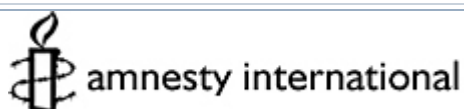


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Amnesty International Annual Report 2012 - Democratic Republic of the Congo

Head of state: **Joseph Kabila**

Head of government: **Adolphe Muzito**

Death penalty: **retentionist**

Population: **67.8 million**

Life expectancy: **48.4 years**

Adult literacy: **66.8 per cent**

Impunity for crimes under international law continued in the Democratic Republic of the Congo (DRC), despite some limited progress. Government security forces and armed groups committed scores of human rights violations in eastern DRC. Nine soldiers from the Congolese armed forces, including a lieutenant colonel, were convicted of crimes against humanity, notably rape, committed on 1 January in the town of Fizi, South Kivu. They were sentenced to jail in February in a rare example of perpetrators being promptly brought to justice. However, investigations stalled into other cases of mass rapes committed by the national army and armed groups. The general elections were marred by many human rights violations, including unlawful killings and arbitrary arrests by security forces. Human rights defenders and journalists faced intimidation and restrictions on the freedoms of expression and association.

Background

The presidential residence and a military camp in Kinshasa were attacked on 27 February in what the government called a "coup d'état". A wave of arbitrary arrests followed, mainly targeting people from Equateur province.

The DRC's second presidential and legislative elections since independence took place on 28 November. On 5 January, a constitutional amendment changed the presidential electoral system from a two-round voting system to a single round, first-past-the-post vote. This amendment, and logistical problems including delays in the electoral calendar, and controversy over the revised electoral register, increased tensions between the presidential majority coalition and the opposition.

The national army, Forces Armées de la République Démocratique du Congo (FARDC), continued its military operations against foreign armed groups in eastern and northern DRC, including the Democratic Liberation Forces of Rwanda (FDLR), the Lord's Resistance Army (LRA) and the Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU), causing further displacement of civilians. In January, the national army started withdrawing troops for training and redeployment as part of its reconfiguration. This led to armed groups resuming control of former FARDC areas and the desertion of armed groups recently integrated into the army. A deteriorating security situation in North and South Kivu ensued, with increased activity by the FDLR, Mayi-Mayi Yakutumba and the Burundian Forces Nationales de Libération (FNL). The army's reconfiguration plan and the 31 December 2010 presidential decree to redistribute ranks within the FARDC created additional difficulties for the already failing process of integrating former armed groups into the FARDC.

On 28 June, UN Security Council Resolution 1991 (2011) extended the mandate of the UN Organization Stabilization Mission in the DRC (MONUSCO) until 30 June 2012. It reiterated that future MONUSCO configurations should be determined based on the evolving security situation on the ground and on meeting objectives, such as improved government capacity to protect the population. The mandate included technical and logistical support for the elections and continued support for a limited number of FARDC military operations.

Abuses by armed groups

Armed groups, including the LRA, the FDLR, FNL, the ADF/NALU and various Mayi-Mayi groups, reportedly committed numerous human rights abuses against civilians. These included rapes, killings, looting and abduction, notably in Orientale, North and South Kivu provinces. Mayi-Mayi armed groups targeted civilians in protest against the

government, despite the government policy of integrating national armed groups into the army as an incentive to stop fighting.

The former armed group National Congress for the Defence of the People (CNDP), which was integrated into the national army in 2009 while retaining its autonomy, allegedly committed human rights violations including unlawful killings and arbitrary arrests. Disputes between the army and armed groups about control over mining areas also worsened the security situation and prompted more abuses.

In May, FDLR fighters reportedly abducted 48 people and looted many houses in Mwenga territory, South Kivu.

The LRA abducted civilians and forced them to carry looted goods in Orientale province throughout the year. The LRA remained a significant threat to the civilian population, forcing thousands to flee. Armed groups also attacked humanitarian workers on several occasions.

Unlawful killings

The periods before and after the elections were marked by unlawful killings and dozens of arbitrary arrests by security forces, including the Republican Guard.

