

# CORI

country of origin research and information

## **CORI Country Report**

### **Democratic Republic of Congo;**

### **Human Rights Issues, April 2013**

Commissioned by the United Nations High Commissioner for Refugees, Division of International Protection.  
Any views expressed in this paper are those of the author and are not necessarily those of UNHCR.



## **Preface**

Country of Origin Information (COI) is required within Refugee Status Determination (RSD) to provide objective evidence on conditions in refugee producing countries to support decision making. Quality information about human rights, legal provisions, politics, culture, society, religion and healthcare in countries of origin is essential in establishing whether or not a person's fear of persecution is well founded.

CORI Country Reports are designed to aid decision making within RSD. They are not intended to be general reports on human rights conditions. They serve a specific purpose, collating legally relevant information on conditions in countries of origin, pertinent to the assessment of claims for asylum. Categories of COI included within this report are based on the most common issues arising from asylum applications made on the basis of gender and age by nationals from the Democratic Republic of the Congo. This report covers events up to 10 April 2013.

COI is a specific discipline distinct from academic, journalistic or policy writing, with its own conventions and protocols of professional standards as outlined in international guidance such as The Common EU Guidelines on Processing Country of Origin Information, 2008 and UNHCR, Country of Origin Information: Towards Enhanced International Cooperation, 2004.

CORI provides information impartially and objectively, the inclusion of source material in this report does not equate to CORI agreeing with its content or reflect CORI's position on conditions in a country. It is acknowledged that all sources have a bias, it is for decision makers to place a weight on sources, assessing relevance to each individual application.

CORI Country Reports are prepared on the basis of publicly available information, studies and commentaries within a specified time frame. All sources are cited and fully referenced. Every effort has been taken to ensure accuracy and comprehensive coverage of the research issues, however as COI is reliant on publicly available documentation there may be instances where the required information is not available. Any translations made are unofficial translations made by CORI, as with all sources referenced, please see the full text of the original article. The reports are not, and do not purport to be, either exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. Every effort has been made to compile information from reliable sources; users should assess the credibility, relevance and timeliness of source material with reference to the specific research concerns arising from individual applications.

CORI is an independent centre providing specialist research resources to support Refugee Status Determination.

CORI works internationally with all parties to RSD, including governments, legal representatives and NGOs, producing commissioned research reports and providing knowledge management services. CORI works to improve standards of COI production through capacity building and training.

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## List of Acronyms

|         |   |
|---------|---|
| AFP     | Agence France Presse  |
| AFDL    | Alliance des forces démocratiques pour la libération du Congo-Zaïre                               |
| ANR     | Agence nationale de renseignements (National Intelligence Agency)                                 |
| APEC    | Association pour la protection de l'enfance au Congo  |
| BDK     | Bundu Dia Kongo   |
| BDM     | Bundu dia Mayala  |
| CENI    | Independent National Electoral Commission   |
| CNDP    | Congress for the Defense of the People  |
| CODHO   | Comité des Observateurs des Droits de l'Homme   |
| CPH     | Communauté pour la promotion des humains  |
| CSAC    | High Council for Broadcasting and Communication   |
| DGM     | Direction General of Migration  |
| DRC     | Democratic Republic of Congo  |
| FARDC   | Forces Armees de la Republic Democratique du Congo (Armed Forces of Democratic Republic of COngo) |
| FDC     | Forces de défense congolaises   |
| FDLR    | Forces for the Liberation of Rwanda   |
| FIDH    | International Federation for Human Rights   |
| FPRP    | Front patriotique pour le renouveau et le progrès   |
| HRD     | Human Rights Defender   |
| ICGLR   | International Conference on the Great Lakes Region  |
| ICMHD   | International Centre for Migration, Health and Development Blog                                   |
| IDMC    | Internal Displacement Monitoring Centre   |
| IDP     | Internally Displaced Persons  |
| IFAD    | International Fund for Agricultural Development   |
| INGO    | International Non Governmental Organisation   |
| IRIN    | Integrated Regional Information Networks  |
| IWGIA   | International Work Group for Indigenous Affairs   |
| JED     | Journalist in Danger  |
| M23     | March 23 Movement   |
| MPA     | Mouvement Populaire d'Auto défense  |
| MLC     | Mouvement de libération du Congo  |
| MPR     | Mouvement populaire de la révolution  |
| MRLZ    | Mouvement révolutionnaire pour la libération du Zaïre   |
| MONUC   | United Nations Organization Mission in the Democratic Republic of the Congo                       |
| MONUSCO | United Nations Organization Stabilization Mission in the Democratic Republic of Congo             |
| MSF     | Medecin Sans Frontieres   |
| NGO     | Non Governmental Organisation   |
| OCHA    | Office for the Coordination of Humanitarian Affairs   |
| OHCHR   | Office of the High Commissioner for Human   |

|          |  |
|----------|--|
|          | Rights   |
| OMCT     | World Organisation against Torture                             |
| PALU     | Parti lumumbiste unifié  |
| PPRD     | Parti du peuple pour la Reconstruction et le Democratie        |
| PDSC     | Parti démocrate social et chrétien                             |
| PNC      | National Congolese Police                                      |
| PRP      | Parti révolutionnaire du peuple                                |
| RCD      | Rassemblement congolais pour la démocratie                     |
| RCD-Goma | Rassemblement congolais pour la démocratie - Goma              |
| RG       | Revolutionary Guards   |
| RMG      | Rebel and Militia Groups                                       |
| SGBV     | Sexual and Gender Based Violence                               |
| SSF      | State Security Forces  |
| UNAFEC   | Union National des federalistes du Congo                       |
| UNDRIP   | United Nations Declaration on the Rights of Indigenous Peoples |
| UNICEF   | United Nations   |
| UNJHRO   | United Nations Joint Human Rights Office                       |
|          |  |
| USDOS    | United States Department of State                              |
| UPC      | Union des patriotes congolais                                  |
| UPDS     | L'Union pour la Democratie et le Progress Social               |
| URD      | Union pour la république et la démocratie                      |
| VoA      | Voice of America News  |
| VSV      | La Voix des sans voix pour les droits de l'homme               |
| WILPF    | Women's International League for Peace and Freedom             |

# 1. Status of international humanitarian organisations, human rights organizations and human rights activists

## 1.1 Legislation

The right to freedom of association is guaranteed by article 37 of the 2006 Constitution,

“The State guarantees the freedom of association. The public authorities cooperate with the associations which contribute to the social, economic, intellectual, moral and spiritual development of the population and to the education of its citizens. This cooperation may take the form of a subsidy. The law determines the conditions for the exercise of this freedom.”<sup>1</sup>

The procedures to be respected are set out in the Loi n° 004-2001 du 20 juillet 2001 *portant dispositions générales applicables aux associations sans but lucratif et aux établissements d'utilité publique*.<sup>2</sup>

### 1.1.2 NGOs

In November 2010, *OHCHR* reported that the procedures pertaining to the registration of NGOs is applied quickly and without impediments. The new legislation has simplified the procedures.<sup>3</sup>

### 1.1.3 INGOs

In November 2010 *OHCHR* stated that procedures pertaining to the registration of INGOs are longer, with more stages to be completed. According to *OHCHR* few organizations have obtained the l'Ordonnance présidentielle, as set out in Article 39.2 due to lengthy administrative procedures<sup>4</sup>.

## 1.2 Legal permissions from the government, in what locations activities are limited or threatened, obstructions to operation, sources of abuse, arbitrary arrest and detention, harassment, intimidation, attacks, and killings

In its 2012 country report *USDOS* reported that the government permitted humanitarian agencies access to conflict areas and allowed many UN human rights personnel to investigate abuses but stated that the government did not take steps to implement their recommendations. According to *USDOS* access to prisons run by the ANR and the RG in conflict areas was denied.<sup>5</sup> In its 2011 country report *USDOS* security forces, particularly SSF, obstructed the work of UN human rights

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<sup>1</sup> Constitution of the Democratic Republic of Congo, 2006, <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>. Accessed 2 April 2013

<sup>2</sup> OHCHA Guide pratique pour la constitution des ONG en République Démocratique du Congo, Par G. KAHASHA ka NASHI Avocat, 1 November 2010, <http://www.rdc-humanitaire.net/index.php/layout-mainmenu-4539> Accessed 2 April 2013

<sup>3</sup> OHCHA Guide pratique pour la constitution des ONG en République Démocratique du Congo, Par G. KAHASHA ka NASHI Avocat, 1 November 2010, <http://www.rdc-humanitaire.net/index.php/layout-mainmenu-4539> Accessed 2 April 2013

<sup>4</sup> OHCHA Guide pratique pour la constitution des ONG en République Démocratique du Congo, Par G. KAHASHA ka NASHI Avocat, 1 November 2010, <http://www.rdc-humanitaire.net/index.php/layout-mainmenu-4539> accessed 2 April 2013

<sup>5</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

monitors, in some instances FARDC units in North Kivu made death threats against UN staff,<sup>6</sup> In its 2012 country report *USDOS* reported that elements of the SSF continued to beat, harass, intimidate and arbitrarily detain domestic human rights advocates and domestic NGO staff.<sup>7</sup> *USDOS* reported that there were instances in which authorities obstructed the work of UN human rights monitors and special rapporteurs.<sup>8</sup>

In its 2011 country report *USDOS* reported that some domestic NGOs were requested to pay bribes in order to be able to register and that several domestic NGOs were denied authorisation to operate. *USDOS* reports that local NGOs were vulnerable to harassment, arbitrary arrest and detention by the SSF when reporting on or supporting victims of abuses by FARDC, ANR or SSF or highlighting the illegal exploitation of natural resources in the east.<sup>9</sup>

In its 2011 Country Report *USDOS* reported that the SSF obstructed the work of MONUSCO and the UN human rights country team and FARDC units denied access to UNICEF child protection officers and occasionally threatened them. *USDOS* reported that the government rarely responded to UN communications.<sup>10</sup>

In November 2012 UK aid agency *Action Aid* stated that it, along with other agencies, had had to stop work in several communities in eastern DRC after Goma and Sake came under the control of M23 rebels because they were denied access to conflict areas.<sup>11</sup>

In November 2012, the US NGO *Refugees International* stated that access for humanitarian organizations to assist displaced populations remains extremely challenging due to ongoing insecurity and poor roads and that more efforts are necessary to better protect the most vulnerable amongst them. *Refugees International* reports that MONUSCO has made significant efforts in to develop ways to protect civilians but states that its work is obstructed by resource constraints and "an uneasy relationship with the poorly trained and ill-equipped national army."<sup>12</sup>

In December 2012 Rwandan daily newspaper *The New Times* stated that humanitarian groups and international agencies were not interested in resolving conflict or establishing peace and stability in the DRC and had "undermined" the efforts of the International Conference on the Great Lakes Region (ICGLR).<sup>13</sup>

### **1.2.1 Treatment of human rights advocates**

In June 2010 the *UN Special Rapporteur on extrajudicial, summary or arbitrary executions* stated that human rights defenders have been routinely harassed and intimidated and those working in the eastern part of the Democratic Republic of the Congo are particularly vulnerable to attack, often with impunity and government officials have been implicated in death threats and killings of activists.<sup>14</sup> In its 2010 country report *USDOS* reported that humanitarian workers in the eastern

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<sup>6</sup> US Department of State, 2011 Country Reports on Human Rights Practices, <http://www.state.gov/j/drl/rls/hrrpt/2011/af/186183.htm>, accessed 5 March 2013

<sup>7</sup> US Department of State, Country Report on Human Rights Practices 2012,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>8</sup> US Department of State, Country Report on Human Rights Practices 2012,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>9</sup> US Department of State, 2011 Country Reports on Human Rights Practices, <http://www.state.gov/j/drl/rls/hrrpt/2011/af/186183.htm>, accessed 5 March 2013

<sup>10</sup> US Department of State, 2011 Country Reports on Human Rights Practices, <http://www.state.gov/j/drl/rls/hrrpt/2011/af/186183.htm>, accessed 5 March 2013

<sup>11</sup> Action Aid, DRC conflict: Fighting preventing humanitarian agencies from reaching affected communities, 23 November, 2012,

[http://www.actionaid.org.uk/103434/drc\\_conflict\\_fighting\\_preventing\\_humanitarian\\_agencies\\_from\\_reaching\\_affected\\_communities.htm](http://www.actionaid.org.uk/103434/drc_conflict_fighting_preventing_humanitarian_agencies_from_reaching_affected_communities.htm), accessed 22 February 2013

<sup>12</sup> Refugees International, Where We Work, November 2012, <http://refugeesinternational.org/where-we-work/africa/dr-congo>, accessed 23 February 2013

<sup>13</sup> The New Times, Congo-Kinshasa: Who Wants Peace in DRC? Not the Media, Rights Groups or Even Some Countries, 11 December 2012, <http://allafrica.com/stories/201212110147.html>, accessed 24 February 2013

<sup>14</sup> United Nations General Assembly Human Rights Council, Fourteenth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on



part of the Democratic Republic of the Congo continue to be victims of armed robbery, looting and other violent security incidents, including occasional abductions.<sup>15</sup> In August 2010 Irish NGO *Frontline Defenders* reported that human rights defenders continue to operate at extreme personal risk in an atmosphere of violence, hostility and instability and are frequent targets of intimidation, judicial proceedings, arbitrary arrest, detention, ill-treatment, torture and killing, some have been forced into hiding in response to threats against their security and the safety of their family.<sup>16</sup> In February 2010 *Amnesty International* stated that human rights defenders continued to be arbitrarily detained by security agencies and subjected to death threats. *Amnesty* reported that the Agence Nationale de Renseignements (National Intelligence Agency) frequently arrested and detained and tortured human rights workers.<sup>17</sup> In its 2010 report *Countries at Crossroads* the US NGO *Freedom House* stated that national and provincial level officials forcibly restricted civil society activists from performing their work, rights activists who criticize security forces were at particularly high risk of arrest, threats and attack.<sup>18</sup> In its 2011 country report *USDOS* reported that government intimidation of local human rights advocates worsened, stating that the SSF beat, harassed, intimidated, arbitrarily arrested and detained local advocates and NGO workers.<sup>19</sup> In its 2011 human rights and democracy report the *UK Foreign and Commonwealth Office* stated that human rights defenders continue to face insecurity, harassment and violence.<sup>20</sup> In January 2011 the Report of the *United Nations High Commissioner for Human Rights* on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo described the situation of journalists, human rights defenders, victims and witnesses as "very bleak" and "getting worse", stating that the office had dealt with over 120 cases of protection from all over the country between January and September 2010.<sup>21</sup> In its 2012 annual report *Amnesty International* stated that government security forces and armed groups continued to attack and intimidate human rights defenders, including through death threats and arrests.<sup>22</sup> In its 2012 country report *USDOS* stated that the house of a human rights defender was burned in suspicious circumstances after he publicly questioned election irregularities and the government's will to combat impunity but that by the years end no progress had been made on the investigation and no charges had been filed.<sup>23</sup> In March 2013 Kinshasa based human rights NGO *La Voix des Sans Voix pour les Droits de l'Homme* reported that the main sources of threats and intimidation against human rights advocates have been the police, army, armed groups and individuals who have been successfully prosecuted and imprisoned for human rights violations. *La Voix des Sans Voix pour les Droits de l'Homme* state that although the most frequently reported are cases of anonymous telephone calls, there have also been a number of attacks, killings and attempted murders. There have also been reports of threats of arbitrary detention and police calling for individuals at their homes late at night.<sup>24</sup>

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extrajudicial, summary or arbitrary executions, Philip Alston, Addendum, Mission to the Democratic Republic of the Congo, [http://www.geneva-academy.ch/RULAC/pdf\\_state/DRC-extra-judicial-report-2010.pdf](http://www.geneva-academy.ch/RULAC/pdf_state/DRC-extra-judicial-report-2010.pdf), accessed 2 March 2013

<sup>15</sup> US Department of State, 2010 Country Reports on Human Rights Practices <http://www.state.gov/documents/organization/160453.pdf>, accessed 5 March 2013

<sup>16</sup> Frontline Defenders, Overview of Democratic Republic of Congo, undated, <http://www.frontlinedefenders.org/democratic-republic-congo>, accessed 12 March 2013

<sup>17</sup> Amnesty International 'Democratic Republic of Congo must end persecution of human rights defenders', 17 February 2010, <http://www.amnesty.org/en/news-and-updates/report/democratic-republic-congo-must-end-persecution-human-rights-defenders-201>, accessed 5 March 2013

<sup>18</sup> Freedom House, *Countries at Crossroads Report 2010 Democratic Republic of Congo*, <http://www.freedomhouse.org/report/countries-crossroads/2010/congo-democratic-republic-kinshasa>, accessed 24 February 2013

<sup>19</sup> US Department of State, 2011 Country Reports on Human Rights Practices, <http://www.state.gov/j/drl/rls/hrrpt/2011/af/186183.htm>, accessed 5 March 2013

