison allegedly due to lack of food and insufficient medical care. At least four inmates died in Beni prison due to malnutrition in October – November 2006.

## H. Exploitation of Natural Resources and Human Rights Violations

113. As recalled by the 2002 and 2003 reports of the UN Panel of Experts on the Illegal Exploitation of Natural Resources and other Forms of Wealth of the Democratic Republic of Congo, as well as by Resolution 1565 (2004), there is an intrinsic link between illegal exploitation of natural resources, fuelling of armed conflicts and human rights abuses. Areas of natural resource exploitation, such as the diamond mining areas of the Kasais, the cassiterite-rich sites of North Kivu, or the gold mines of Katanga, see large concentrations of armed men living on the back of the population. In these mineral rich areas, the UNHRO human rights officers routinely receive allegations of serious human rights violations committed mostly by the military and police. Cases investigated by the UNHRO include situations in which army or police officers were involved in the illegal exploitation of a mining site, illegally

<sup>53</sup> From 5 to 7 July 2005, a large group of soldiers looted the arms depot of Camp Bokala and went on a rampage in various neighbourhoods of Mbandaka to avenge the alleged killing of a comrade by local residents. Five cases of summary executions, 26 cases of injuries, including twelve by gunshot, and 22 cases of rape were committed by the soldiers during the events.

<sup>54</sup> PIR – Rapid Intervention Police (*Police d'Intervention Rapide*)



detained mining workers to misappropriate their goods, forced civilians to work in mines, subjected them to torture or other forms of cruel, inhuman and degrading treatment or sided with individuals or companies exploiting a mining site against competitors. In other cases, the police or the military resorted to excessive use of force or committed other human rights violations when forcibly evicting artisanal miners from exploitation sites.

114. Human Rights Officers in Ituri documented cases of gold diggers held in underground pits or beaten unconscious by FARDC soldiers in the Mongbwalu area.

115. In North-Katanga, the military prosecutor opened investigations and ordered arrests of FARDC and police officers involved in the illegal exploitation of the gold mines in Lunga – 140 km north of Nyunzu – and Ntoya – 100 km from Moba – and for human rights violations. Captain Mamadou Ndala, commander of a unit of some 40 men calling themselves the “*unité militaire du sous secteur*”<sup>55</sup>, is accused of forced labour and extortion of goods from gold diggers and traders in Lunga. One of his soldiers is awaiting judgment for having fired upon and injured a man who stood in his way while he was attempting to illegally arrest a gold digger. Four policemen are also under arrest for injuring a child when they opened fire on a local chief who claimed the control of a section of a mine in Lunga. In Ntoya, Captain Lubangya was arrested in October 2006 for forcing civilians to mine and for severely beating four gold diggers who paused to rest. He was released two weeks later after the intervention of high-ranking Naval Force officers to which he belongs.

116. In North Kivu, poaching and illegal fishing in Vitshumbi, a fishing village on the shores of Lake Edward (Rutshuru territory), and in the nearby Virunga park by FARDC Naval Forces, the 2<sup>nd</sup> Integrated Brigade and Mayi-Mayi combatants, led to a number of human rights violations. In the night of 10 July, Mayi-Mayi combatants encircled Vitshumbi to beat and rob illegal fishermen suspected of working under FARDC protection. In August, two students and a delegate of the Vitshumbi fishermen were arbitrarily arrested, by police and the ANR respectively, for speaking out about poaching and illegal fishing. They were released after MONUC intervention. In Bisie, Walikale territory, tensions rose at the end of October when one mining company agent was shot at and injured by armed men whose affiliation was not established. The FARDC 85<sup>th</sup> Brigade (non-integrated) and the 8<sup>th</sup> Military Region command are accused of siding with the two mining companies claiming the right to exploit the Bisie mine, the richest cassiterite mine in North Kivu.