- On 4 October, Mayi-Mayi Yakutumba reportedly ambushed a vehicle belonging to Eben Ezer Ministry International, a Congolese NGO, killing seven people, including four staff members, in Kalongwe, Fizi territory, South Kivu.
- From December 2010, FARDC soldiers and agents of the national police (PNC) reportedly committed summary executions, rape and lootings in the Mbororo community in Ango, Banda and Buta territories, Orientale province.
- After President Kabila was declared the winner of the contested elections on 9 December, Congolese security forces reportedly killed at least 24 people, mostly in Kinshasa.

Violence against women and girls

Rape and other forms of sexual violence remained endemic and were committed by government security forces, including the PNC, and armed groups. Sexual violence often accompanied other human rights violations, such as looting and torture. While some prosecutions took place, impunity was still widespread and victims were often threatened. Rape survivors did not receive adequate support and assistance and continued to be stigmatized. Male victims were particularly marginalized.

- On 31 December 2010 and 1 January 2011, FARDC soldiers reportedly committed mass rapes in Bushani and Kalambahiro villages, Masisi territory, North Kivu.
- On 1 and 2 January, FARDC soldiers committed mass rapes in Fizi town, South Kivu.
- On 27 April, a PNC agent allegedly raped a 16-year-old girl in Mbuji-Mayi, Kasai, Orientale province.
- Between November 2010 and January 2011, FDLR fighters raped at least 102 women and one girl during attacks on villages in Katanga and South Kivu provinces.
- In June, following clashes between Mayi-Mayi Sheka and Alliance des patriotes pour un Congo libre et souverain, elements of both armed groups reportedly committed mass rapes in Mutongo and surrounding villages, Walikale territory, North Kivu.

Child soldiers

Armed groups and the FARDC continued to recruit and use children, notably in eastern DRC, despite hundreds being released. Children continued to be abducted by armed groups, particularly the LRA and the FDLR, and used as fighters, spies, sexual slaves or carriers. Although the FARDC formally stopped recruiting children in 2004, no plan of action was adopted for separating children from armed forces, as required by UN Security Council Resolutions 1539 (2004) and 1612 (2005).

Internally displaced people and refugees

An estimated 1.57 million people remained displaced within the DRC, including 1 million in North and South Kivu. Living conditions remained dire both in camps and host communities.

In July, the DRC, Uganda and UNHCR, the UN refugee agency, agreed on voluntary repatriation of 32,000 Congolese refugees living in Uganda.

Congolese nationals continued to be expelled from Angola to the DRC. Some reportedly suffered human rights violations, including rape, in Angola.

Torture and other ill-treatment

Torture and other ill-treatment were committed by armed groups and government security forces, including the FARDC, the national police, the National Intelligence Agency and the Republican Guard. Security forces often committed torture and other ill-treatment in detention facilities following arbitrary arrests. NGOs and UN officials

continued to be denied access to many facilities, and secret and unofficial holding cells were still in use.

In July, the DRC promulgated a law criminalizing torture. Implementing this legislation remained a key challenge as security services continued to commit torture and other ill-treatment, including in illegal detention facilities.

- Between 27 July and 1 August, during a military operation in Rutshuru territory, North Kivu, FARDC soldiers reportedly arbitrarily arrested 27 people as a reprisal for alleged FDLR collaboration. At least eight of them were allegedly subjected to torture and other cruel, inhuman or degrading treatment, and forced labour.
- On 13 April, in Vusamba, Lubero territory, North Kivu, a PNC detainee was whipped 40 times before being freed because he could not pay the US\$40 requested for his release.

Death penalty

Military courts continued to sentence scores of people to death, including civilians. No executions were reported. On 23 June, four policemen were sentenced to death for abducting and assassinating a prominent human rights defender (see below).

Impunity

The justice system remained largely incapable of securing justice and reparations for victims. Impunity for past and current violations of human rights and international humanitarian law remained widespread, despite some prosecutions and convictions. Suspected perpetrators of crimes under international law were not removed from their posts or brought to justice. A lack of resources, corruption and political and military interference continued to paralyse courts throughout the country. Scores of civilians were tried by military courts.