<sup>20</sup> The Foreign and Commonwealth Office, Human Rights and Democracy the 2011 Foreign and Commonwealth Office Report, 2012, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/35439/hrd-report-2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35439/hrd-report-2011.pdf), accessed 13 March 2013

<sup>21</sup> United Nations General Assembly Human Rights Council, Sixteenth session Agenda items 2 and 10 Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General Technical assistance and capacity-building, Report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo, 10 January 2011, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.27.pdf>, accessed 2 March 2013

<sup>22</sup> Amnesty International Annual Report 2012, Democratic Republic Of The Congo, <https://www.amnesty.org/en/region/democratic-republic-congo/report-2012#section-36-12>, accessed 23 February 2013

<sup>23</sup> US Department of State, Country Report on Human Rights Practices 2012,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dld=204107>, accessed 25 May 2013

<sup>24</sup> VSV, communiqué de presse n°008/rdc/vsv/ce/2013, Renforcement de la sécurité du dr denis mukwege : la monusco appelee a une action concrete 13 March 2013, [http://www.vsv-rdc.org/pdf/presse\\_2013\\_08.pdf](http://www.vsv-rdc.org/pdf/presse_2013_08.pdf) Accessed 2 April 2013

In its 2010 country report *USDOS* cited the concerns of human rights NGOs operating in DRC that the government failed to adequately investigate attacks against human rights defenders or prosecute those responsible.<sup>25</sup> In an undated document Irish NGO *Frontline Defenders* reported that human rights defenders are not protected by the national authorities.<sup>26</sup> In its 2011 human rights and democracy report the *UK Foreign and Commonwealth Office* stated that the DRC Senate had adopted recommendations for the protection of human rights defenders.<sup>27</sup>

## **Kivus and other parts of eastern DRC affected by armed conflict**

In an undated document Irish NGO *Frontline Defenders* stated that the situation of defenders in Eastern DRC is precarious and that attacks against them are political in nature being directly related to their professional human rights activities. *Frontline Defenders* reported that the actions of human rights defenders in reporting abuses is often perceived to be political and subsequently are targeted by the security forces and armed groups whose abuses they have documented and that "the government and armed groups regard HRDs with a mixture of deep suspicion and outright hostility."<sup>28</sup> In September 2010 *Amnesty International* stated that a "climate of impunity" encourages crimes against human rights defenders<sup>29</sup>,

In its 2011 human rights and democracy report the *UK Foreign and Commonwealth Office* stated that in October seven NGO workers were killed near Minwembe in South Kivu, reportedly by armed group Mai Mai Yakutumba, however security issues had prevented investigators from visiting the area.<sup>30</sup>

In its 2012 world report *Human Rights Watch* reported that on 24 March 2011 a human rights advocate from Federation des Femmes pour la Paix was threatened by government soldiers in Baraka, South Kivu, due to her work in support of rape victims.<sup>31</sup>

In its 2012 country report *USDOS* reported that OCHA documented 123 incidents (nearly 60% of all incidents) against humanitarian workers during the year in North Kivu.<sup>32</sup>

## **North Kivu**

In September 2010 *Amnesty International* reported the abduction of Sylvestre Bwira Kyhai on 24 August from the Ndoshoh neighbourhood of Goma, North Kivu, after he had published an open letter denouncing human rights abuses committed by security forces and armed groups.<sup>33</sup> He was discovered weak and swollen faced on 30 August, *Amnesty International* stated that a coalition of

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<sup>25</sup> US Department of State, 2010 Country Reports on Human Rights Practices, <http://www.state.gov/documents/organization/160453.pdf>, accessed 5 March 2013

<sup>26</sup> Frontline Defenders, Overview of Democratic Republic of Congo, undated, <http://www.frontlinedefenders.org/democratic-republic-congo>, accessed 12 March 2013

<sup>27</sup> The Foreign and Commonwealth Office, Human Rights and Democracy the 2011 Foreign and Commonwealth Office Report, 2012, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/35439/hrd-report-2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35439/hrd-report-2011.pdf), accessed 13 March 2013

<sup>28</sup> Frontline Defenders, Overview of Democratic Republic of Congo, undated, <http://www.frontlinedefenders.org/democratic-republic-congo>, accessed 12 March 2013

<sup>29</sup> Amnesty International, Democratic Republic of Congo: Rights defender abducted, mistreated: Joint statement, 8 September 2010 <http://www.amnesty.org/en/library/info/AFR62/014/2010/en>, accessed 24 February 2013

<sup>30</sup> The Foreign and Commonwealth Office, Human Rights and Democracy the 2011 Foreign and Commonwealth Office Report, 2012, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/35439/hrd-report-2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35439/hrd-report-2011.pdf), accessed 13 March 2013

<sup>31</sup> Human Rights Watch, World Report 2012 Democratic Republic of Congo, <http://www.hrw.org/world-report-2012/world-report-2012-democratic-republic-congo>, accessed 12 March 2013

<sup>32</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204107>, accessed 25 May 2013

<sup>33</sup> Amnesty International, Democratic Republic of Congo: Rights defender abducted, mistreated: Joint statement, 8 September 2010 <http://www.amnesty.org/en/library/info/AFR62/014/2010/en>, accessed 24 February 2013

36 international and Congolese human rights organizations had requested an investigation into his abduction and ill-treatment.<sup>34</sup>

In November 2010 *Amnesty International* stated that Clemence Bakatuseka a human rights activist who worked with victims of sexual violence had been attacked by six armed men in military uniforms at her home in Beni, North Kivu on 4 November, Bakatuseka reported that police demanded she pay a monthly fee of US\$250 in order to receive protection.<sup>35</sup>

In November 2010 *Amnesty International* stated that a number of murders of human rights activists had taken place in the last few months in Beni, north eastern DRC, including that of journalist Patient Chebeya who was killed by soldiers in April and human rights activist Salvatore Muhindo who was killed in June 2010.<sup>36</sup>

In its 2011 country report *USDOS* stated that in September 2011 the RMG kidnapped five members of an NGO which was working in partnership with UNHCR and their drivers, near Kigome, Walikale Territory, in the same month another six NGO workers were kidnapped by the RMG in southwest Lubero Territory.<sup>37</sup>

In an undated country profile of their work in the DRC, *Medecins Sans Frontieres* reported continued instability in the East and that there had been numerous attacks on civilians and NGOs including itself, 2 members of its staff were been kidnapped in Rutshuru. Other MSF offices have also been attacked and in some cases members of staff have been shot.<sup>38</sup>

In August 2012 *Amnesty International* stated that there had recently been an increase in documented cases of intimidation and threats against human rights defenders and journalists by M23 rebels and Congolese authorities in North Kivu province. M23 rebels have threatened activists who have denounced their human rights violations including forced recruitment and summary executions. *Amnesty International* reports that journalists have been the targets of threats by both the M23 and Congolese authorities, on 4 August a local radio station in Butembo territory was closed down by the mayor after broadcasting an interview with an M23 spokesperson.<sup>39</sup>

In December 2012, *FIDH* and *OMCT* reported that there has been an increase in threats and intimidation of individuals and NGOs in North Kivu. According to *FIDH/OMCT*, M23 has been systematically threatening and intimidating people and organizations who have raise concerns about human rights violations. *FIDH/OMCT* reports that *MONUSCO* and *INGOs* have helped a number of NGOs and their staff leave Goma. Furthermore while Goma was controlled by the M23, also known as the *Armee Revolutionnaire Congolaise (ARC)*, from 20 November 2010 to 1 December 2012 also most all organisations had to suspend their operations. *FIDH/OMCT* reports that some of the 1260 prisoners freed from Goma prison by the M23 have allegedly threatened reprisals against the human rights defenders who participated in their prosecution.<sup>40</sup>

In January 2013 *OHCHR* reported that following an attack on a commercial boat transporting a number of humanitarian workers on lake Kivu, a number of humanitarian organisations have

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<sup>34</sup> Amnesty International, Democratic Republic of Congo: Rights defender abducted, mistreated: Joint statement, 8 September 2010, <http://www.amnesty.org/en/library/info/AFR62/014/2010/en>, accessed 24 February 2013

<sup>35</sup> Amnesty International, Congolese activist lives in fear after attack, 5 November 2010, <http://www.amnesty.org/en/news-and-updates/congolese-activist-lives-fear-after-attack-2010-11-05>, accessed 24 February 2013

<sup>36</sup> Amnesty International, Congolese activist lives in fear after attack, 5 November 2010, <http://www.amnesty.org/en/news-and-updates/congolese-activist-lives-fear-after-attack-2010-11-05>, accessed 24 February 2013

<sup>37</sup> US Department of State, 2011 Country Reports on Human Rights Practices, <http://www.state.gov/j/drl/rls/hrrpt/2011/af/186183.htm>, accessed 5 March 2013

<sup>38</sup> Medecins Sans Frontieres, RDC, undated, <http://www.msf.fr/pays/rdc>, accessed 2 April 2013

<sup>39</sup> Amnesty International, DR Congo: Threats against human rights defenders must end, 8 August 2012,

<http://www.amnesty.org/en/news/dr-congo-threats-against-human-rights-defenders-must-end-2012-08-08>, accessed 23 February 2013

<sup>40</sup> *FIDH*, Republique Democratique du Congo : Les défenseurs en première ligne dans un contexte d'instabilité à l'Est du pays, 24 January 2013 <http://www.fidh.org/REPUBLIQUE-DEMOCRATIQUE-DU-CONGO-12592> Accessed 2 April 2013

suspended the use of that means of transport. They now travel a longer route through Rwanda or Minova. According to OHCHR such attacks and generalised insecurity has significantly hampered their ability to work effectively in the area.<sup>41</sup>

In its 2013 world report *Human Rights Watch* reported that journalists and human rights activists who spoke out against M23 abuses have received death threats.<sup>42</sup> In its 2013 world report *Human Rights Watch* reported that M23 fighters attempted to rape a human rights activist in Rutshuru, telling her that she was being targeted due to her work, she was shot in the leg when she attempted to flee.<sup>43</sup>

## Kinshasa

In February 2011 *Amnesty International* expressed concern over the security of human rights defenders and opposition leaders ahead of the November presidential elections, reporting that prominent lawyers and human rights defenders, Jean-Claude Katende and Georges Kapiamba, from the African Association for Human Rights had received explicit death threats on 1 and 2 February after they held a press conference condemning the government for harassing members of the political opposition.<sup>44</sup>

In its 2011 World Report, *Human Rights Watch* stated that Floribert Chebeya Bahizire, executive director of Voice of the Voiceless, was found dead on 1 June, following a visit to police headquarters in Kinshasa and his driver remained missing.<sup>45</sup> In July 2010 *Amnesty International* stated that the body of Floribert Chebeya Bahizire, the country's most prominent human rights activist, was found in his car on 2 June, the day after being summoned to meet Kinshasa police. *Amnesty International* reported that Bahizire had been working on a number of sensitive issues involving the head of Police John Numbi.<sup>46</sup>

In January 2013, *FIDH, L'Observateur des Droits de L'Homme* and the *OMCT* expressed concern about recent threats against lawyers, Me Jean Marie Kabengela Ilunga and Me Peter Ngomo Milamba, respectively from Kinshasa/Matete and Gombe. These two lawyers have been receiving anonymous phone calls and threats. *FIDH/OMCT* reported that Ilunga and Milamba have been representing civil parties in the investigation into the murder in June 2010 of Floribert Chebey, Director of VSV and Fidele Bazana, a VSV member. They have also been providing legal aid to approximately 200 people in the Equatorial province who are accused of insurrectional activities.<sup>47</sup>

In March 2013 *La Voix des Sans Voix pour les Droits de l'Homme* reported that following an assassination attempt in October 2012, Dr Deniss Mukwega, who had been treating women victims of rape, was forced to flee DRC with his family. He returned to DRC in January 2013, amid

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<sup>41</sup> OHCHA, Rapport de situation humanitaire sur la République Démocratique du Congo 25 janvier 2013, <http://reliefweb.int/report/democratic-republic-congo/rapport-de-situation-humanitaire-sur-la-r%C3%A9publique-d%C3%A9mocratique--10> Accessed 2 April 2013

<sup>42</sup> Human Rights Watch, World Report 2013, <http://www.hrw.org/world-report/2013/country-chapters/democratic-republic-congo>, accessed 24 May 2013

<sup>43</sup> Human Rights Watch, World Report 2013, <http://www.hrw.org/world-report/2013/country-chapters/democratic-republic-congo>, accessed 24 May 2013

<sup>44</sup> Amnesty International, Democratic Republic of the Congo: Human rights concerns in the run up to Presidential election campaigns, 7 February 2011, <http://www.amnesty.org/en/library/asset/AFR62/002/2011/en/2506e08a-31ab-467c-b7a8-5d94b6e271c2/afr620022011en.html>, accessed 24 February 2013

<sup>45</sup> Human Rights Watch, 2011 World Report Democratic Republic of Congo, <http://www.hrw.org/en/world-report-2011/democratic-republic-congo>, accessed 15 March 2013

<sup>46</sup> Amnesty International, Fighting and dying for human rights in the Democratic Republic of Congo, 30 July 2010, <http://www.amnesty.org/en/news-and-updates/fighting-and-dying-human-rights-democratic-republic-congo-2010-07-30>, accessed 23 February 2013

<sup>47</sup> FIDH, République démocratique du Congo : Menaces et actes de harcèlement à l'encontre de Me Jean-Marie Kabengela Ilunga et Me Peter Ngomo Milambo 24 January 2013 <http://www.fidh.org/Republique-democratique-du-Congo-12795> Accessed 2 April 2013

continued fear for his security and calls for the government to provide him with adequate protection<sup>48</sup>.

## Kasai-Occidental

In January 2013 Kinshasa based human rights NGO La Voix des Sans Voix pour les Droits de l'Homme (VSV) reported that Madame Philomene Muamba, an activist, had been receiving threats since 2011. She has worked on a number of rape cases in Tshikapa where the perpetrators were police and army personnel. According to *La Voix des Sans Voix pour les Droits de l'Homme* these cases were successfully prosecuted and the perpetrators received prison sentences. Since then she has regularly received anonymous phone calls "you had us arrested and thought we would die in prison, we got out and we will bury you." *La Voix des Sans Voix pour les Droits de l'Homme* reports that since January 2013 the threats have become more serious. On 17 January 2013, at around 3 am, 3 policemen and two army personnel, all armed, came to her house. In her absence they threatened her younger sister. Earlier the same day, the police and army personnel who had been given prison sentences in the cases she had worked on had escaped from prison. According to VSV, they have received information that indicates that some of these men intended to act on their death threats.<sup>49</sup>

## Equateur and Banbundu

In its 2012 annual report *Amnesty International* stated that on 28 January the president of a local NGO was accused of "incitement to rebellion" when he was arrested and detained in Gemena town, Equateur province, for protesting against the illegal exploitation of natural resources that was being facilitated by the provincial authorities.<sup>50</sup>

In February 2013 *La Voix des Sans Voix pour les Droits de l'Homme* reported concern over the security of human rights defenders and civil society members in Mbaribati Equator province. Following a civil society meeting that criticized the local government, a number of threats to kidnap or arrest have been made against those present at the meeting.<sup>51</sup> In February 2013, the bedroom of the vice president of SOCIPEQ was searched by policemen in national police uniforms, but they failed to locate him.<sup>52</sup>

## Maniema

On 20 February 2013 *OHCHR* reported that humanitarian organisations in Punia were being forced to relocate their staff due to security concerns. On 18 February, 28 humanitarian workers from INGOs were evacuated from Punia, in Maniema, towards Goma and Kindu following fighting between the national army and the armed group Raia Mtomboki. However *Medicins sans Frontieres* has remained in place and reinforced its team to support the Hôpital général de référence. *OHCHR* reported that the evacuated staff would return as soon as the situation permitted to provide aid to the most vulnerable.<sup>53</sup>

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<sup>48</sup>VSV, communiqué de presse n°008/rdc/vsv/ce/2013, Renforcement de la sécurité du Dr Denis Mukwege : la monusco appelée à une action concrète 13 March 2013, [http://www.vsv-rdc.org/pdf/presse\\_2013\\_08.pdf](http://www.vsv-rdc.org/pdf/presse_2013_08.pdf) Accessed 2 April 2013

<sup>49</sup>VSV, communiqué de presse n°004/rdc/vsv/ce/2013, Une femme défenseur des droits humains menacée de mort à Tshikapa/province du Kasai-Occidental 21 January 2013, [http://www.vsv-rdc.org/pdf/presse\\_2013\\_04.pdf](http://www.vsv-rdc.org/pdf/presse_2013_04.pdf) Accessed 2 April 2013

<sup>50</sup>Amnesty International Annual Report 2012, Democratic Republic Of The Congo, <https://www.amnesty.org/en/region/democratic-republic-congo/report-2012#section-36-12>, accessed 23 February 2013