117. In South Kivu, notably on the Lulimba-Misisi axis – approximately 200 km south-west of Uvira – most of the human rights violations reported to the UNHRO are linked to the mining and trading of gold. During its visit to the area from 12 to 16 October, the UNHRO found that soldiers of the 115<sup>th</sup> Brigade (non-integrated) had forced civilians to work in the mines. There have also been allegations that members of this Brigade abused their power and interfered in the exploitation of gold sites by siding with pits owners against their associates or when disputes with gold diggers arose.

118. The military appear to be deeply involved in the control of natural resources in the area approximately 60 km south-west of Bukavu. Three civilians were allegedly injured, many others beaten and six arbitrarily arrested by a group of about 50 FARDC soldiers of the 8<sup>th</sup> Integrated Brigade of the 10<sup>th</sup> Military Region lead by Lieutenant Kandolo in Kalanga-Mukungwe village – 62 km south-west of Bukavu – on 21 December 2006. The perpetrators had allegedly arrived at the village to take over a privately-owned gold mine. After the local population, who makes a living from the mine, protested against the decision, the soldiers proceeded to beat and arrest some of them. As a result of the incident, at least 350 persons fled the village and moved towards Burhunyi – south-west of Bukavu.

119. In the night of 29 September, in Mero – 172 km west of Bukavu – a gold digger was stabbed, beaten and robbed by FARDC soldiers of the 122<sup>nd</sup> Brigade for allegedly digging beyond his exploitation area.

120. In Bena Ngoji, Kasai Occidental, soldiers belonging to the Military Prosecutor’s Offices<sup>56</sup> of Kananga and Tshikapa got involved in a local dispute between customary chiefs over a diamond site. In August, following a clash between the two parties which left one civilian and one soldier dead, soldiers from the Tshikapa Military Prosecutor’s Office arrested, allegedly detained and ill-treated one of the customary chiefs before extensively looting his village. In Kamako – 450 km south of Kananga – DGM officers arbitrarily detained civilians walking

<sup>55</sup> Sub-sector Military Unit

<sup>56</sup> *Auditorat Militaire*



out of diamond mining sites and subjected them to intimate and intrusive searches irrespective of their gender. On 24 November, the UNHRO raised the issue with DGM authorities who pledged to sanction those responsible.

121. In some cases the police resorted to the excessive use of force and committed other human rights violations when evicting artisanal miners from exploitation sites or forcing them to relocate. On 26 December 2006, FARDC 6<sup>th</sup> Military Region and PNC forces forcibly evicted 4,800 artisanal miners residing near Lupoto mine – 61 km south-west from Lubumbashi – following a decision of the concession owner, South African company Kalumines (Kasonta-Lupoto Mines). The UNHRO was able to establish that at least two persons died after injuries sustained during severe beating by the security forces and that the houses of some of the miners were burnt. In Lubumbashi, following the decision of the mining company *CHEMAF* to mechanise the exploitation process, the local authorities decided to relocate more than 1,500 artisanal miners from Kalukuluku mining site – 8 km from Lubumbashi – to a new site 75 km away. The miners opposed their eviction and the disagreement developed into a confrontation between the miners and the police, including the *GMI*<sup>57</sup>, during which at least two miners and three other civilians were killed and seven others injured in this incident which took place on 28 December 2006. Although the miners' protest was violent and caused injuries to policemen, the PNC was guilty of excessive use of force and physical assault. A police source indicated to the UNHRO that at least three of those killed were shot at point blank range.

## I. Attacks on Journalists and Human Rights Defenders

122. Threats and attacks against media and human rights defenders peaked during and after the two electoral campaigns in a highly polarised and tense political situation. The UNHRO investigated and confirmed more than twenty cases, including at least one incident of summary execution. On the other hand, a number of journalists and human rights defenders were guilty of presenting information in a biased or slanted way, or without first exercising due diligence in the verification of facts. Some even engaged in the circulation or propagation of hate speech, which – in the case of media professionals – was denounced by the *Haute Autorité des Médias* and inevitably tainted the perceived objectivity of the persons and organisations concerned.