The Minister of Justice and Human Rights submitted a draft law for establishing a specialized court composed of Congolese and international personnel with jurisdiction over genocide, crimes against humanity and war crimes. The Senate rejected this draft law on 22 August.

- On 21 February, the South Kivu military court in Baraka town sentenced nine FARDC officers to between 20 and 10 years' imprisonment for crimes against humanity, including rape, committed during an attack on Fizi town on 1 and 2 January.

Investigations launched into other cases proceeded slowly.

- Investigations into the systematic rape of more than 300 women, men, boys and girls committed in July and August 2010, in Walikale territory, North Kivu, led to a trial against eight suspected perpetrators, only one of whom was in detention. The hearings were adjourned after the trial opened on 1 November, due to the court's decision to relocate the trial to Walikale.

Judicial investigations into mass rapes and other human rights violations committed by FARDC soldiers in Bushani and Kalambahiro villages in North Kivu did not progress significantly.

Prison conditions

Prisons continued to lack the resources to ensure people were detained in conditions that met international minimum standards. Several prisoners died as a result of these poor conditions. Decaying facilities prevented women from being effectively separated from men, and pre-trial detainees from convicted prisoners. Prison escapes occurred throughout the country due to limited resources and poor infrastructure.

On 7 September, 963 prisoners escaped from Kasapa prison, Lubumbashi, Katanga province, following an armed attack. The escapees included the former Mayi-Mayi chief Gédéon Kyungu Mutanga, who was convicted of war crimes, crimes against humanity and terrorism in March 2009.

Human rights defenders

Government security forces and armed groups continued to attack and intimidate human rights defenders, including through death threats and arrests.

- On 28 January, the president of a local NGO that had protested against illegal exploitation of natural resources facilitated by the provincial authorities was reportedly detained in Gemena town, Equateur province. His arrest warrant reportedly stated "incitement to rebellion" as a motive.
- On 1 and 2 February, the President and Vice-President of the African Association for the Defence of Human Rights received death threats following a press conference criticizing the constitutional reform of the presidential electoral system.
- On 23 June, the Kinshasa/Gombe military court sentenced five policemen to death in relation to the abduction and assassination of prominent human rights

defender Floribert Chebeya and the disappearance of his driver, Fidèle Bazana, in June 2010. Other key individuals allegedly involved were not investigated.

Freedom of expression

The administrative authorities and security services placed restrictions on the freedoms of expression and association. Government security forces forcibly repressed demonstrators, and clashes occurred between supporters of various political parties.

Journalists

Many journalists were threatened, arbitrarily arrested, prosecuted, intimidated, warned by state authorities not to report on certain subjects, and sometimes killed for their work. Such violations increased in the context of the general elections.

Radio stations and TV channels were given official suspension orders and their premises targeted for politically motivated violence.

- On 21 June in Kirumba, North Kivu, a community radio journalist was shot dead by unidentified armed men, following remarks he reportedly made about the security situation in the area.
- On 1 September, a journalist was beaten by agents of the Congolese Rapid Response Police Unit while covering an opposition party demonstration in Kinshasa/Gombe.

International justice

The International Criminal Court (ICC) was due to deliver its judgement in January 2012 in the case of Thomas Lubanga, charged with war crimes consisting of recruiting and using children aged under 15 for the Union des Patriotes Congolais armed group in Ituri.

- In January, Callixte Mbarushimana, Secretary of the FDLR, was transferred to the ICC after his arrest in France in October 2010. On 16 December, the ICC Pre-Trial Chamber declined to confirm the charges against him and ordered his immediate release. On 20 December, the ICC Appeals Chamber rejected the Prosecutor's appeal against this decision. Callixte Mbarushimana was released on 23 December and returned to France, where an investigation was ongoing into his alleged role in Rwanda's 1994 genocide.
- The trial of FDLR leaders Ignace Murwanashyaka and Straton Musoni began in May in Stuttgart, Germany, where they had been living. Both were charged with crimes against humanity and war crimes.

- In October, the President of the DRC reiterated the authorities' refusal to surrender Bosco Ntaganda to the ICC, which had sought his arrest and surrender since 2006 on charges of war crimes consisting of recruiting and using children in the armed conflict.