<sup>51</sup>VSV, communiqué de presse n°007/rdc/vsv/ce/2013, Plusieurs acteurs de la société civile en insécurité à Mbandaka, province de l'Équateur, 19 February 2013, [http://www.vsv-rdc.org/pdf/presse\\_2013\\_07.pdf](http://www.vsv-rdc.org/pdf/presse_2013_07.pdf) Accessed 2 April 2013

<sup>52</sup>VSV, communiqué de presse n°007/rdc/vsv/ce/2013, Plusieurs acteurs de la société civile en insécurité à Mbandaka, province de l'Équateur, 19 February 2013, [http://www.vsv-rdc.org/pdf/presse\\_2013\\_07.pdf](http://www.vsv-rdc.org/pdf/presse_2013_07.pdf) Accessed 2 April 2013

<sup>53</sup>OHCHR, Situation humanitaire en République Démocratique du Congo - Note d'information à la presse, 20 février 2013, <http://reliefweb.int/report/democratic-republic-congo/situation-humanitaire-en-r%C3%A9publique-d%C3%A9mocratique-du-congo-note-d-68> Accessed 24 April 2013

## Katanga

In April 2013 the *UN's le bureau pour la coordination des affaires humanitaires et le cluster protection Kinshasa* stated that humanitarian access in the Katanga region was limited due to threats from armed groups and in some cases, difficult working relations with local authorities. At the beginning of December 2012 an INGO stopped working in Shamwana because members of the Mayi-Mayo kata-Katanda militia had ordered the NGOs staff to join their movement. In February 2013 two members of an NGO working on protection had to be evacuated to Manono because they had reported dead bodies in the Luvua River and were receiving death threats from local authorities. The Bureau commun des droits de l'homme, working with MONUSCO, reported that human rights investigators are often prevented from accessing sites to evaluate situations and have to use military escorts for their security. Although NGOs can travel in the area mainly without an armed escort, UN agencies are obliged to have armed escorts, especially on the main roads of the region. The *UN's le bureau pour la coordination des affaires humanitaires et le cluster protection Kinshasa* reported that the most dangerous zone is between Mitwaba and Manono, as well as the areas around Mitwaba. Villages around Manono and Pweto are outside of the reach of UN agencies without military escorts, and MONUSCO has only limited capacity to provide these escorts.<sup>54</sup>

In April 2013 the *UN's le bureau pour la coordination des affaires humanitaires et le cluster protection Kinshasa* stated that access to the Katanga area is complicated by the size of the area affected by insecurity and the bad condition of the roads. In order to access Pweto, it is necessary to send a mission from Lubumbashi as the road between Kalemie and Pweto is impassable. The route from Lubumbashi to Pweto goes through Zambia and takes two days. With only a very few NGOs with a permanent base in this area, the ability to bring aid in a timely manner is limited.<sup>55</sup>

## 2. Freedom of Expression

Articles 23 and 46 of Chapter 1 of the *Congolese Constitution* of the 18 February 2006 states that all persons have the freedom to express their opinions and convictions, in particular by speech, in print and through pictures,

"Article 23 All persons have the right to freedom of expression. This right implies the freedom to express their opinions and convictions, in particular by speech, in print and through pictures, subject to respect for the law, public order and morality.

Article 46 The right to culture, freedom of intellectual and artistic creation and that of scientific and technological research are guaranteed, subject to respect for the law, public order and morality. The rights of authors and intellectual property rights are guaranteed and protected by the law. In carrying out its tasks, the State takes into account the cultural diversity of the country. It protects the national cultural heritage and ensures its promotion."<sup>56</sup>

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<sup>54</sup> LA CRISE OUBLIEE DU « TRIANGLE DE LA MORT » Les défis de la protection des civils au Katanga, Rapport Produit par le bureau pour la coordination des affaires humanitaires et le cluster protection Kinshasa Avril 2013, <http://reliefweb.int/sites/reliefweb.int/files/resources/Final%20version%20Protection%20Report%20Katanga%2011.04.2013FR.pdf>, Accessed 24 April 2013

<sup>55</sup> LA CRISE OUBLIEE DU « TRIANGLE DE LA MORT » Les défis de la protection des civils au Katanga, Rapport Produit par le bureau pour la coordination des affaires humanitaires et le cluster protection Kinshasa Avril 2013, <http://reliefweb.int/sites/reliefweb.int/files/resources/Final%20version%20Protection%20Report%20Katanga%2011.04.2013FR.pdf>, accessed 24 April 2013

<sup>56</sup> Congolese Constitution, Chapter 1 Articles 23 and 46, 18 February 2006, available at <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>, accessed 10 March 2013

In its 2012 country report the *USDOS* reported that insulting the head of state is prohibited by law.<sup>57</sup> In its 2012 country report *USDOS* reported that the government "rarely infringed on individuals' freedom of speech unless exercised in the media."<sup>58</sup> *USDOS* reported that freedom of the press declined during the year and journalists and publishers were intimidated into practicing self censorship by certain regulatory bodies and that public criticism of government officials and government conduct sometimes resulted in "harsh" responses from the ANR. *USDOS* reported that in general individuals could "privately criticize the government, its officials and other private citizens without being the subject of official reprisals."<sup>59</sup> In its 2012 Freedom in the World report *Freedom House* stated that although guaranteed by the constitution, freedoms of speech and expression are limited and journalists critical of government officials have been threatened, detained and attacked by members of the state security apparatus. *Freedom House* stated that the government did not monitor online communications or restrict access to the internet, the use of which was limited by lack of infrastructure.<sup>60</sup>

In its 2012 Freedom in the World report *Freedom House* stated that DRC is not an electoral democracy and that elections in 2011 lacked credibility and were marred by fraud, voting irregularities, voter intimidation, and violence.<sup>61</sup> In its 2012 report Countries at Crossroads *Freedom House* stated that in some areas security forces interfered in the electoral process, prior to the election security personnel opened fire on opposition demonstrations in Kinshasa killing at least 18 people, in Masisi, North Kivu, ex-CNDP soldiers reportedly forced thousands of voters to vote for their candidates.<sup>62</sup> In its 2013 world report *Human Rights Watch* reported that during the 2011 presidential and legislative election periods "opposition party members and supporters, human rights activists, and journalists were threatened, arbitrarily arrested."<sup>63</sup>

## **2.1 Government forces response to political criticism**

### **Kivus and other parts of eastern DRC affected by armed conflict**

In February 2011 *Amnesty International* expressed concern over human rights violations against political opposition by the army and National Intelligence Agency, including suppressing political events, raiding houses of political opposition, arbitrary arrest and the looting of civilian property. In January 2011 the army restricted the activities of two youth groups in Butembo, North Kivu, who were collecting signatures for a petition calling for the reversal of constitutional changes passed by the Senate which limits presidential elections to one round of voting. The National Intelligence Agency reportedly seized a part of the petition containing 65400 signatures and between 27-31 January proceeded to search houses looking for those connected to the groups, with a number of people being arbitrarily arrested.<sup>64</sup>

In February 2011 *Amnesty International* reported that civilian security services including the National Intelligence Agency and DGM had been involved in human rights violations against the political opposition. *Amnesty International* reported that Robert Shemahamba a local radio and television journalist was arbitrarily arrested and detained by the National Intelligence Agency in

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<sup>57</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>58</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>59</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>60</sup> Freedom House, Freedom in the World Report 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>61</sup> Freedom House, Freedom in the World Report 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>62</sup> Freedom House, Countries at Crossroads Report 2012 Democratic Republic of Congo, <http://www.freedomhouse.org/report/countries-crossroads/2012/democratic-republic-congo>, accessed 24 February 2013

<sup>63</sup> Human Rights Watch, World Report 2013, <http://www.hrw.org/world-report/2013/country-chapters/democratic-republic-congo>, accessed 24 May 2013

<sup>64</sup> Amnesty International, Democratic Republic of the Congo: Human rights concerns in the run up to Presidential election campaigns, 7 February 2011, <http://www.amnesty.org/en/library/info/AFR62/002/2011>, accessed 24 February 2013

Uvira, South Kivu on 17 December 2010 following a broadcast in which he discussed the President's State of the Nation speech. Another journalist, Dominique Kalonzo who was also involved in the discussion went into hiding.<sup>65</sup>

In October 2011 Radio Okapi reported that *La Voix des sans voix pour les droits de l'homme* (VSV) stated that on the 6 October there was fighting between militants for L'Union pour la Democratie et le progress social and the national police, resulting in a dozen people being injured. On 29 September the police's mobile intervention unit (GMI) dispersed a protest march organised by the UDPS and the Parti du peuple pour la Reconstruction et le Democratie (PPRD). Both parties claim they respected official procedures.<sup>66</sup>

## **Other parts of the DRC, including Kinshasa, that are not affected by ongoing armed conflict**

In February 2011 *Amnesty International* expressed concern over the arbitrary arrest of journalists and opposition leaders ahead of the November presidential elections. On 13 January 2011 Eugene Diomi Ndongala, President of the opposition party the Democratie Chretienne was arrested in Bas-Congo Province ahead of a national party congress in February and charged with contempt of a public authority and assault and sentenced to five months in prison, he was acquitted by the court of appeal.<sup>67</sup>

In October 2011 Radio Okapi reported that the NGO *La Voix des sans voix pour les droits de l'homme* (VSV) criticised the repression of peaceful demonstrations by opposition parties in Kinshasa. The executive director stated that at each peaceful demonstration held by opposition parties people have been killed and injured. He also stated that the injured receive no help. He expressed his shock at the government's failure to intervene to end this repression.<sup>68</sup>

On 6 October 2011 *Agence France Presse* reported that in Mbuji Mayi in the centre of the country a 13 year old girl was accidentally shot dead by a police officer during the breaking up of an opposition party's demonstration<sup>69</sup>.

In December 2011 *Human Rights Watch* stated that Congolese security forces including the Republican Guard presidential security detail and the police fired on groups of people in the street, after President Joseph Kabila was announced the winner of the disputed presidential elections on 9 December 2011. Those killed are reported to have included bystanders and protestors, *Human Rights Watch* reports allegations that in some instances suspected opposition supporters were targeted and killed. At least 24 people are reported to have been killed between 9 and 14 December 2011 including 20 in Kinshasa and two in North Kivu. According to *Human Rights Watch* the government had instructed hospitals and morgues not to disclose information about the number of dead or details about individuals with bullet wounds to families, human rights groups or UN personnel. *Human Rights Watch* reports that opposition supporters have been detained in illegal places such as the Republican Guard's Kinshasa base and in a presidential palace, stating that some of the detainees were mistreated. *Human Rights Watch* also stated that house to house

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<sup>65</sup> Amnesty International, Democratic Republic of the Congo: Human rights concerns in the run up to Presidential election campaigns, 7 February 2011, <http://www.amnesty.org/en/library/info/AFR62/002/2011>, accessed 24 February 2013

<sup>66</sup> RadioOkapi, RDC, La VSV denonce la repression des manifestations de l'opposition, 9 Octobre 2011, <http://radiookapi.net/actualite/2011/10/09/rdc-la-vsv-denonce-la-repression-des-manifestations-de-lopposition/> Accessed 21 April 2013

<sup>67</sup> Amnesty International, Democratic Republic of the Congo: Human rights concerns in the run up to Presidential election campaigns, 7 February 2011, <http://www.amnesty.org/en/library/info/AFR62/002/2011>, accessed 24 February 2013

<sup>68</sup> RadioOkapi, RDC, La VSV denonce la repression des manifestations de l'opposition, 9 Octobre 2011, <http://radiookapi.net/actualite/2011/10/09/rdc-la-vsv-denonce-la-repression-des-manifestations-de-lopposition/> Accessed 21 April 2013

<sup>69</sup> APF, *RDC : heurts entre opposition et majorité à Lubumbashi, incident à Kinshasa, 6 November 2011*, <http://www.jeuneafrique.com/Article/DEPAFP20111106163848/actualite-afriquerd-ourts-entre-opposition-et-majorite-a-lubumbashi-incident-a-kinshasa.html> Accessed 21 April 2013



raids and arbitrary arrests were carried out by security forces and that some bystanders who were injured feared going to the hospital in case they were identified as opposition supporters.<sup>70</sup>

In December 2011 *Human Rights Watch* stated that politically motivated attacks by the security forces following the election have been most severe in Kinshasa but have also taken place in other regions across the country and that attacks occurred in the communes of Ngaliema, Ngiri Ngiri, Kinsenso, Selembao, Lemba, Kalamu, Limete, and Kimbanseke in Kinshasa.<sup>71</sup>

In its 2013 world report *Human Rights Watch* reported that 57 opposition party supporters or suspected supporters were killed by security forces, mainly Kabili's Republican Guard, between 26 November and 31 December.<sup>72</sup> In December 2011 *Amnesty International France* reported a raise in arbitrary arrests following the presidential elections. Those targeted are often members and supporters of the opposition parties. In Katanga province at least two members of the Union pour la Démocratie et le Progrès Social (UPDS) were arbitrarily arrested. *Amnesty International France* also reported that since December 2011 FARDC members have kidnapped or arrested dozens of army and national police personnel as well as civilians in Kinshasa. It is thought that they were targeted as they are originally from the Equateur Kasei-occidental and Kasei- Oriental regions, which are the headquarters of the opposition.<sup>73</sup>

In 2012 *Freedom House* reported that radio host Samy Mbeto was detained for three days, charged with "insulting the authorities" and "defaming politicians" before being granted bail on the condition that he did not leave Kasai-Occidental province and reported to prosecutors twice a week.<sup>74</sup>

In April 2013 *Jeune Afrique* reported that 13 people suspected of conspiring against the life of President Joseph Kabila and the Prime Minister Matata Ponyo had been arrested and presented to the press on the 11 April 2013. The opposition parties of Eugène Diomi Ndongala and Étienne Tshisekedi are accused of planning an attack, that was to take place on the day of their arrest, against the Presidential convoy on its way to Joseph Kabila's farm in Kingakati to the east of Kinshasa. RFI has reported that among the suspects who are almost all soldiers is the oppositions press officer who works with Eugène Diomi Ndongala, the president of Démocratie chrétienne (DC), who a year after the disputed election results still considers himself as the rightful president of DRC, as well as a lawyer who is close to Étienne Tshisekedi who is suspected by the authorities of financing the plot. These arrests happened while Eugène Diomi Ndongala, whose parliamentary immunity was revoked on the 8 January, has been placed in preventative detention in the Prison de Makala, since 9 April. Ndongala is accused of raping juveniles and if found guilty could face 20 years in prison.<sup>75</sup>

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<sup>70</sup>Human Rights Watch, DR Congo: 24 Killed since Election Results Announced, Security Forces Attack, Detain Protesters, Local Residents, December 22, 2011, <http://www.hrw.org/news/2011/12/21/dr-congo-24-killed-election-results-announced>, accessed 24 February 2013

<sup>71</sup> Human Rights Watch, DR Congo: 24 Killed since Election Results Announced, Security Forces Attack, Detain Protesters, Local Residents, December 22, 2011, <http://www.hrw.org/news/2011/12/21/dr-congo-24-killed-election-results-announced>, accessed 24 February 2013

<sup>72</sup> Human Rights Watch, World Report 2013, <http://www.hrw.org/world-report/2013/country-chapters/democratic-republic-congo>, accessed 24 May 2013

<sup>73</sup>Amnesty International France, République démocratique du Congo : les arrestations postélectorales pour museler les opposants doivent cesser, 21 December 2011, <http://www.amnesty.fr/AI-en-action/Violences/Justice-internationale/Actualites/RDC-atteintes-la-liberte-d%E2%80%99expression-4276> Accessed 2 April 2013

<sup>74</sup> Freedom House, Freedom in the World Report 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>75</sup> Jeune Afrique, RDC : l'opposition accusée de complot contre Kabila | Jeuneafrique.com - le premier site d'information et d'actualité sur l'Afrique, 12 April 2013, <http://www.jeuneafrique.com/Article/ARTJAWEB20130412091922/#ixzz2RCcjE4Cx> Accessed 26 April 2013

## **2.2 Non-government forces response to political criticism**

In October 2011 *Agence France Presse* reported on violence between political parties in Lubumbashi in the south-east of DRC. Approximately 15 members UDPS and UNAFEC were injured following clashes between the two parties a few days earlier. The fighting took place when a group from UDPS passed in front of the local UNAFEC headquarters. The two parties threw stones at each other and some people received knife injuries.<sup>76</sup>

In 2012 *Freedom House* reports that non state armed groups have targeted journalists. In June a radio host was shot dead in North Kivu after he had recently reported on the activities of armed gangs in Kirumba.<sup>77</sup>

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<sup>76</sup> AFP, [RDC : heurts entre opposition et majorité à Lubumbashi, incident à Kinshasa, 6 November 2011, http://www.jeuneafrique.com/Article/DEPAFP20111106163848/actualite-afriquerd-heurts-entre-opposition-et-majorite-a-lubumbashi-incident-a-kinshasa.html](http://www.jeuneafrique.com/Article/DEPAFP20111106163848/actualite-afriquerd-actualite-afriquerd-heurts-entre-opposition-et-majorite-a-lubumbashi-incident-a-kinshasa.html), accessed 21 April 2013

<sup>77</sup> Freedom House, *Freedom in the World Report 2012*, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

### 3. Freedom of Assembly

Articles 25, 26 and 37 of Chapter 1 of the *Congolese Constitution* of 18 February 2006 guarantee freedom of peaceful meetings subject to public order and morality conditions, freedom of demonstration and freedom of association,

"Article 25 The freedom of peaceful meetings without weapons is guaranteed subject to respect for the law, public order and morality.