123. During the night of 7-8 July 2006, a journalist who had published articles critical of the transition was killed in Kinshasa by armed men. The judicial investigation is ongoing to establish whether the killing was of political nature. In other instances, journalists were victims of threats, beatings and arbitrary arrests notably in Kinshasa, Katanga, Kasai Occidental, North Kivu and Equateur provinces. Two international journalists and a *Reuters* cameraman were denied entry to the DRC by the Congolese police and the RG in Goma, on 28 June 2006<sup>58</sup>. Twelve journalists of the TV stations *CCTV* and *Canal Kin* claimed to be victims of death threats and intimidation following the events of 20-22 August 2006. The journalists feared for their lives and went into temporary hiding. Broadcasting of these two stations as well as for Radio Liberté – all owned by presidential contender Jean Pierre Bemba – was temporarily and arbitrarily suspended and later disrupted again on 18 September by a fire whose cause was never ascertained. A fourth TV station in Lubumbashi owned by Bemba was substantially destroyed on 12 October by unidentified armed men. A journalist of a private television station, was arrested on 25 November by the PNC Special Services in Kinshasa, during a live TV broadcast on the insecurity in the city of Kinshasa caused by the lack of electricity supply in several areas. The police had allegedly advised the victim to censor the interventions of the callers to his live programme before they visited the station. A cameraman was also arrested that day. The cameraman was released the following day, while the journalist remained in illegal detention in *Kin-Maziere* until 29 November.

124. Similarly, there was a case of summary execution, as well as cases of arbitrary arrest, intimidation and threats against human rights defenders, notably in Kinshasa, Katanga, Maniema, South Kivu and North Kivu. On 26 July, a child protection worker for an NGO, apparently accused of encouraging soldiers to enter *brassage*, was beaten to death in Ngungu (North Kivu) by soldiers of the 813<sup>th</sup> Battalion of the 81<sup>st</sup> Brigade. Two days earlier, the same person had been arrested, beaten and released by other soldiers of the 81<sup>st</sup> Brigade. While the highest MONUC instances raised this incident with the authorities, there has been no action to open an investigation. On 6 August, two trade unionists were arbitrarily arrested by the ANR in Lubumbashi and released on condition that they sign a

<sup>57</sup> Groupe Mobile d'Intervention de la PNC

<sup>58</sup> They were denied entry into DRC, (despite having the required documentation) by RG soldiers who stated that their camera "presented a risk to the President's security".



written commitment to urge workers to put an end to an ongoing strike. On 14 August, in Kindu, the RG threatened and briefly detained a human rights activist after he intervened to prevent the extortion of a woman at the beach of the commune of Alunguli. A human rights activist claimed to have received death threats from a PNC agent on 19 August and 24 August 2006 in Botibolo – 67 km south of Uvira – after he interceded on behalf of a civilian who was being arbitrarily arrested by a policeman. On 7 November 2006, in Goma, the head of Katoyi neighbourhood was seriously beaten by two FARDC Military Police officers from the 4<sup>th</sup> Company of the 11<sup>th</sup> Integrated Brigade. The victim was allegedly punished for having tried to organise a demonstration in front of the 8<sup>th</sup> Military Region Headquarters to protest against the systematic harassment of the civilian population by FARDC military police officers in Goma. On 22 November, a human rights defender was arbitrarily arrested by an intelligence officer from the FARDC 120<sup>th</sup> Brigade in Lulingu – 150 km west of Bukavu. The victim was illegally detained in FARDC holding cells for three days, threatened with death and accused of spreading malevolent messages about the soldiers of the Brigade in question. The arrest is believed to be closely linked to the victim's professional activities as he is working on the problem of sexual violence committed by FARDC soldiers belonging to the 120<sup>th</sup> Brigade.

## VI. Other Activities of the Human Rights Office

### A. Protection of Victims, Witnesses and Human Rights Defenders

125. The Victims, Witnesses and Human Rights Defenders Protection Unit continued to receive a steady flow of cases in the latter half of 2006. The Unit, in conjunction with regional UNHRO field offices and at times with MONUC military, assisted nearly forty people during the reporting period, often by directly confronting the source of the threat, or the perpetrators' hierarchical superiors where this proved necessary. Most of the cases were of a political nature or involved witnesses or victims testifying in trials of serious human rights violations. In a few cases, given the nature and the seriousness of the threat, the Unit took the step of facilitating the transport of individuals to safe locations, either inside or outside the province in question. As in the past, this measure was taken only as a last resort, and the Unit has continued to insist on the exhaustion of local remedies before undertaking to relocate individuals.

126. Police, military, judicial and other State authorities, who have the primary responsibility for the safety and protection of individuals under threat, were actively encouraged to fulfil their responsibilities in this respect. In many cases, however, these authorities were unable or unwilling to guarantee individuals' safety. Three main factors must be considered with respect to this failing by State institutions. Firstly, the PNC crucially lacks capacity to effectively undertake witness protection activities. Secondly, political interference in high-profile cases has continued to be a stumbling block for local authorities who could otherwise have been the first port of call for individuals under threat. Lastly, certain components of the State security apparatus, including the RG and the ANR, remain almost entirely unaccountable for their actions and are often themselves the source of the threat.

127. Political tensions, exacerbated by the shootouts in August between the RG and the DPP in downtown Kinshasa, gave rise to a number of cases necessitating the Unit's intervention. The Unit dealt with eight cases of threats and intimidations emanating from the RG and one case of a person under threat from the DPP. Scare tactics were directed at a wide variety of victims. Other cases dealt with by the Unit, both in Kinshasa and in the provinces, implicated members of the PNC, the FARDC, and the ANR.

128. The Unit has also supported major investigations and prosecutions by working to ensure the protection of witnesses and victims. With the discovery of mass graves in Bavi, two key prosecution witnesses were placed under MONUC protection after they provided Military Justice and MONUC investigators with evidence implicating the 1<sup>st</sup> Integrated Brigade of the FARDC in the killings. The Unit is also closely following the situation of victims and witnesses connected to the Kilwa massacre hearings in Katanga and to a number of judicial investigations and trials in Ituri. The Unit also monitored the situation of witnesses associated with the Songo Mboyo trial (Equateur), following the escapes of the convicted rapists in October and December, and the subsequent recapture of four out of the six convicted.

129. The Unit advised and assisted a number of journalists and human rights defenders, who continued to carry out their professional activities in spite of threats from State security services. Most of these cases were resolved or are

being managed by direct intervention and dialogue between human rights officers and the relevant authorities. On 29 December, MONUC signed for an EU funded project to be implemented in 2007 aiming at strengthening civil society capacity to protect victims and witnesses.

## B. Promotion of Human Rights

130. During the reporting period, the UNHRO continued its work on capacity building and promotion of human rights with judicial authorities, civil society, political actors, journalists, national police officers and the military. MONUC, with the active participation of the UNHRO, trained at least 1,600 FARDC officers, civilian judges, prosecutors, national police officers and local election officials on internationally accepted human rights standards. More than 1,300 representatives of human rights NGOs and other civil society actors received training in basic investigations techniques, data collection for legal prosecution, victim and witness protection and reporting.

131. In Kinshasa and in the provinces, a number of round table discussions and forums on public liberties were organised for civil society actors, political parties and journalists. UNHRO field offices organised and participated in trainings, presentations and seminars on human rights covering a large number of issues, including monitoring of demonstrations, resort to force and usage of firearms during demonstrations and sexual violence. In July, more than 38 human rights NGOs participated in round table discussions on human rights and elections, rights and obligations of citizens and the practice of using children in political demonstrations. During the same month, a forum on the inclusion of a human rights component in the activities of political parties was conducted in Kinshasa. During the forum, 54 representatives of 16 political parties took active part in discussions on nine important laws that had to be adopted or promulgated.