Article 26. The freedom of demonstration is guaranteed. All demonstrations on public roads or in open air oblige the organizers to inform the competent administrative authority in writing. No one may be forced to take part in a demonstration. The law determines the application measures.

Article 37. The State guarantees the freedom of association. The public authorities cooperate with the associations which contribute to the social, economic, intellectual, moral and spiritual development of the population and to the education of its citizens. This cooperation may take the form of a subsidy. The law determines the conditions for the exercise of this freedom."<sup>78</sup>

Article 6 and 8 of the constitution provide for political pluralism, and opposition,

"Article 6. Political pluralism is recognized in the Democratic Republic of the Congo. Every Congolese who enjoys his/her civil and political rights has the right to create a political party or to become a member of a political party of his/her choice. The political parties participate in the expression of the popular will, the strengthening of the national conscience and civic education. They form and exercise their activities freely while respecting the law, public order and morality.

The political parties are obliged to respect the principles of pluralist democracy, national unity and sovereignty. The political parties may receive public funds from the State for the financing of their electoral campaigns and other activities under the conditions defined by the law."

"Article 8. Political opposition is recognized in the Democratic Republic of the Congo. The rights linked to its existence, its activities and its fight for the democratic conquest of power are sacred. They may not be subject to limits other than those which are imposed by this Constitution and the law on all parties and political activities. An organic law determines the status of political opposition."<sup>79</sup>

In an undated profile French newspaper *Courrier International* reported that the main political parties active in DRC are: Alliance des forces démocratiques pour la libération du Congo-Zaïre (AFDL) ; – Front patriotique pour le renouveau et le progrès (FPRP) ; – Mouvement de libération du Congo (MLC) ; – Mouvement populaire de la révolution (MPR) ; – Mouvement révolutionnaire pour la libération du Zaïre (MRLZ) ; – Parti démocrate social et chrétien (PDSC) ; – Parti lumumbiste unifié (PALU) ; – Parti révolutionnaire du peuple (PRP) ; – Rassemblement congolais pour la démocratie (RCD) ; – RCD-Goma) ; – Union des patriotes congolais (UPC) ; – Union pour la démocratie et le progrès social (UDPS) ; – Union pour la république et la démocratie (URD).<sup>80</sup>

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<sup>78</sup> Congolese Constitution, Chapter 1, Articles 25, 26 and 37, 2006, available at <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>, accessed 10 March 2013

<sup>79</sup> Constitution of the Democratic Republic of Congo, 2006, <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>, accessed 2 April 2013

<sup>80</sup> Courrier International, République démocratique du Congo (RDC), 2013, <http://www.courrierinternational.com/fiche-pays/republique-democratique-du-congo-rdc> Accessed 2 April 2013

In its 2012 country report *USDOS* stated that the constitution provides for freedom of association and peaceful assembly but that these rights were sometimes restricted in practice.<sup>81</sup> In its 2012 Freedom in the World report *Freedom House* stated that rights to freedom of assembly and association are sometimes limited in practice and are often dangerous to exercise if they involve a political agenda, but that regardless the country had an active civil society. Groups wanting to hold public meetings must register in advance.<sup>82</sup> In its 2012 country report *USDOS* stated that State security forces occasionally acted against unregistered protests, marches and meetings and on occasion authorities denied groups permission to hold demonstrations, particularly opposition parties and their civil society allies.<sup>83</sup> In its 2012 Freedom in the World report *Freedom House* stated that NGOs who offend powerful interests face pressure from the government and non state actors.<sup>84</sup>

In its 2012 country report *USDOS* stated that the constitution provides for freedom of association and peaceful assembly but that these rights were sometimes restricted in practice.<sup>85</sup> In its 2011 country report *USDOS* reported that opposition parties have the legal right to participate in political activities without fear of retribution. The *USDOS* reports that in practice, for most of the year opposition parties were able to operate without restriction or interference but that there were notable exceptions. *USDOS* stated that there were reports of political prisoners and detainees.<sup>86</sup> In June 2010 the *Special Rapporteur on extrajudicial, summary or arbitrary executions* stated that he had spoken with numerous individuals who had been arrested, accused of being Bemba party supporters, detained for long periods in inhuman conditions without access to legal counsel or a judge and tortured whilst being questioned about their political allegiances. The *Special Rapporteur* stated that security and intelligence agencies including the Republican Guard and army military intelligence operated detention facilities even though they had no legal authority to detain, with the goal of suppressing political opposition and they did so without accountability.<sup>87</sup>

In its 2011 country report *USDOS* cited reports from the United Nations Joint Human Rights Office (UNJHRO) that there were 24 recorded incidents concerning freedom of assembly between November 2010 and September 2011 including the violent suppression of crowds in Goma, gathered to welcome presidential candidate Kamerhe. Subsequent gatherings of Kamerhe's supporters were banned and his followers in Kasongo and Kindu were jailed.<sup>88</sup> In November 2011 the *United Nations Human Rights Office of the Human Rights Commissioner* stated that between 1 November 2010 and 30 September 2011 UNJHRO documented 188 cases of human rights violations apparently linked to the electoral process. The *United Nations Human Rights Office of the Human Rights Commissioner* reported that in the East political parties have been targeted and their members detained and ill treated, further parties have not imposed adequate restraint on their followers who have participated in violent acts and the disturbance of public order during political demonstrations.<sup>89</sup> In its 2012 country report *USDOS* stated that on 16 February 2012 the SSF used force and tear gas to disperse a march, organised by the Council of Catholic Laymen in the

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<sup>81</sup> US Department of State, Country Report on Human Rights Practices 2012,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>82</sup> Freedom House, Freedom in the World Report 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>83</sup> US Department of State, Country Report on Human Rights Practices 2012,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>84</sup> Freedom House, Freedom in the World Report 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>85</sup> US Department of State, Country Report on Human Rights Practices 2012,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>86</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186183>, accessed 17 March 2013

<sup>87</sup> United Nations General Assembly Human Rights Council, Fourteenth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Addendum, Mission to the Democratic Republic of the Congo, [http://www.geneva-academy.ch/RULAC/pdf\\_state/DRC-extra-judicial-report-2010.pdf](http://www.geneva-academy.ch/RULAC/pdf_state/DRC-extra-judicial-report-2010.pdf), accessed 2 March 2013

<sup>88</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

<sup>89</sup> United Nations Human Rights Office of the Human Rights Commissioner, Report of the United Nations Joint Human Rights Office on Human Rights and Fundamental Freedoms During the Pre-Electoral Period in the Democratic Republic of Congo, November 2011, [http://www.ohchr.org/Documents/Countries/ZR/UNJHRO\\_HRElectionsReport\\_en.pdf](http://www.ohchr.org/Documents/Countries/ZR/UNJHRO_HRElectionsReport_en.pdf), accessed 15 March 2013

Congo, commemorating the 20th anniversary of the Limete Catholic massacre by presidential guards. The authorities had announced that the march was prohibited the day before, as the organisers had not notified them of their plans.<sup>90</sup>

In November 2011 the *United Nations Human Rights Office of the Human Rights Commissioner* stated in its report of the United Nations Joint Human Rights Office on Human Rights and Fundamental Freedoms During the Pre-Electoral Period in the Democratic Republic of Congo that there had been an increase in acts of violence targeting political party members, journalists and human rights defenders, those seeking freedom of assembly and association were often subjected to abuse by State agents and their physical integrity was often violated.<sup>91</sup>

In November 2011 *Al Jazeera* stated that Pastor Daniel Ngoy Mulunda, the Methodist minister who heads the Independent National Electoral Commission (CENI), is a relative of the president and a founding member of the ruling party, the People's Party for Reconstruction and Democracy (PPRD), but stated that "so far he has not shown any signs of impartiality."<sup>92</sup>

In its 2012 Freedom in the World report *Freedom House* described the November 2011 elections as "deeply flawed" reporting serious and ongoing fraud and stated that opposition politicians and their supporters faced violence and harassment by police.<sup>93</sup> *Freedom House* reported that despite criticism of the presidential election results from the European Union, the Catholic Church, and the UN peacekeeping mission in the DRC, the Supreme Court confirmed the results on December 16 showing Kabila winning with 49% of the vote and Tshisekedi second with 32%. The US based Carter Center reported that there were widespread irregularities including incomplete voter lists, lack of voting materials, missing results from 3,500 polling stations.<sup>94</sup>

In February 2013 the Special Report of the *Secretary-General on the Democratic Republic of the Congo and the Great Lakes region* to the United Nations Security Council stated that national opposition actors and other observers have protested that the Government has taken systematic steps to consolidate its power, restrict political space and intimidate and target opponents, whether from political parties or civil society.<sup>95</sup>

### **3.1 Treatment of political opposition groups**

#### **Kivus and other parts of eastern DRC affected by armed conflict**

In December 2011 *Human Rights Watch* stated that government abuses against opposition supporters and in attempts stop protests occurred in several areas. On 9 December Congolese army soldiers shot and killed Willy Wabo, a civil society activist who was a member of Union for the Congolese Nation in his home in Bunyangula village near Kiwanja, North Kivu province. In the weeks before he was killed Wab had highlighted election irregularities on local radio stations,

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<sup>90</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>91</sup> United Nations Human Rights Office of the Human Rights Commissioner, Report of the United Nations Joint Human Rights Office on Human Rights and Fundamental Freedoms During the Pre-Electoral Period in the Democratic Republic of Congo, November 2011, [http://www.ohchr.org/Documents/Countries/ZR/UNJHRO\\_HRElectionsReport\\_en.pdf](http://www.ohchr.org/Documents/Countries/ZR/UNJHRO_HRElectionsReport_en.pdf), accessed 15 March 2013

<sup>92</sup> Al-Jazeera, Georges Nzongola-Ntalaja, It's now or never for DR Congo, 27 November 2011, <http://www.aljazeera.com/indepth/opinion/2011/11/201111261094822355.html>, accessed 21 February 2013

<sup>93</sup> Freedom House, Freedom in the World Report 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>94</sup> Freedom House, Freedom in the World 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 27 February 2013

<sup>95</sup> Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region (S/2013/119) to the United Nations Security Council, 27 February 2013, <http://reliefweb.int/sites/reliefweb.int/files/resources/Special%20Report%20of%20the%20Secretary-General%20on%20the%20Democratic.pdf>, accessed 10 March 2013

denouncing the actions of armed soldiers who blocked voters at a polling station in Katwiguru and the presence of soldiers at a polling station in Kiwanja.<sup>96</sup>

In January 2012 the report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to the *United Nations General Assembly* stated that on 13 December 2011 five members of political opposition parties including the provincial representative of UDPS and a candidate of the Union pour la nation congolaise for the National Assembly were arrested for trying to organise a public protest in Goma.<sup>97</sup>

In December 2012 *Amnesty International* stated it had received numerous reports of postelection repression of opposition groups including arbitrary arrests of political activists and members of the opposition<sup>98</sup>. *Amnesty International* reported concerns that these arrests were used as a method of intimidation. Those arrested include civilians, journalists, lawyers, opposition politicians and agents of the state security forces<sup>99</sup>. On December 13, in Bukavu (south-Kivu) the national police allegedly hit and arrested lawyer Eustache Nsimba and detained him at an unknown location. He had been participating in a demonstration organised by an opposition group. Although the Mayor of Bukavu had been informed of the demonstration in advance, he allegedly banned it. Eustache Nsimba was released later that same day. *Amnesty International* also reported on the arrest of at least two members of the UPDS party in Katanga. *Amnesty International* expressed concern that one member was being held in secret detention by the ANR<sup>100</sup>.

## **Other parts of the DRC, including Kinshasa, that are not affected by ongoing armed conflict**

In June 2010 the report of the *Special Rapporteur on extrajudicial, summary or arbitrary executions* stated that politically motivated human rights abuses in the west of the country, including killings of opposition supporters and the intimidation and arbitrary detention of presumed opposition supporters was a serious problem that had received little attention, reporting that nothing had been done to reform security agencies to prevent similar abuses in the future.<sup>101</sup>

In 2011 *Freedom House* stated that authorities in Kinshasa had imposed a five-day ban on political protests after a wave of violence resulting in several injuries and the death of one person. The police used tear gas and gunfire against pre-election protestors, targeting supporters of the Union for Democracy and Social Progress, whose headquarters were attacked on 13 September by supporters of President Kabila's Party for Reconstruction and Democracy.<sup>102</sup>

In December 2011 *Amnesty* cited reports from a local NGO that since December 2011 the FARDC have kidnapped or illegally arrested at least a dozen members of the army and the national police

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<sup>96</sup>Human Rights Watch, DR Congo: 24 Killed since Election Results Announced, Security Forces Attack, Detain Protesters, Local Residents, December 22, 2011, <http://www.hrw.org/news/2011/12/21/dr-congo-24-killed-election-results-announced>, accessed 24 February 2013

<sup>97</sup> United Nations Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to the UN General Assembly S/2011/298, May 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/315/23/PDF/N1131523.pdf?OpenElement>, accessed 9 March 2013

<sup>98</sup>Amnesty International, République démocratique du Congo : les arrestations postélectorales pour museler les opposants doivent cesser, 21 December 2011, <http://www.amnesty.fr/AI-en-action/Violences/Justice-internationale/Actualites/RDC-atteintes-la-liberte-d%E2%80%99expression-4276> Accessed 5 April 2013

<sup>99</sup> Amnesty International, République démocratique du Congo : les arrestations postélectorales pour museler les opposants doivent cesser, 21 December 2011 <http://www.amnesty.fr/AI-en-action/Violences/Justice-internationale/Actualites/RDC-atteintes-la-liberte-d%E2%80%99expression-4276> Accessed 5 April 2013

<sup>100</sup> République démocratique du Congo : les arrestations postélectorales pour museler les opposants doivent cesser, 21 December 2011, <http://www.amnesty.fr/AI-en-action/Violences/Justice-internationale/Actualites/RDC-atteintes-la-liberte-d%E2%80%99expression-4276> Accessed 5 April 2013

<sup>101</sup> United Nations General Assembly Human Rights Council, Fourteenth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Addendum, Mission to the Democratic Republic of the Congo, [http://www.geneva-academy.ch/RULAC/pdf\\_state/DRC-extra-judicial-report-2010.pdf](http://www.geneva-academy.ch/RULAC/pdf_state/DRC-extra-judicial-report-2010.pdf), accessed 2 March 2013

<sup>102</sup>Freedom House, Congo Bans Political Protests Following Violence, 2011, <http://www.freedomhouse.org/article/congo-bans-political-protests-following-violence>, Congo Bans Political Protests Following Violence, accessed 21 February 2013

as well as civilians in Kinshasa. *Amnesty* reports that they have all been targeted as originally from the Equator, Kasai-Occidental and Kasai-Oriental provinces that are bases for the political opposition. At the end of December, the location some of these individuals remained unknown. Others were reportedly being detained in secret in military camps in Kinshasa such as camp Kokolo or other locations outside of the ambit of judicial procedures<sup>103</sup>.

In December 2011 *Human Rights Watch* also stated that police and soldiers had dispersed protests in Bukavu, Lubumbashi, Mbuji-Mayi, Mwene-Ditu, Kananga, and Tshikapa. In Bukavu the police used batons to beat protesters. On 14 December in Lubumbashi soldiers armed with military assault rifles and rocket propelled grenades forcibly stopped a group of approximately 30 UDPS members and supporters from demonstrating.<sup>104</sup>

In January 2012 the report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to the *United Nations General Assembly* stated that numerous cases of arbitrary arrest and ill-treatment, primarily of supporters of the political opposition, were also reported across the country, often linked with attempts to assemble peacefully, UNJHRO reported that at least 27 people were killed in Kinshasa between 26 November and 12 December 2011.<sup>105</sup> In March 2012 the *United Nations Joint Human Rights Office* received reports of serious human rights violations committed by members of the Congolese defense and security forces in Kinshasa between 26 November and 25 December 2011, documenting the arrest of at least 265 civilians, most of whom have been detained illegally and/or arbitrarily, mainly due to their real or alleged affiliation to a political opposition party. At least 33 people were killed and 83 were injured by members of the security forces between 26 November and 25 December 2011, at least 16 people remain unaccounted for. These violations have been attributed to members of the Garde républicaine, officers of the National Congolese Police (PNC) and its specialised units, such as the Légion nationale d'intervention, the criminal investigation brigade and the Groupe mobile d'intervention, FARDC and agents of the National Intelligence Agency.<sup>106</sup>

In 2012 the *US State Department Human Rights Report 2011* stated that on 7 September the governor of Kinshasa banned all demonstrations during the final week of the candidacy registration period in response to violent back and forth retaliatory actions between supporters of UDPS and the Parti du Peuple pour la Reconstruction et la Démocratie (PPRD).<sup>107</sup>

In 2012 *Freedom House* stated in its *Freedom in the World* report that opposition politicians and their supporters faced violence and harassment by police in the run-up to the November 2011 elections, police used tear gas, beat protestors with clubs and fired live rounds in the air to break up demonstrations held by the opposition party, Union for Democracy and Social Progress, in September and October.<sup>108</sup>

In January 2012 the report of the *Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo* to the UN General Assembly stated

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<sup>103</sup> République démocratique du Congo : les arrestations postélectorales pour museler les opposants doivent cesser, 21 December 2011, <http://www.amnesty.fr/AI-en-action/Violences/Justice-internationale/Actualites/RDC-atteintes-la-liberte-d%E2%80%99expression-4276> Accessed 5 April 2013

<sup>104</sup> Human Rights Watch, DR Congo: 24 Killed since Election Results Announced, Security Forces Attack, Detain Protesters, Local Residents, December 22, 2011, <http://www.hrw.org/news/2011/12/21/dr-congo-24-killed-election-results-announced>, accessed 24 February 2013

<sup>105</sup> United Nations Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to the UN General Assembly S/2011/298, May 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/315/23/PDF/N1131523.pdf?OpenElement>, accessed 9 March 2013

<sup>106</sup> The United Nations Joint Human Rights Office on Serious Human Rights Violations Committed by Members of the Congolese Defense and Security Forces in Kinshasa in the Democratic Republic of the Congo Between 26 November and 25 December 2011, [http://monusco.unmissions.org/Portals/MONUC/ACTIVITIES/Human\\_Rights/UNJHRO26%20Novembre%20-%2025%20December%202011.pdf](http://monusco.unmissions.org/Portals/MONUC/ACTIVITIES/Human_Rights/UNJHRO26%20Novembre%20-%2025%20December%202011.pdf), accessed 26 February 2013

<sup>107</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

<sup>108</sup> Freedom House, *Freedom in the World 2012*, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 27 February 2013

that there were reports of a number of election-related incidents resulting in death, and destruction of property involving supporters of the opposition party UDPS and Union nationale des fédéralistes du Congo/Parti du peuple pour la reconstruction et le développement, supporters aligned with the presidential majority, in the provinces of Kinshasa, Kasai Oriental and Occidental and Katanga.<sup>109</sup>

In June 2012, local newspaper *The Kongo Times* stated that opposition parties reported incidents of postelection intimidation including executions, torture, seizure of land and goods and the repression of demonstrations.<sup>110</sup> *The Kongo Times* reported that UDPS has been specifically targeted, with many of its activists being killed or disappearing<sup>111</sup>. On 26 May 2012, Ghyslain Ekatom, a young UDPS activists was killed. He was charged with guarding the UPDS offices to prevent them being looted. According to eye witnesses he was stopped by two armed members of Zoe Kabila's personal guard. When he tried to resist he was tortured on the spot before he was shot as he tried to flee<sup>112</sup>. *The Kongo Times* reported that this was not an isolated case and that armed groups operating for the government kill regularly in the streets of Kinshasa including during daylight.<sup>113</sup> *The Kongo Times* also reports that family members (children) of activists and opposition groups have disappeared.<sup>114</sup>

In June 2012 the Kongo Times stated that the local NGO, Communauté pour la promotion des humains (CPH), reported that detainees with sympathies' to the opposition in Bas-Congo have been victims of ill-treatment, which has in some cases resulted in death.<sup>115</sup>

In April 2013 the *Comité des Observateurs des Droits de l'Homme* (CODHO), expressed concern that members of the opposition were being persecuted. CODHO reported the case of the opposition leader Eugène Diomi Ndongala. Ndongala was arrested on 8 April 2012 on allegations of rape and was held incommunicado in a secret detention facility. The rape charges were later dropped and he stands accused of being the head of an armed group called IMPERIUM<sup>116</sup>. CODHO reports numerous violations of Ndongala's constitutional and legal rights in the case brought against him, stating that the Prosecutor has made contradictory accusations against him in court, and has allegedly admitted the political nature of the case<sup>117</sup>. CODHO reports that there are indications that there have been attempts to kill him during his time in detention. On 18 October 2012 he needed emergency medical care as a result of the treatment received in detention. CODHO also states that since he was released on bail Ndongala shows signs of poisoning<sup>118</sup>.

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<sup>109</sup> United Nations Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to the UN General Assembly, 26 January 2012, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/206/29/PDF/N1220629.pdf?OpenElement>, accessed 13 March 2013

<sup>110</sup> Kongo Times, RDC : Les partis d'Opposition dénoncent l'acharnement du pouvoir contre leurs partisans 29 June 2012, <http://afrique.kongotimes.info/rdc/politique/4532-congo-partis-opposition-denoncent-acharnement-pouvoir-contre-leurs-partisans.html>, accessed 5 April 2013

<sup>111</sup> Kongo Times, RDC : Les partis d'Opposition dénoncent l'acharnement du pouvoir contre leurs partisans 29 June 2012, <http://afrique.kongotimes.info/rdc/politique/4532-congo-partis-opposition-denoncent-acharnement-pouvoir-contre-leurs-partisans.html>, Accessed 5 April 2013

<sup>112</sup> Kongo Times, RDC : Les partis d'Opposition dénoncent l'acharnement du pouvoir contre leurs partisans 29 June 2012, <http://afrique.kongotimes.info/rdc/politique/4532-congo-partis-opposition-denoncent-acharnement-pouvoir-contre-leurs-partisans.html>, Accessed 5 April 2013

<sup>113</sup> Kongo Times, RDC : Les partis d'Opposition dénoncent l'acharnement du pouvoir contre leurs partisans 29 June 2012, <http://afrique.kongotimes.info/rdc/politique/4532-congo-partis-opposition-denoncent-acharnement-pouvoir-contre-leurs-partisans.html>, Accessed 5 April 2013

<sup>114</sup> Kongo Times, RDC : Les partis d'Opposition dénoncent l'acharnement du pouvoir contre leurs partisans 29 June 2012, <http://afrique.kongotimes.info/rdc/politique/4532-congo-partis-opposition-denoncent-acharnement-pouvoir-contre-leurs-partisans.html>, Accessed 5 April 2013

<sup>115</sup> Kongo Times, RDC : Les partis d'Opposition dénoncent l'acharnement du pouvoir contre leurs partisans 29 June 2012, <http://afrique.kongotimes.info/rdc/politique/4532-congo-partis-opposition-denoncent-acharnement-pouvoir-contre-leurs-partisans.html>, Accessed 5 April 2013

<sup>116</sup> Diomindongala, RD Congo : CODHO dénonce la persécution contre le député Eugène Diomi Ndongala et ses proches à Kinshasa 24 April 2013 <http://diomindongala.wordpress.com/> Accessed 25 April 2013

<sup>117</sup> Diomindongala, RD Congo : CODHO dénonce la persécution contre le député Eugène Diomi Ndongala et ses proches à Kinshasa 24 April 2013 <http://diomindongala.wordpress.com/> Accessed 25 April 2013

<sup>118</sup> Diomindongala, RD Congo : CODHO dénonce la persécution contre le député Eugène Diomi Ndongala et ses proches à Kinshasa 24 April 2013 <http://diomindongala.wordpress.com/> Accessed 25 April 2013



## 4. Freedom of the press and media

[See also Section 3. Freedom of Expression](#)

Article 24 of Chapter 1 of the 2006 Congolese Constitution states that freedom of the press and media are guaranteed,

"Article 24. All persons have the right to information. The freedom of the press, the freedom of information and broadcasting by radio and television, written press or any other means of communication are guaranteed, subject to respect for the law, public order and the rights of others.

The law determines the conditions for the exercise of these liberties. The audiovisual and written media of the State are public services to which all political and social movements are guaranteed access in an equitable manner. The status of the State media is established by law which guarantees objectivity, impartiality and plurality of views in the processing and distribution of information."<sup>119</sup>

In November 2011 the *United Nations Human Rights Office of the Human Rights Commissioner* stated that Law No. 96-002 of 22 June 1996 guarantees freedom of the Press but that Ordonnance-loi No. 300 of 16 December includes potential limitations to press freedom by outlawing insults against the Head of State.<sup>120</sup> In its 2011 country report *USDOS* reported that there were no known cases of this prohibition being invoked during 2011.<sup>121</sup>

In its report on Freedom of the Press in 2012 *Freedom House* reported that the public largely relies on radio broadcasts for news due to high illiteracy rates and prohibitive cost of newspapers and television. There are several hundred privately owned radio stations and three state owned radio stations and one state owned television station. It is reported that state broadcasters favour Kabila's party. *Freedom House* stated that many newspapers are published although they are often used for political propaganda rather than objective reporting and are often highly critical of the government. According to *Freedom House* and *USDOS* journalists lack adequate training making them vulnerable to political manipulation.<sup>122</sup> *USDOS* reported that journalists received little if any salary.<sup>123</sup> *Freedom House* reported that internet access is available at privately owned internet cafe's in urban areas and that in 2011 1.2% of the population accessed the internet.<sup>124</sup>

### 4.1 Public and Private Media

In its 2012 country report *USDOS* stated that there were a large number of private press outlets, both pro and anti-government, throughout the country and that the government licensed a large number of daily newspapers. *USDOS* cites Ministry of Communications' figures that there are 134

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<sup>119</sup> Congolese Constitution, Chapter 1 Article 24, 2005, available at <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>, accessed 10 March 2013

<sup>120</sup> United Nations Human Rights Office of the Human Rights Commissioner, Report of the United Nations Joint Human Rights Office on Human Rights and Fundamental Freedoms During the Pre-Electoral Period in the Democratic Republic of Congo, November 2011, [http://www.ohchr.org/Documents/Countries/ZR/UNJHRO\\_HRElectionsReport\\_en.pdf](http://www.ohchr.org/Documents/Countries/ZR/UNJHRO_HRElectionsReport_en.pdf), accessed 15 March 2013

<sup>121</sup> US Department of State, Country Report on Human Rights Practices 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 13 March 2013

<sup>122</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013; US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>123</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>124</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

television stations, 463 radio stations and 445 newspapers registered as of August 2012.<sup>125</sup> The state owns three television stations and three radio stations and the president's family owns two television stations.<sup>126</sup> In February 2012 the *British Broadcasting Corporation (BBC)* Country profile stated that there are approximately 175 newspapers and magazines, 300 radio stations and 50 TV stations in the country and that there were more than 915,000 internet users.<sup>127</sup> *USDOS* reports that newspapers are required to pay a one off license fee of 250,000 Congolese francs (approximately \$270) and complete administrative requirements before they can publish.<sup>128</sup>

In its report on Freedom of the Press in 2012 *Freedom House* reported that media outlets are regulated by the High Authority on Media which has a mandate to ensure freedom of expression and has the power to temporarily suspend outlets for hate speech or ethical transgressions. *Freedom House* states that the authority has been accused of political bias. The High Council for Broadcasting and Communication (CSAC) was established in October 2009 by a bill passed by the National Assembly, the council has 15 members who were appointed by Kabila in August 2011. *Freedom House* reports that *Journaliste en Danger*, a Congolese press freedom group has called for the closure of CSAC, arguing that it is frequently manipulated by politicians and has failed to act against instances of press freedom violations.<sup>129</sup> In November 2011 the *United Nations Human Rights Office of the Human Rights Commissioner* stated in its report of the United Nations Joint Human Rights Office on Human Rights and Fundamental Freedoms During the Pre-Electoral Period in the Democratic Republic of Congo that the Congolese Constitution contains an obligation for the State to "foster a pluralist media environment." The *United Nations Human Rights Office of the Human Rights Commissioner* reported that to this end the government established the Conseil Supérieur de l'Audiovisuel et de la Communication in August 2011, which replaced the Haute Autorité des Médias (High Authority on Media). The council's mandate is to guarantee freedom of the press, journalistic deontology and equitable access of political parties to the media. The *United Nations Human Rights Office of the Human Rights Commissioner* stated that the council also has a regulatory role in which it can define the limits of freedom of expression, addressing issues such as incitement to hatred or to ethnic violence.<sup>130</sup>

## 4.2 Independence of the Media

In its 2012 report on Freedom of the Press *Freedom House* stated that the state of press freedom was deplorable and that there was widespread intimidation of journalists in connection with the 2011 elections. *Freedom House* reports that government and non state actors have sought to limit freedom of speech, press and information. According to *Freedom House* government officials have used regulations and laws to restrict free speech and political criticism, bringing charges against journalists and shutting down broadcast operations.<sup>131</sup> In its 2012 country report the *USDOS* reported that national and provincial governments used criminal defamation and insult laws to intimidate those critical of the government. *USDOS* reports that bloggers must obtain authorisation from CSAC and that the body had not refused authorisation during the year and that

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<sup>125</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>126</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>127</sup> BBC, Country Profile, Democratic Republic of Congo, February 2012, <http://www.bbc.co.uk/news/world-africa-13285760>, accessed 10 March 2013

<sup>128</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>129</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>130</sup> United Nations Human Rights Office of the Human Rights Commissioner, Report of the United Nations Joint Human Rights Office on Human Rights and Fundamental Freedoms During the Pre-Electoral Period in the Democratic Republic of Congo, November 2011, [http://www.ohchr.org/Documents/Countries/ZR/UNJHRO\\_HRElectionsReport\\_en.pdf](http://www.ohchr.org/Documents/Countries/ZR/UNJHRO_HRElectionsReport_en.pdf), accessed 15 March 2013

<sup>131</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

individuals and groups could engage in peaceful expression of opinion via the internet, including by email.<sup>132</sup>

In its 2013 World Press Freedom Index *Reporters Without Borders* ranked DRC 142nd out of 179 countries.<sup>133</sup>

In its 2012 country report *USDOS* stated that the government restricted freedom of speech in practice, intimidating journalists and publishers into practicing self-censorship and that freedom of the press declined during the year. The *USDOS* stated that generally individuals could privately criticise the government without reprisals, however public criticism of government officials or government conduct could result in "harsh responses."<sup>134</sup> In February 2012 the *BBC* reported that despite reporters who expose corruption being at risk, the press has been able to criticise government bodies.<sup>135</sup>

### 4.3 Treatment of Journalists

In its 2012 report on Freedom of the Press *Freedom House* reported that journalists continued to face attacks and harassment from national and local government officials, security services, the National Intelligence Agency and nonstate actors, stating that reporting perceived to be sympathetic to opposition parties faced the worst intimidation. *Freedom House* estimates that dozens if not hundreds of journalists were detained in 2011, many of whom were arrested without warrants and were held on ambiguous charges. *Freedom House* reported that in April 2011 Eugenie Ntumbain, editor in chief of Radio Television Satellitaire 1, was threatened with rape by Yves Kisombe, a member of the National Assembly, after she audio recorded a phone conversation in which she asked him for comments on the oppositions call for transparency during elections.<sup>136</sup>

In its 2011 country report *USDOS* stated that journalists often received anonymous death threats from callers, and continued to be concerned by the lack of serious investigation and judicial action by authorities for the murder of journalists in 2005.<sup>137</sup>

In its 2012 Freedom of the Press report *Freedom House* stated that attacks on journalists worsened significantly in November and December 2011, when dozens of journalists reported increased incidents including threats, beatings, intimidation and confiscation of equipment. According to *Freedom House* in the government enacted tight controls to cope with pre- and postelection activity, some provincial governors censored local and international television and radio programmes and outlets.<sup>138</sup> *Freedom House* and *USDOS* report that media outlets were shutdown during the election period.<sup>139</sup> *Freedom House* reported that the government suspended text messaging capabilities across the country between 3-28 December 2011, *USDOS* stated that

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<sup>132</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>133</sup> Reporters Without Borders, 2013 World Press Freedom Index, [http://fr.rsf.org/IMG/pdf/classement\\_2013\\_gb-bd.pdf](http://fr.rsf.org/IMG/pdf/classement_2013_gb-bd.pdf), accessed 18 May 2013

<sup>134</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>135</sup> BBC Country Profile, Democratic Republic of Congo, <http://www.bbc.co.uk/news/world-africa-13285760>, accessed 10 March 2013

<sup>136</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>137</sup> US Department of State, Country Report on Human Rights Practices 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 13 March 2013

<sup>138</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>139</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013; US Department of State, Country Report on Human Rights Practices 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 13 March 2013

the measure was taken to control information and limit demonstrations and violence following national elections.<sup>140</sup>

In its 2011 human rights and democracy report the *UK Foreign and Commonwealth Office* stated that there was an increase in violations against the right to freedom of expression during 2011 and that opposition candidates, parliamentarians, political activists, journalists, CENI officials and human rights defenders faced increased harassment, intimidation and arbitrary arrests by a variety of state agents.<sup>141</sup> In its 2012 country report *USDOS* reported that according to *Journaliste en danger*, six journalists were beaten and 23 were threatened or harassed during the year.<sup>142</sup>

In December 2012 *MONUSCO* reported that UN funded Radio Okapi had been suspended by the CSAC. The UN's special representative in DRC and the head of *MONUSCO* said that this was particularly disappointing due to the security situation in Northern Kivu. The radio station was used to spread security updates. Furthermore neither the radio nor *MONUSCO* were notified of the decision. A document obtained by *MONUSCO* indicates that the suspension was based on the fact that Radio Okapi refused to submit its programme schedule to the CSAC<sup>143</sup>.