Training of judicial authorities in Likasi, Katanga, July 2006

132. Within the framework of the “Minimal Retraining Programme” elaborated by UNPOL to increase the capacities of the Congolese Police and other institutions, the UNHRO participated in training 300 Judicial Police Officers (OPJs) and made presentations on procedures of arrest and detention and the negative practice of torture methods used during interrogations. In July and August, more than 350 OPJs benefited from courses on criminal investigation, on the protection of human rights, and on resort to force and the excessive use of firearms during house search and arrests. In October, the UNHRO participated in training 62 police officers from the Mobile Intervention Group (GMI) who are responsible for crowd control during demonstrations.

133. A seminar on techniques of monitoring and reporting of human rights violations was organised by the UNHRO for human rights NGOs, in September 2006. About 60 civil society activists, gathered in Kinshasa, benefited from the programme. The training programme was complemented by discussions on international human rights instruments and the new Constitution of the DRC.

134. Before the second round of presidential elections, in September 2006, a forum on the social responsibility of the media was organised in Kinshasa by the UNHRO and the HAM. About 60 directors of TV and radio stations, editors of the printed media and journalists participated in working groups and discussions on the objectivity and impartiality of the media, and the pluralism in analysis and dissemination of information by the media.

135. The UNHRO participated in the elaboration of a three-month pilot project for the training of FARDC soldiers, prepared by the MONUC military component and other substantive sections. The training was aimed at senior FARDC officers as well as FARDC soldiers in *Centres de Brassage* and Integrated Brigades. It includes presentations on the protection of civilians, international human rights and humanitarian law, the rule of law, the rights of the child and gender issues, sexual violence and dispute resolution techniques. The project started in North and South Kivu, on 11 December.





136. After two new laws on sexual violence were adopted in July 2006, a number of seminars and awareness-raising sessions were organised by the UNHRO throughout the country. A number of members of human rights NGOs and military and civilian judicial police officers benefited from such sessions in Kindu, Mbudji Mayi, Uvira, Bukavu and Matadi. In August 2006, the UNHRO offices in Matadi, Bukavu and Kindu held sessions on the protection of women and girls against sexual violence. At the same time, in Mbandaka, Kindu and Bukavu, the UNHRO, in collaboration with UNIFEM<sup>59</sup>, organised seminars for PNC and FARDC officers on judicial assistance to the victims of sexual violence and the fight against sexual violence and HIV/AIDS. The UNHRO encourages the participation of Congolese theatre groups in awareness-raising campaigns. In Bukavu, the theatre group "As des As" performed for 300 persons, including FARDC soldiers, transmitting the message to promote the fight against sexual violence. In September 2006, in the Brassage and Reintegration Centre (CBR) in Nyaleke, Beni Territory in North Kivu, 60 FARDC officers benefited from training on the fight against sexual violence organised by the UNHRO.

137. All field offices participated in a campaign to promote awareness of the rights of arrested persons and carried out various activities on the issue for the benefit of OPJs and prosecutors. The UNHRO/Lubumbashi, for example, made a presentation on the techniques of monitoring and reporting of human rights violations, visits of prisons and interviews with detainees, as well as on national and international human rights instruments.

138. On 10 December, the world celebrates the anniversary of the Universal Declaration of Human Rights. In this framework, the UNHRO organised "16 days of activities" throughout the DRC. This year two main subjects of the activities were "The fight against poverty: obligation, not charity" and sexual violence. A number of conferences, demonstrations, and theatrical, musical and sports performances were organised by the UNHRO in Beni, Kisangani, Bukavu and Uvira.

139. A seminar for the benefit of 50 primary and secondary school teachers was conducted in Kinshasa on 19-21 December in collaboration with UNESCO<sup>60</sup> and with the financial aid of the OHCHR. The discussions were focused on introducing human rights into the civic education curricula.

140. The UNHRO participated in a seminar organised by the ONDH on the importance of establishing a National Human Rights Commission in the DRC. On 19-21 December, the participants discussed and agreed on recommendations for a project for a law on the establishment, organisational structure and functions of the new institution.

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<sup>59</sup> UNIFEM – United Nations Development Fund for Women

<sup>60</sup> UNESCO – United Nations Educational, Scientific and Cultural Organisation



## VII. Conclusions

141. The successful and relatively peaceful conclusion of the electoral process in the DRC was a key step for stability in this vast and war-torn country. However, without respect for human rights there will be no lasting peace. As the DRC enters an unprecedented and crucial historical period, urgent measures need to be taken by the new Government and Parliament to curb serious human rights violations and address their root causes. These include the establishment of a credible National Human Rights Commission and the conduct of an independent and impartial (judicial or non-judicial/vetting) investigation of the FARDC high-ranking officers, suspected of committing serious violations of human rights and international humanitarian law. The vetting is essential to make the reform of the FARDC sustainable.

142. In his inaugural speech of 6 December, President Joseph Kabila made a strong commitment to the fight against impunity and to the ‘beginning of a new era with respect to human rights becoming one of the three pillars of his government’. The UNHRO welcomes this pledge which needs to be translated into visible and radical measures, including a zero tolerance policy for serious human rights violations by all security forces. Special attention must be given to the issues of sexual violence perpetrated by men in uniform and of human rights violations linked to the exploitation of natural resources. These problems dramatically undermine the confidence of ordinary Congolese people in the army, in the security services, and, consequently, in their elected leaders.

143. The first few months in power will also be a test phase for the newly elected Government, which must show a strong commitment to the respect of civil liberties and must abide by the tenets of parliamentary democracy, including the scrutiny by the opposition. A strong and public signal should be given by the Congolese authorities to military, police and intelligence services to the effect that opponents, journalists and human rights defenders must be able to carry out their work without fear of persecution. To this end, priority should be given to clarifying the mandate and status of security forces such as the ANR and the RG and increasing their accountability.

144. Radical measures to address the DRC’s ingrained culture of impunity are urgently needed. Without justice and redress for victims of past and ongoing human rights violations, there cannot be reconciliation and lasting stability. As international assistance is provided to rebuild the capacity of the judicial system, Parliament should pass a Law implementing the Rome Statute, a necessary step to bring Congolese legislation to conformity with the DRC’s obligations under the Statute. Parliament must also undertake a debate to consider the proposal of establishing specialised mixed chambers to address the enormous volume of cases involving gross human rights violations which need to be brought to trial.