## **Kivus and other parts of eastern DRC affected by armed conflict**

In its 2011 country report *USDOS* reported that radio journalists, especially in Bakuvu, south Kivu expressed concern for their safety.

In its 2012 report on Freedom of the Press *Freedom House* reported that Radio du Peuple Oicha, a community radio in Beni North Kivu, was forced to close after angering the deputy provincial administrator following a call in show where citizens complains about the declining state of security in the area.<sup>144</sup>

In its 2012 report on Freedom of the Press *Freedom House* reported that in June 2011 radio journalist Kambale Musonia was shot in North Kivu by armed men who were waiting for him as he returned home.<sup>145</sup> In its 2011 country report *USDOS* reported that he was murdered after he hosted a call-in programme in which listeners claimed increasing insecurity was due to local SSF.<sup>146</sup> In its 2012 world report *Human Rights Watch* reported that Patchelly Kambeale Musonia of community radio station Paysanne was shot in Kirumba on 21 June following a broadcast about the trafficking of weapons.<sup>147</sup> *Freedom House* reports that in June 2011 Radio Television Lubumbashi JUA was raided and burnt down by arsonists in support of the provincial governor, allegedly because its broadcasts questioned his leadership.<sup>148</sup> *Freedom House and the Committee to Protect Journalists* report that in June 2011 Baby Balukuna, a radio host and supporter of opposition presidential candidate Etienne Tshisekedi was attacked by a group of men armed with machetes and sticks.<sup>149</sup> The *Committee to Protect Journalists* reported that baby

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<sup>140</sup> US Department of State, Country Report on Human Rights Practices 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 13 March 2013

<sup>141</sup> The Foreign and Commonwealth Office, Human Rights and Democracy the 2011 Foreign and Commonwealth Office Report, 2012, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/35439/hrd-report-2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35439/hrd-report-2011.pdf), accessed 13 March 2013

<sup>142</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dld=204107>, accessed 25 May 2013

<sup>143</sup> MONUSCO, Communiqués de presse, Les Nations Unies protestent contre la décision de suspension de Radio Okapi par le CSAC, 2 December 2012, <http://monusco.unmissions.org/Default.aspx?tabid=11332&ctl=Details&mid=14307&ItemID=19459&language=fr-FR> Accessed 23 April 2013

<sup>144</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>145</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>146</sup> US Department of State, Country Report on Human Rights Practices 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 13 March 2013

<sup>147</sup> Human Rights Watch, World Report 2012 Democratic Republic of Congo, <http://www.hrw.org/world-report-2012/world-report-2012-democratic-republic-congo>, accessed 12 March 2013

<sup>148</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>149</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013; The Committee to Protect Journalists, DRC's Kabila

Balukuna was a presenter on Radio Lisanga Television's 'Support Etienne Tshisekedi' programme. and that he was attacked as he left the station's studios.<sup>150</sup>

In its report on Attacks of the Press in 2012 the *Committee to Protect Journalists* stated that journalists reporting on renewed conflict in the east faced censorship and intimidation from local officials, the national government, and rebel forces, describing the danger faced by journalists in this area as "severe." The *Committee to Protect Journalists* reported that all broadcasters were barred from broadcasting on the conflict and several stations were suspended for interviewing anti-government forces. According to the *Committee to Protect Journalists* stated that at least three journalists went into hiding after being threatened in reprisal for their coverage of the conflict.<sup>151</sup>

In October 2012 Radio Okapi stated that *Reporters Without Borders and Journalist in Danger* reported that Jean Baptiste Kambale, director of Radio communautaire Ushirika (Racou) in Rutshuru received death threats from M23 rebels and that other Racou journalists were being harassed.<sup>152</sup>

In December 2012 French non-profit organisation *Reporters Without Borders* stated that its partner organisation in Democratic Republic of Congo, *Journalist in Danger* (JED), reported that the M23 had ordered the signals of three state owned TV stations in Goma to be disconnected on 20 November. Retransmission resumed on 2 December when the M23 withdrew from Goma. State owned Radio Télévision Nationale Congolaise and privately-owned stations Digital Congo and Radio Télévision du Groupe l'Avenir broadcast from Kinshasa, according to *Reporters Without Borders* M23 disconnected the stations to prevent the Goma population from receiving information from the government in Kinshasa.<sup>153</sup>

In December 2012 *Reporters Without Borders and Journalist in Danger* expressed concern about M23's treatment of media outlets and the safety of media personnel in Goma and other areas of eastern DRC. *Reporters Without Borders and Journalist in Danger* reported that M23 had seized control of some outlets and were determining the content of news reports..<sup>154</sup>

In December 2012 *Amnesty International* reported the arrest of four journalists who were working for a local radio station in the early hours of 14 December 2011 in Kabambare, Maniema province. The journalists were accused of ignoring an official order to close the station. They have all since been released.<sup>155</sup>

In April 2013 *Journalist in Danger* reported that Blaise Bahisha the director of Radio Sauti ya Rutshuru, a private radio station in Rutshuru went into hiding on 30 March 2013 following threats issued by M. Benjamin M'Ponimpa, administrator of Rutshuru. According to *Journalist in Danger* M'Ponimpa fired Blaise Bahisha from his position as director of the radio station. Three days later armed members of the M23 came looking for him at 1 am at his house. Blaise Bahisha, told

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government bans broadcaster favorable to rival, July 13, 2011 <http://www.cpi.org/2011/07/drcs-kabila-government-bans-broadcaster-favorable.php>, accessed 15 May 2013

<sup>150</sup> The Committee to Protect Journalists, DRC's Kabila government bans broadcaster favorable to rival, July 13, 2011

<http://www.cpi.org/2011/07/drcs-kabila-government-bans-broadcaster-favorable.php>, accessed 15 May 2013

<sup>151</sup> The Committee to Protect Journalists, Attacks on the Press 2012, February 2013, <http://www.cpi.org/2013/02/attacks-on-the-press-in-2012-dr-congo.php>, accessed 14 March 2013

<sup>152</sup> Radiookapi, RDC: Jed et RSF condamnent les menaces du M23 contre un journaliste à Rutshuru, 20 October 2012, <http://radiookapi.net/actualite/2012/10/20/rdc-jed-rsf-condamnent-les-menaces-du-m23-contre-journaliste-rutshuru/> Accessed, 8 April 2013

<sup>153</sup> Reporters Without Borders, TV STATIONS SILENCED BY M23 RESUME RETRANSMITTING IN GOMA, 4 December 2012, [http://en.rsf.org/drc-concern-about-m23-s-news-control-21-11-2012\\_43706.html](http://en.rsf.org/drc-concern-about-m23-s-news-control-21-11-2012_43706.html), accessed 20 February 2013

<sup>154</sup> Reporters Without Borders, TV STATIONS SILENCED BY M23 RESUME RETRANSMITTING IN GOMA, 4 December 2012, [http://en.rsf.org/drc-concern-about-m23-s-news-control-21-11-2012\\_43706.html](http://en.rsf.org/drc-concern-about-m23-s-news-control-21-11-2012_43706.html), accessed 20 February 2013

<sup>155</sup> Amnesty International, République démocratique du Congo : les arrestations postélectorales pour museler les opposants 21 December 2011, doivent cesser, <http://www.amnesty.fr/AI-en-action/Violences/Justice-internationale/Actualites/RDC-atteintes-la-liberte-%E2%80%99expression-4276> Accessed 5 April 2013

Journalist in Danger that these actions were the result of his refusal to air messages and documents from M23 that were insulting to the government of DRC<sup>156</sup>.

## **Other parts of the DRC, including Kinshasa, that are not affected by ongoing armed conflict**

In its 2012 Freedom in the World report *Freedom House* stated that in April 2011 radio host Samy Mbeto was detained on charges of "insulting the authorities" and "defaming politicians."<sup>157</sup>

In its 2011 country report *USDOS* reported that on 12 April 2011 Lambert Mbuyi from radio-television station Debout Kasai which airs in Mbuji-Mayi, was questioned by the National Intelligence Agency (ANR) the day after airing a programme which the ANR considered defamatory to provincial authorities.<sup>158</sup>

In 2012 report on Freedom of the Press *Freedom House* reported that in March 2011 Hardy Kazadi llinga, a technician who worked for Radio-Television Mosaïque was murdered in front of his house in Likasi by men wearing police uniforms.<sup>159</sup>

In its 2012 Freedom of the Press *Freedom House* stated that in June 2011 Freddy Mulumba Kabwaya, managing director of Le Potentiel a private daily newspaper based in Kinshasa was given a month sentence for defaming a politician.<sup>160</sup>

In its 2012 world report *Human Rights Watch* reported that in August 2011 cameraman Serge Kembila of Radio Television Group l'Avenir was attacked by security guards for filming empty seats and his footage was confiscated.<sup>161</sup>

In its 2012 world report *Human Rights Watch* reported that in September 2011 Dede Ilunga a journalist with Radio Ocean in Fungurume, Katanga province, was arbitrarily arrested and detained for 17 days by police after he criticised President Kabila's development programme in a broadcast. He was released without charge.<sup>162</sup>

In its 2012 world report *Human Rights Watch* reported that in the run up to elections threats against journalists increased, on 6 September unidentified armed men attacked the studio of Radio Lisanga Television (RLTV), throwing tear gas, petrol and incendiary grenades into the building.<sup>163</sup>

In its 2012 world report *Human Rights Watch* stated that journalists reporting on demonstrations and political rallies were repeatedly targeted and the authorities generally failed to investigate and prosecute those responsible for attacks. *Human Rights Watch* report an exception in the case of Floribert Chebeya Bahizire the executive Director of Voice of the Voiceless and his driver Fidele Bazana in which a military court found five senior police officers guilty of their murder, although at the time of writing in 2012 three of the five remained at large. According to *Human Rights Watch*

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<sup>156</sup> JED, République Démocratique du Congo / Kinshasa, Goma: Un journaliste fuyant les menaces dans la zone sous occupation des rebelles, arrete pour espionnage par la police, 22 April 2013, [http://www.jed-afrique.org/fr/index.php?option=com\\_content&task=view&id=997&Itemid=9&id\\_alerte=1195](http://www.jed-afrique.org/fr/index.php?option=com_content&task=view&id=997&Itemid=9&id_alerte=1195) Accessed 23 April 2013

<sup>157</sup> Freedom House Freedom in the World 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 9 March 2013

<sup>158</sup> US Department of State, Country Report on Human Rights Practices 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 13 March 2013

<sup>159</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>160</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>161</sup> Human Rights Watch, World Report 2012 Democratic Republic of Congo, <http://www.hrw.org/world-report-2012/world-report-2012-democratic-republic-congo>, accessed 12 March 2013

<sup>162</sup> Human Rights Watch, World Report 2012 Democratic Republic of Congo, <http://www.hrw.org/world-report-2012/world-report-2012-democratic-republic-congo>, accessed 12 March 2013

<sup>163</sup> Human Rights Watch, World Report 2012 Democratic Republic of Congo, <http://www.hrw.org/world-report-2012/world-report-2012-democratic-republic-congo>, accessed 12 March 2013

Congolese human rights groups criticised the trial for failing to examine the role of the national police chief in the murder.<sup>164</sup> In its 2013 world report *Human Rights Watch* reported that appeal hearings began in the trial of those accused of killing Chebeya, stating that in June 2011 the deputy head of special police services, Colonel Daniel Mukalay, and three fugitive officers were sentenced to death.<sup>165</sup>

The *Committee to Protect Journalists* reported that in July 2011 Radio Lisanga Televisions signal was suspended the day after it broadcast coverage of a march by members of the Union for Democracy and Social Progress.<sup>166</sup>

In its 2012 Freedom of the Press report *Freedom House* stated that two television channels in Kinshasa (Canal Futur Television and Radio Lisanga Television (RLTV)) had their broadcast signals disconnected, allegedly due to their support for opposition politicians. In its 2011 country report *USDOS* reported that RLTV's signal was shut down by the media and communications ministry between 6-15 November after it aired an interview with UDPS leader Etienne Tshiskedi in which he declared himself president and "advocated violence against the police."<sup>167</sup> *USDOS* reported that CSAC, the only institution officially with the power to suspend broadcasting rights, later issued an official suspension. Although the suspension ended on 9 December the station remained off air at the end of the year.<sup>168</sup> *USDOS* reported that Canal Futur, owned by unsuccessful presidential candidate and head of the Union for the Congolese Nation, Vital Kamerhe, was suspended on 28 November for 10 days after defaming one of Kamerhe's political adversaries. Canal Futur remained off air at the years end. *USDOS* states that on 31 December Radio France Internationale's broadcasts were suspended for airing Etienne Tshisekedi's New Year's national address.<sup>169</sup> *Freedom House* stated that during the 28 November 2011 election opposition party television stations, including Radio Lisanga Television, were raided and taken over by national authorities.<sup>170</sup>

In its 2012 report on Freedom of the Press *Freedom House* reported that some stations were closed allegedly for tax reasons. In May 2011 the offices of private television station Tele Kin Malebo were closed and its signal suspended for not paying approximately \$850,000 in taxes, a further five community and faith radio stations were closed a week before the elections in November 2011, allegedly for failing to pay \$15,000 licence fees.<sup>171</sup>

In its report on Attacks of the Press in 2012 the *Committee to Protect Journalists* reported that it had documented a number of cases in which officials in Bas Congo had detained and intimidated journalists who were critical.<sup>172</sup>

In December 2012 *Reporters Without Borders* reported the release of Radio Television Chretienne journalist Pierre Sosthène Kambidi's after being held for four months in a National Intelligence Agency detention centre in Kinshasa without trial and called for the immediate release of two other

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<sup>164</sup> Human Rights Watch, World Report 2012 Democratic Republic of Congo, <http://www.hrw.org/world-report-2012/world-report-2012-democratic-republic-congo>, accessed 12 March 2013

<sup>165</sup> Human Rights Watch, World Report 2013, <http://www.hrw.org/world-report/2013/country-chapters/democratic-republic-congo>, accessed 24 May 2013

<sup>166</sup> The Committee to Protect Journalists, DRC's Kabila government bans broadcaster favorable to rival, July 13, 2011 <http://www.cpj.org/2011/07/drcs-kabila-government-bans-broadcaster-favorable.php>, accessed 15 May 2013

<sup>167</sup> US Department of State, Country Report on Human Rights Practices 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 13 March 2013

<sup>168</sup> US Department of State, Country Report on Human Rights Practices 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 13 March 2013

<sup>169</sup> US Department of State, Country Report on Human Rights Practices 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 13 March 2013

<sup>170</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>171</sup> Freedom House, Freedom of the Press 2012, Democratic Republic of Congo, <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>172</sup> The Committee to Protect Journalists, Attacks on the Press 2012, February 2013, <http://www.cpj.org/2013/02/attacks-on-the-press-in-2012-dr-congo.php>, accessed 14 March 2013

journalists from the central province of Kasai Occidental, John Mpoi and Fortunat Kasongo, held by the National Intelligence Agency in Kinshasa."<sup>173</sup>

In February 2013 *Journalist in Danger* stated that Kasai Horizon Radio Television (KHRT), a private station broadcasting in Kananga had been banned from broadcasting for a period of five days by CSAC and its director was forbidden from using any provincial media for a period of 30 days, after the station broadcast commentary on a property dispute that was being heard in court.<sup>174</sup>

In March 2013 *Journalist in Danger* stated that bail had been granted to Joachim Diana, editor of "La Colombe", a private newspaper published in Kinshasa after an initial sentence of 6 months in prison and payment of damages 20 000 US dollars for "damaging allegations" against Gen Tai (a Chinese company based in Kinshasa). Diana had published an article alleging that a Chinese hospital used expired pharmaceuticals to treat patients and systematically performed caesareans in order to make more profit.<sup>175</sup>

## 5. Freedom of Religion

Article 22 of Chapter 1 of the 2006 Congolese Constitution states that all persons have the right to freedom of thought, conscience and religion,

"All persons have the right to freedom of thought, conscience and religion. All persons have the right to express their religion or their convictions, alone or together with others, both in public and in private, by worship, teaching, practices, carrying out of rites and a religious way of living, subject to respect for the law, public order, morality and the rights of others. The law determines the conditions for the exercise of these liberties."<sup>176</sup>

In its 2011 International Religious Freedom report *USDOS* states that the main religions practiced are Christianity, Kimbanguism, Islam and animism,

"The population is approximately 50 percent Roman Catholic, 35 percent Protestant (including evangelicals), 5 percent Kimbanguist (a Christian-inspired Congolese church), and 5 percent Muslim. Other religious groups are represented in much smaller numbers and include Jehovah's Witnesses, The Church of Jesus Christ of Latter-day Saints (Mormons), Greek Orthodox Christians, and Jews. The remainder generally practices animist indigenous religious beliefs. Best estimates indicate that approximately 70 percent of the population attends religious services each week, but the last population census providing specific proportions was conducted in 1984.