## VIII. List of Acronyms

|                  |                                                                                                                                                        |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>AMP</b>       | Alliance of the Presidential Majority ( <i>Alliance de la majorité présidentielle</i> )                                                                |
| <b>ANC</b>       | National Congolese Army ( <i>Armée nationale du Congo</i> )                                                                                            |
| <b>ANR</b>       | National Intelligence Agency ( <i>Agence Nationale de Renseignements</i> )                                                                             |
| <b>CBR</b>       | Brassage and Reintegration Centre ( <i>Centre du brassage et réintégration</i> )                                                                       |
| <b>CCTV</b>      | <i>Canal Congo Television</i>                                                                                                                          |
| <b>CONADER</b>   | National Commission for Demobilisation and Reinsertion ( <i>Commission nationale pour la démobilisation et la réinsertion</i> )                        |
| <b>CPRK</b>      | Kinshasa's main prison ( <i>Centre pénitentiaire et de rééducation de Kinshasa</i> )                                                                   |
| <b>DDR</b>       | Disarmament, demobilisation and reintegration                                                                                                          |
| <b>DEMIAP</b>    | Office of Military Detection of Antipatriotic Activities ( <i>Détection Militaire Anti-patrie</i> )                                                    |
| <b>DGM</b>       | General Migration Directorate ( <i>Direction Générale de Migration</i> )                                                                               |
| <b>DPP</b>       | Presidential Protection Divison ( <i>Division de la Protection Présidentielle</i> , Jean-Pierre Bemba's security force)                                |
| <b>DRC</b>       | Democratic Republic of Congo                                                                                                                           |
| <b>FARDC</b>     | Armed Forces of the DRC ( <i>Forces Armées de la République Démocratique du Congo</i> )                                                                |
| <b>FNI</b>       | Nationalist and Integrationist Front ( <i>Front Nationaliste et Intégrationniste</i> )                                                                 |
| <b>FRPI</b>      | Ituri Patriotic Resistance Front ( <i>Front de Résistance Patriotique de l'Ituri</i> )                                                                 |
| <b>GMI</b>       | Groupe Mobile d'Intervention de la PNC                                                                                                                 |
| <b>GSSP</b>      | Special Presidential Security Guard ( <i>Garde Spéciale pour la Sécurité Présidentielle</i> ), now <b>RG</b>                                           |
| <b>HAM</b>       | High Media Authority ( <i>Haute autorité des medias</i> )                                                                                              |
| <b>HRD</b>       | MONUC Human Rights Division                                                                                                                            |
| <b>ICC</b>       | International Criminal Court                                                                                                                           |
| <b>IDP</b>       | Internally displaced persons                                                                                                                           |
| <b>IEC</b>       | Independent Electoral Commission ( <i>Commission Electorale Indépendante</i> )                                                                         |
| <b>IPK</b>       | Inspection de la Police à Kinshasa                                                                                                                     |
| <b>LRA</b>       | Lord's Resistance Army (Uganda)                                                                                                                        |
| <b>MLC</b>       | Congolese Liberation Movement ( <i>Mouvement de Libération du Congo</i> )                                                                              |
| <b>MONUC</b>     | United Nations Mission in the Democratic Republic of the Congo ( <i>Mission d'Organisation des Nations Unies en République Démocratique du Congo</i> ) |
| <b>MR</b>        | Military Region                                                                                                                                        |
| <b>MRC</b>       | Movement of Congolese Revolutionaries ( <i>Mouvement des Révolutionnaires Congolais</i> )                                                              |
| <b>NGO</b>       | Non Governmental Organisation                                                                                                                          |
| <b>OCHA</b>      | United Nations Office for the Coordination of Humanitarian Affairs                                                                                     |
| <b>OHCHR</b>     | Office of the United Nations High Commissioner for Human Rights                                                                                        |
| <b>ONDH</b>      | National Human Rights Observatory ( <i>Observatoire nationale des droits de l'homme</i> )                                                              |
| <b>OPJ</b>       | Judicial Police Officer ( <i>Officier de Police Judiciaire</i> )                                                                                       |
| <b>PIR</b>       | Rapid Intervention Police ( <i>Police d'Intervention Rapide</i> )                                                                                      |
| <b>PNC</b>       | Congolese National Police ( <i>Police Nationale Congolaise</i> )                                                                                       |
| <b>RCD (G/N)</b> | Congolese Rally for Democracy, Goma/National ( <i>Rassemblement congolais pour la Démocratie, Goma/National</i> )                                      |
| <b>RG</b>        | Republican Guard ( <i>Garde républicaine</i> ) ( <b>ex-GSSP</b> )                                                                                      |
| <b>RTNC</b>      | Congolese National Radio and Television ( <i>Radio télévision nationale du Congo</i> )                                                                 |
| <b>SIU</b>       | HRD Special Investigation Unit                                                                                                                         |
| <b>SRSG</b>      | Special Representative of the Secretary-General                                                                                                        |
| <b>UDPS</b>      | Union for Democracy and Social Progress ( <i>Union pour la démocratie et le progrès social</i> )                                                       |
| <b>UNESCO</b>    | United Nations Educational, Scientific and Cultural Organisation                                                                                       |
| <b>UNHRO</b>     | United Nations Human Rights Integrated Office in the DRC                                                                                               |
| <b>UNIFEM</b>    | United Nations Development Fund for Women                                                                                                              |
| <b>UNPOL</b>     | MONUC Civilian Police                                                                                                                                  |
| <b>UPC</b>       | Union of Congolese Patriots ( <i>Union des patriotes congolais</i> )                                                                                   |