Most religious groups are scattered throughout the country and are widely represented in cities and large towns. Muslims are concentrated mainly in the provinces of Maniema, Orientale, and Kinshasa. Although present throughout the country, Kimbanguists are primarily concentrated in Kinshasa and Bas-Congo."<sup>177</sup>

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<sup>173</sup> Reporters Without Borders. JOURNALIST HELD BY INTELLIGENCE AGENCY RELEASED AFTER FOUR MONTHS, 19 DECEMBER 2012, <http://en.rsf.org/drc-journalist-held-by-intelligence-19-12-2012,43821.html>, accessed 12 March 2013

<sup>174</sup> Journalists in Danger, Radio station closed and its director banned in media by the regulator 2013-02-27 [http://www.jed-afrique.org/en/index.php?option=com\\_content&task=view&id=997&Itemid=9&id\\_alerte=1185](http://www.jed-afrique.org/en/index.php?option=com_content&task=view&id=997&Itemid=9&id_alerte=1185), accessed 12 March 2013

<sup>175</sup> Journalists in Danger, Joachim Diana released on bail after 20 days in jail, 2013-03-07, [http://www.jed-afrique.org/en/index.php?option=com\\_content&task=view&id=997&Itemid=9&id\\_alerte=1187](http://www.jed-afrique.org/en/index.php?option=com_content&task=view&id=997&Itemid=9&id_alerte=1187), accessed 12 March 2013

<sup>176</sup> Constitution of the Democratic Republic of Congo, 2006, <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>, accessed 10 March 2013

<sup>177</sup> United States Department of State, International Religious Freedom Report 2011, <http://www.state.gov/documents/organization/192911.pdf>, accessed 18 May 2013



In its 2011 International Religious Freedom report *USDOS* states that in practice the government generally respected religious freedom and there were no trends indicating either a decline or improvement in respect for and protection of the right to religious freedom. The *USDOS* made contrasting statements about there being isolated reports of discrimination based on religious affiliation, belief or practice and later that there were no reports of societal abuses or discrimination based on religious affiliation, belief or practice.<sup>178</sup> *Freedom House* reported that there were no reported incidents of religious discrimination in 2011<sup>179</sup> but that church leaders who have become involved in politics have been persecuted.<sup>180</sup> However according to *USDOS* there were reports that people, including children accused of witchcraft were attacked, tortured and killed or forced to flee their homes. Religious groups are required to register with the government, however the *USDOS* reports that unregistered groups were able to operate unhindered and foreign religious groups could operate without restriction once they received government approval.<sup>181</sup>

## **Kivus and other parts of eastern DRC affected by armed conflict**

In its 2010 International Religious Freedom report *USDOS* cited reports that on 8 November two men in military uniforms killed a priest near Goma after taking money from the priest's travelling companion. It was believed to be a targeted killing, the armed men had previously stopped others asking if they were priests and left the travelling companion unharmed.<sup>182</sup>

In its 2010 International Religious Freedom report *USDOS* reported that on 13 December a priest was left in a coma and his wife killed in a targeted killing by unidentified armed men in Goma.<sup>183</sup>

## **Other parts of the DRC, including Kinshasa, that are not affected by ongoing armed conflict**

In its 2010 International Religious Freedom report *USDOS* reported that in April police arrested three Mormons in Kinshasa and detained additional supporters who protested the initial. They were detained without trial or conviction for three and a half months, there were allegations that political involvement by the church leader was a possible reason for the arrests.<sup>184</sup>

In its 2010 International Religious Freedom report *USDOS* reported that violence broke out between Muslims and animists in Kalima, Maniema on 8 October during which two mosques were burned and up to 20 people were beaten and lashed.<sup>185</sup>

In February 2012 French online newspaper *l'édition des sources du Nil* reported on the suppression of a peaceful protest march by Christians in the capital city during which four priests, two nuns and a monk were arrested. Tear gas was used to disperse the protest and a number were injured. *l'édition des sources du Nil* reports that the march had been organised to protest

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<sup>178</sup> United States Department of State, International Religious Freedom Report 2011, <http://www.state.gov/documents/organization/192911.pdf>, accessed 18 May 2013

<sup>179</sup> Freedom House, Freedom in the World Report 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 23 February 2013

<sup>180</sup> Freedom House, Countries at Crossroads Report 2012 Democratic Republic of Congo, <http://www.freedomhouse.org/report/countries-crossroads/2012/democratic-republic-congo>, accessed 18 May 2013

<sup>181</sup> United States Department of State, International Religious Freedom Report 2011, <http://www.state.gov/documents/organization/192911.pdf>, accessed 18 May 2013

<sup>182</sup> US Department of State Bureau Of Democracy, Human Rights, and Labor, Democratic Republic of the Congo, July-December, 2010 International Religious Freedom Report, 13 September 2011, [http://www.state.gov/j/drl/rls/irf/2010\\_5/168399.htm](http://www.state.gov/j/drl/rls/irf/2010_5/168399.htm), accessed 27 February 2013

<sup>183</sup> US Department of State Bureau Of Democracy, Human Rights, and Labor, Democratic Republic of the Congo, July-December, 2010 International Religious Freedom Report, 13 September 2011, [http://www.state.gov/j/drl/rls/irf/2010\\_5/168399.htm](http://www.state.gov/j/drl/rls/irf/2010_5/168399.htm), accessed 27 February 2013

<sup>184</sup> US Department of State Bureau Of Democracy, Human Rights, and Labor, Democratic Republic of the Congo, July-December, 2010 International Religious Freedom Report, 13 September 2011, [http://www.state.gov/j/drl/rls/irf/2010\\_5/168399.htm](http://www.state.gov/j/drl/rls/irf/2010_5/168399.htm), accessed 27 February 2013

<sup>185</sup> US Department of State Bureau Of Democracy, Human Rights, and Labor, Democratic Republic of the Congo, July-December, 2010 International Religious Freedom Report, 13 September 2011, [http://www.state.gov/j/drl/rls/irf/2010\\_5/168399.htm](http://www.state.gov/j/drl/rls/irf/2010_5/168399.htm), accessed 27 February 2013

against the results of the 28 November legislative elections. It is reported that a number of Christians were prevented from leaving their parish to stop them from joining the protest and others were prevented from leaving or entering St Joseph's church were national police had entered and used tear gas against those present and praying. The organisers resorted to calling MONUSCO and following discussions with the armed forces at St Joseph the UN troops were able to secure their departure.<sup>186</sup>

### **5.1. Activities and treatment of Bundu Dia Kongo (BDK)/Bundu Dia Mayala (BDM) in Bas-Congo Province**

A 2008 article in French journal *Afrique contemporaine* stated that Bundu Dia Kongo had a very strong presence in the Bas-Congo region and had set up a parallel government, education system and judiciary. The article reported that young recruits to its armed forces are trained without fire arms and undergo a spiritual training intended to protect them from bullets. All signs of and reference to the national government are banned in its schools.<sup>187</sup>

In its 2010 International Religious Freedom report *USDOS* reported that despite a commitment to a judicial investigation there was no investigation into the 2008 police crackdown on Bundu Dia Kongo (BDK) in Bas-Congo where 100 Bundu Dia Kongo followers were reportedly killed by police and BDK houses and temples were razed. *USDOS* reports that Bundu Dia Kongo changed its name to Bundu dia Mayala and that the group was seeking political party recognition in addition to continuing its religious practices.<sup>188</sup> In its 2010 International Religious Freedom report *USDOS* stated that the Bundu dia Mayala (BDM) has not been able to gain official recognition as a political association, although the religious branch of the group continued to meet in secret.<sup>189</sup>

Undated information (post 2009) on security website *GlobalSecurity.org* states that Bas-Congo security officials report that Bundu Dia Kongo (BDK) is a small but dangerous sect that advocates violence against "illegitimate" state authorities. It is estimated to have 100,000 followers. According to *GlobalSecurity.org* outgoing Governor Jacques Mbadu visited a Bundu Dia Kongo camp in 2006 and reported that the group preached violence, trained its members to use weapons such as clubs and machetes and believes that "mystical powers" make members "invincible." Jacques Mbadu reported that Bundu Dia Kongo churches are located away from population centres and also serve as training camps for their militia, known as Makesa. *GlobalSecurity.org* reported that FARDC regional commander General Muyamba Nsiona stated that many of the Bundu Dia Kongo compounds that he has seen are run like military installations, following a hierarchical command structure and holding stockpiles of weapons. According to *GlobalSecurity.org* other security officials reported that Bundu Dia Kongo militants are encouraged to consume drugs before confronting security forces.<sup>190</sup>

Undated information (post 2009) on security website *GlobalSecurity.org* states that Bundu Dia Kongo member have frequently clashed with police and military during political rallies during both the Mobutu and Kabila governments. In 2002 police shot and killed 14 Bundu Dia Kongo demonstrators and fighting between Bundu Dia Kongo protestors and the military in Matadi left several dead in June 2006 including one soldier. *GlobalSecurity.org* reports that Bundu Dia

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<sup>186</sup> Editions sources du Nil, RDC – 4 prêtres, 2 religieuses et 1 frère arrêtés lors de la « marche des chrétiens », 17 February 2012, <http://www.editions-sources-du-nil.com/article-rdc-4-pretres-2-religieuses-et-1-frere-arretes-lors-de-la-marche-des-chretiens-99550650.html> Accessed 21 April 2013

<sup>187</sup> *Afrique contemporaine*, Véronique Mouflet, Le Bas-Congo, aux marges de l'agenda international, Angles morts sur les émeutes de 2008, April 2009, <http://www.cairn.info/revue-afrique-contemporaine-2009-4-page-57.htm>, accessed 8 April 2013

<sup>188</sup> US Department of State Bureau Of Democracy, Human Rights, and Labor, Democratic Republic of the Congo, July-December, 2010 International Religious Freedom Report, 13 September 2011, [http://www.state.gov/j/drl/rls/irf/2010\\_5/168399.htm](http://www.state.gov/j/drl/rls/irf/2010_5/168399.htm), accessed 27 February 2013

<sup>189</sup> US Department of State Bureau Of Democracy, Human Rights, and Labor, Democratic Republic of the Congo, July-December, 2010 International Religious Freedom Report, September 13, 2011, [http://www.state.gov/j/drl/rls/irf/2010\\_5/168399.htm](http://www.state.gov/j/drl/rls/irf/2010_5/168399.htm), accessed 27 February 2013

<sup>190</sup> Global Security.org, World Para Military, Bundu dia Kongo, <http://www.globalsecurity.org/military/world/para/bundu-dia-kongo.htm>, accessed 11 March 2013

Kongo's spiritual leader Ne Mwanda Nsmei claim that the group is a victim of state oppression. However Nsiona claims that Bundu Dia Kongo have attacked and killed over 200 police officers, sometimes without provocation.<sup>191</sup>

## 6. Freedom of Movement

Freedom of movement is guaranteed by Article 30 of the Constitution,

“All persons in the national territory have the right to move freely therein, to establish their residence therein, to leave it and come back to it under the conditions prescribed by law.

No Congolese may be expelled from the territory of the Republic or forced into exile or compelled to live outside his/her habitual place of residence.”<sup>192</sup>

In its 2012 Freedom in the World report *Freedom House* stated that although the law provides for freedom of movement, security forces seeking bribes or travel permits restrict this right in practice and foreigners are subject to regular immigrations controls when travelling internally.<sup>193</sup>

In its 2012 country report *USDOS* stated that the government sometimes restricted rights to freedom of movement which includes movement within the country, foreign travel, emigration and repatriation. Travellers were required to pass through immigration procedures during domestic travel at airports, ports and on entering and leaving towns.<sup>194</sup> *USDOS* reported that the SSF sometimes required travellers to present official travel orders from an official of employer, although the law does not require such documentation, those travelling without officials orders may be detained in order to extort bribes<sup>195</sup> In January 2013 *Oxfam* reported that there are a large numbers of illegal checkpoints on important road axes, mainly set up by the FARDC, la Police Nationale Congolaise (PNC) and the Services de Renseignement.<sup>196</sup> In January 2013 *OHCHR* stated that new illegal checkpoints had been set up by the FARDC on the Mweso – Kashuga – Ibuga axis.<sup>197</sup> In its 2011 country report *USDOS* stated FARDC soldiers extorted fees from people taking goods to market or travelling between towns.<sup>198</sup> The *USDOS* reported that boats travelling on many parts of the Congo River were subject to extortion from local authorities.<sup>199</sup> *OHCHR* reported that on 19 January 2013 a commercial boat traveling from Goma to Bukavu on lake Kivu was attacked by armed men. Approximately 50 passengers, including humanitarian workers were robbed of their money and phones.<sup>200</sup>

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<sup>191</sup> Global Security.org, World Para Military, Bundu dia Kongo, <http://www.globalsecurity.org/military/world/para/bundu-dia-kongo.htm>, accessed 11 March 2013

<sup>192</sup> Constitution of the Democratic Republic of Congo, 2006, <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>, Accessed 2 April 2013

<sup>193</sup> Freedom House, Freedom in the World Report 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 28 February 2013

<sup>194</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>195</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>196</sup> Oxfam, Briefing Oxfam, Nous sommes pleinement exploitables Le manque de protection des civils à l'est de la RDC 29 July 2011, <http://www.oxfam.org/sites/www.oxfam.org/files/bn-protection-civilians-eastern-drc-2011-08-02-fr.pdf> Accessed 5 April 2013

<sup>197</sup> OHCHA, rapport de situation humanitaire sur la republique democratique du congo 25 janvier 2013, <http://reliefweb.int/report/democratic-republic-congo/rapport-de-situation-humanitaire-sur-la-r%C3%A9publique-d%C3%A9mocratique--10> Accessed 3 April 2013

<sup>198</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>199</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>200</sup> OHCHA, rapport de situation humanitaire sur la republique democratique du congo 25 janvier 2013, <http://reliefweb.int/report/democratic-republic-congo/rapport-de-situation-humanitaire-sur-la-r%C3%A9publique-d%C3%A9mocratique--10> Accessed 3 April 2013

In July 2011 *Oxfam France* received reports from villagers throughout 2011 of a large number of illegal check points in South Kivu. In the district of High Uele there were up to 25 check points within one 100 km stretch of road, with a minimum payment of 200cf. A number of towns reported being charged 200fc to access and return from their fields. In some cases women have had to pay extra for the baby they were carrying. One women reported her daughter died as she could not pay for the medical treatment she needed as she has to use that money to pass the check points on the way to the hospital.<sup>201</sup> *Oxfam France* reported that these “taxes” are being extorted by armed groups and civilians, including local chiefs. Failure to pay has reportedly lead to beatings, illegal arrests and forced labour that can last until their family raises a ransom. In High Uele, there have been cases reported of individuals being illegally detained for 6 months to a year by the local chiefs.<sup>202</sup>

In its 2011 country report *USDOS* stated that women in rural areas, particularly in the east were at "significant risk" of rape by SSF and RMG, restricting women's freedom of movement.<sup>203</sup>

In its 2011 country report *USDOS* cited reports that the DMG attempted to fine foreigners for not carrying passports although the law does not require them to do so.<sup>204</sup> In its 2012 country report *USDOS* reported that obtaining a passport often required the payment of substantial bribes and passport issuance was irregular.<sup>205</sup>

In January 2013 *OHCHR* reported that access to certain areas has also been further limited by the degradation of the transport routes that have not been maintained. *OHCHR* also reported that the Numbi area in the High Plains of Kalehe is now only accessible by motorbike.<sup>206</sup>

In April 2013, Radio Okapi reported on a local initiative to improve road access. The populations of Ndolera and Buheba, Sange (Sud-Kivu), have been laying a 18Km road to allow access to their villages. This will allow the evacuation of those in need of medical care, as well as provide access to markets in Luvungi where they can sell their produce. The Director of the Buheba health centre who set up the project explained that the villages are financing the project but the young volunteers are encountering problems because they lack adequate materials.<sup>207</sup>

## 7. Ethnicity

### 7.1 Laws and regulations (including citizenship laws)

Provisions relating to nationality and ethnicity are set out in Articles 10 and 51 of the 2006 Congolese Constitution,

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<sup>201</sup> Oxfam, Briefing Oxfam, Nous sommes pleinement exploitables Le manque de protection des civils à l'est de la RDC 29 July 2011, <http://www.oxfam.org/sites/www.oxfam.org/files/bn-protection-civilians-eastern-drc-2011-08-02-fr.pdf> Accessed 5 April 2013

<sup>202</sup> Oxfam, Briefing Oxfam, Nous sommes pleinement exploitables Le manque de protection des civils à l'est de la RDC 29 July 2011, <http://www.oxfam.org/sites/www.oxfam.org/files/bn-protection-civilians-eastern-drc-2011-08-02-fr.pdf> Accessed 5 April 2013

<sup>203</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

<sup>204</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

<sup>205</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>206</sup> OHCHA, rapport de situation humanitaire sur la republique democratique du congo 25 janvier 2013, <http://reliefweb.int/report/democratic-republic-congo/rapport-de-situation-humanitaire-sur-la-r%C3%A9publique-d%C3%A9mocratique--10> Accessed 3 April 2013

<sup>207</sup> Radio Okapi, Sud-Kivu : les habitants de Ndolera et Buheba tracent une route pour désenclaver leurs localités, 4 April 2013, <http://reliefweb.int/report/democratic-republic-congo/sud-kivu-les-habitants-de-ndolera-et-buheba-tracent-une-route-pour> Accessed 18 April 2013

“Article 10. Congolese nationality is one and exclusive. It may not be held together with another nationality.

The Congolese nationality is obtained either by origin or by individual acquisition. Of Congolese origin are all persons who belong to ethnic groups whose members and territory formed what has become the Congo (presently the Democratic Republic of the Congo) upon its independence.

An organic law determines the conditions for the recognition, acquisition, loss and recovery of Congolese nationality.”

“Article 51. The State has the duty to ensure and promote the peaceful and harmonious coexistence of all ethnic groups of the country. It also ensures the protection and promotion of vulnerable groups and of all minorities. It ensures their development.”<sup>208</sup>

In regards to nationality, the Law No. 04/024 of 12 November 2004 on Congolese nationality, states in its preamble that its objective is to integrate modern norms of the right to nationality and international conventions. Article 1(2) provides “all ethnic groups of whom the people and territory constitute what became DRC at Independence must benefit from equal rights and protection of the law as citizens.”<sup>209</sup>

Articles 12 and 13 of the 2006 Congolese Constitution states that all Congolese have the right to equal protection by law and that no one may be subject to discrimination due to membership of a certain race, ethnicity, tribe, cultural or linguistic minority,

“Article 12. All Congolese are equal before the law and have the right to equal protection by the law.

Article 13 No Congolese person may, in matters of education or access to public functions or any other matter, be subject to any discriminatory measure, whether it results from a statute or from a measure of the executive, on the ground of his/her religion, family origin, social condition, residence, views or political convictions, or membership of a certain race, ethnicity, tribe, cultural or linguistic minority.”<sup>210</sup>

In its 2010 *Countries at Crossroads* report *Freedom House* stated the 2003 constitution and nationality law of 2004 provide means for immigrants and long term residents to acquire citizenship, however the constitution does not allow dual citizenship. The nationality of Banyamulenge Tutsi residents in South Kivu has been the subject of heated discussion on account of their Rwandan ancestry. Birth within the national territory does not automatically confer citizenship.<sup>211</sup> In its 2011 *Freedom in the World* report *Freedom House* stated that in 2010 the government announced that voters would be required to reregister and apply for new electoral cards, causing anxiety among those in the eastern provinces for whom their existing electoral cards sometimes serve as their only proof of citizenship.<sup>212</sup>

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<sup>208</sup> Constitution of the Democratic Republic of Congo, 2006, <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>. Accessed 2 April 2013

<sup>209</sup> *Loi N 04/024 du 12 Novembre 2004 relative a la Nationalite Congolaise*, <http://www.unhcr.org/refworld/country.LEGAL.,LEGISLATION.COD.456d621e2.3ae6b52c28.0.html> Accessed 2 April 2013

<sup>210</sup> Congolese Constitution, Chapter 1 Articles 12 and 13, 2005, available at <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>, accessed 10 March 2013

<sup>211</sup> Freedom House, *Countries at Crossroads 2010*, <http://www.freedomhouse.org/report/countries-crossroads/2010/congo-democratic-republic-kinshasa>, accessed 28 February 2013

<sup>212</sup> Freedom House, *Freedom in the World 2011 Democratic Republic of Congo*, May 2011, <http://www.freedomhouse.org/report/freedom-world/2011/congo-democratic-republic-kinshasa>, accessed 25 February 2013

## 7.2 Ethnic groups in DRC

In 2012 *Minority Rights Group International's* World Directory of Minorities and Indigenous Peoples stated that the Democratic Republic of Congo has a population of nearly 60 million comprising 250 ethnic groups and up to 700 languages and dialects. In its 2012 *Countries at Crossroads* report *Freedom House* reported that none of the 250 ethnic groups constituted a significant majority of the population.<sup>213</sup> In 2012 *Minority Rights Group International* reports that defining minorities is complex as ethnicity in the DRC context has been a fluid and changeable category that is intertwined with factors of language, religion, class, education and region.<sup>214</sup>

In 2012 *Minority Rights Group International* reported that there were hundreds of ethno-linguistic groups, listing the following as a sample but stating that adequate statistics were not available; Kasaians, Banyarwanda, Hunde, Nyanga, Nande, Bangala, Batwa and Bambuti.<sup>215</sup>

In July 2011 the report of the *Special Rapporteur on the rights of indigenous peoples*, James Anaya on the situation of indigenous peoples in the Republic of the Congo to the United Nations Human Rights Council stated that Bantu ethnic groups, distinct from indigenous, pygmy ethnic groups, constitute between 90 and 97% of the population. The four largest Bantu groups are the Kongo or Bacongo (48%), Sangha (20%), Teke or Bateke (17%) and M'Bochi (12%).<sup>216</sup>

In 2012 *Minority Rights Group International* rated the Democratic Republic of Congo seventh in its index of highest rated countries with peoples most under threat and specifically listed the Hema and Lendu, Hutu, Luba, Lunda, Tutsi/Banyamulenge, Batwa/Bambutu and "other groups" as under threat.<sup>217</sup>

## 7.3 Societal discrimination, ethnic rivalries and harassment (by state and non-state actors)

In its 2012 *Countries at Crossroads* report *Freedom House* reports that ethnic discrimination often occurs at the provincial level and to some extent within the state apparatus, but that there is no official procedure or commission to prevent ethnic discrimination and no law suits have been filed in this regard in the recent past.<sup>218</sup> In its 2012 country report *USDOS* stated that the constitution prohibits discrimination based on ethnicity but that the government did not enforce these prohibitions effectively.<sup>219</sup> In its 2012 *Freedom in the World* report *Freedom House* stated that ethnic discrimination continues to be a major problem and that the Mbuti of Ituri and the Congolese Banyamulenge Tutsi of South Kivu are particularly affected.<sup>220</sup>

In its 2010 *Countries at Crossroads* report *Freedom House* stated that ethnic groups are concentrated regionally and that ethnicity is a prominent factor in politics and the formation of

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<sup>213</sup> Freedom House, *Countries at Crossroads Report 2012 Democratic Republic of Congo*, <http://www.freedomhouse.org/report/countries-crossroads/2012/democratic-republic-congo>, accessed 24 February 2013

<sup>214</sup> *Minority Rights Group International World Directory of Minorities and Indigenous Peoples 2012*, <http://www.minorityrights.org/5082/democratic-republic-of-the-congo/democratic-republic-of-the-congo-overview.html>, accessed 23 February 2013

<sup>215</sup> *Minority Rights Group International World Directory of Minorities and Indigenous Peoples 2012*, <http://www.minorityrights.org/5082/democratic-republic-of-the-congo/democratic-republic-of-the-congo-overview.html>, accessed 23 February 2013

<sup>216</sup> United Nations Human Rights Council, Eighteenth session, Agenda item 3, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, Addendum, The situation of indigenous peoples in the Republic of the Congo, <http://www.unhcr.org/refworld/topic,4565c2253b,4565c25f473,4e731f402,0,,,COG.html>, accessed 23 February 2013

<sup>217</sup> *Minority Rights Group International, Peoples Under Threat 2012*, <http://www.minorityrights.org/11337/peoples-under-threat/peoples-under-threat-2012.html>, accessed 10 March 2013

<sup>218</sup> Freedom House, *Countries at Crossroads Report 2012 Democratic Republic of Congo*, <http://www.freedomhouse.org/report/countries-crossroads/2012/democratic-republic-congo>, accessed 24 February 2013

<sup>219</sup> US Department of State, *Country Report on Human Rights Practices 2012*,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>220</sup> Freedom House, *Freedom in the World Report 2012*, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 28 February 2013

armed groups.<sup>221</sup> In 2012 *Minority Rights Group International* reported that ethnicity was a powerful mobilising force within politics but that the smallest groups aren't necessarily the most vulnerable or marginalised.<sup>222</sup> *Freedom House* reported that discrimination on the basis of ethnicity was common practice by members of most ethnic groups and extends to private hiring practices in some cities.<sup>223</sup> In June 2012 *Minority Rights Group International* stated that "complex issues" of ethnic identity, regional rivalry, economic interests, political power and access to land and mineral resources all play a part in perpetuating conflict.<sup>224</sup> In July 2011 the report of the *Special Rapporteur on the rights of indigenous peoples* reported that since independence from France in 1960 the Bantu have effectively had political and economic control over Congo.<sup>225</sup>

In its 2010 *Countries at Crossroads* report *Freedom House* stated that President Kabila's cabinet and office staff are ethnically diverse, but that a significant amount of political influence remains in the hands of individuals from Katanga.<sup>226</sup> In its 2012 *State of the World's Minorities and Indigenous Peoples* report *Minority Rights Group International* stated that during the electoral period candidates and supporters used ethnic hate speech to incite violence against opponents.<sup>227</sup>

In its 2012 *State of the World's Minorities and Indigenous Peoples* report *Minority Rights Group International* stated that impunity contributed to violence against civilians of diverse ethnic groups by armed groups and government forces.<sup>228</sup> In its 2012 *State of the World's Minorities and Indigenous Peoples* report *Minority Rights Group International* stated that FARDC soldiers had been accused of violations against the Mbororo semi nomadic Islamic pastoralists. In October 2012 *Amnesty International France* expressed its concern at the increase of ethnically motivated violence. Between May and December 2012, in the Masisi territories the FDLR, Nyatura and Raia Muromboki armed groups have been deliberately targeting civilians from or perceived as being from specific ethnic groups.<sup>229</sup>

In February 2013 *Radio Okapi* reported that two local armed groups in Rutshuru, recruited along ethnic lines, are fighting for control of Binza. The Maï Maï Shetani are mainly composed of Nandé ethnic group and the Mouvement Populaire d'Auto défense (MPA) of Hutu origin are allied with the Nyatura. Sources of civil society reported to *Radio Okapi* that they fear the recent fighting between the two armed groups could lead to inter ethnic conflict in Binza. Calls for peace negotiations have been rejected by both sides as they claim they are protecting their ethnic group.<sup>230</sup>

In February 2013 *Agence France Presse* reported that the chiefs of several armed groups in Masisi in the East of DRC decided to end their fighting including between the Hutu and Hunde communities. It is hoped that this agreement will stop the ethnic conflict that has erupted in the region over the last few months and which in mid-November the UN reported had cost the lives of

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<sup>221</sup> Freedom House, *Countries at Crossroads 2010*, <http://www.freedomhouse.org/report/countries-crossroads/2010/congo-democratic-republic-kinshasa>, accessed 28 February 2013

<sup>222</sup> *Minority Rights Group International World Directory of Minorities and Indigenous Peoples 2012*, <http://www.minorityrights.org/5082/democratic-republic-of-the-congo/democratic-republic-of-the-congo-overview.html>, accessed 23 February 2013

<sup>223</sup> Freedom House, *Countries at Crossroads 2010*, <http://www.freedomhouse.org/report/countries-crossroads/2010/congo-democratic-republic-kinshasa>, accessed 28 February 2013

<sup>224</sup> *Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2012 - Case study: Mineral resources in the DRC*, 28 June 2012, available at: <http://www.unhcr.org/refworld/docid/4fedb3df2d.html>, accessed 17 March 2013

<sup>225</sup> United Nations Human Rights Council, Eighteenth session, Agenda item 3, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, Addendum, The situation of indigenous peoples in the Republic of the Congo, <http://www.unhcr.org/refworld/topic/4565c2253b,4565c25f473,4e731f402,0,,,COG.html>, accessed 23 February 2013

<sup>226</sup> Freedom House, *Countries at Crossroads 2010*, <http://www.freedomhouse.org/report/countries-crossroads/2010/congo-democratic-republic-kinshasa>, accessed 28 February 2013

<sup>227</sup> *Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2012, Democratic Republic of Congo*, 28 June 2012, available at: <http://www.unhcr.org/refworld/docid/4fedb40130.html>, accessed 16 March 2013

<sup>228</sup> *Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2012, Democratic Republic of Congo*, 28 June 2012, available at: <http://www.unhcr.org/refworld/docid/4fedb40130.html>, accessed 16 March 2013

<sup>229</sup> *Amnesty France, Sommet de la Francophonie en République démocratique du Congo : l'occasion de dénoncer les violences*, 10 October 2012 <http://www.amnesty.fr/AI-en-action/Violences/Armes-et-conflits-armes/Actualites/Sommet-de-la-francophonie-et-violences-en-RDC-6336> Accessed 5 April 2013

<sup>230</sup> *Radio Okapi, Nord-Kivu : la société civile redoute une guerre interethnique à Nyamilima*, 18 February 2013, <http://radiookapi.net/actualite/2013/02/18/nord-kivu-la-societe-civile-redoute-une-guerre-interethnique-nyamilima/>, accessed 24 April 2013

264 civilians and displaced tens of thousands of people since April. The Service des Jésuites pour les Réfugiés (JRS) told APF that this agreement involved Alliance des Patriotes pour un Congo Libre et Souverain and FDC-Guide (Forces de défense du Congo-Guide) from Hunde communities and Nyunga Munyamariiba and the Maï Maï Nyatura from Hutu communities. Colonel Janvier Buingo Karairi, head of the Alliance des Patriotes pour un Congo Libre et Souverain stated "We call on the population to forget the mistakes of the past. There are no longer any Nyatura ou d'APCLS, nor Hutus and Hundes. For the time being we are all members of one same family."<sup>231</sup>

In its 2010 Countries at Crossroads report *Freedom House* stated that natives of Equateur province are targets of abuse by the security forces, especially in Kinshasa, as it is assumed that they are Bemba partisans.<sup>232</sup>

## 7.4 Indigenous peoples (Pygmies)

### 7.4.1 Legislation

The Democratic Republic of Congo is a signatory to the 2007 UN Declaration on the Rights of Indigenous Peoples<sup>233</sup> and has ratified the Convention concerning the Protection of the World Cultural and Natural Heritage, the Convention for the Safeguarding of the Intangible Cultural Heritage; and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.<sup>234</sup>

Article 215 of the 2006 Congolese Constitution states that treaties and agreements are incorporated into domestic legislation once they have been ratified,

"Article 215 Lawfully concluded treaties and agreements have, when published, an authority superior to that of the law, subject for each treaty and agreement to the application by the other party."<sup>235</sup>

In July 2011 the *UN Special Rapporteur on the rights of indigenous peoples* reported that Law No. 5-2011 on the Promotion and protection of the rights of indigenous populations was promulgated in February 2011 and targets the disadvantaged conditions faced by this group, promoting their collective and individual rights including prohibition of discrimination against them, prohibits use of the term 'pygmy,' prohibits forced labour and enslavement and guarantees equal access to justice.<sup>236</sup>

### 7.4.2 Indigenous ethnic groups

In July 2011 the report of the *Special Rapporteur on the rights of indigenous peoples*, James Anaya on the situation of indigenous peoples in the Republic of the Congo to the United Nations Human Rights Council stated that the country's indigenous peoples have been known collectively

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<sup>231</sup> Agence France-Presse, RDC: accord entre des chefs de bandes armées du Masisi, 7 February 2013, <http://reliefweb.int/report/democratic-republic-congo/rdc-accord-entre-des-chefs-de-bandes-arm%C3%A9es-du-masisi> Accessed 24 April 2013

<sup>232</sup> Freedom House, Countries at Crossroads 2010, <http://www.freedomhouse.org/report/countries-crossroads/2010/congo-democratic-republic-kinshasa>, accessed 28 February 2013

<sup>233</sup> OHCHR, Declaration on the Rights of Indigenous People, <http://www2.ohchr.org/english/issues/indigenous/declaration.htm>, accessed 25 May 2013, see also IWAGIA, Indigenous Peoples in the Democratic Republic of Congo, undated, <http://www.iwgia.org/regions/africa/democratic-republic-of-congo>, accessed 25 May 2013

<sup>234</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

<sup>235</sup> Congolese Constitution, Article 215, February 2006, available at <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>, accessed 10 March 2013

<sup>236</sup> United Nations Human Rights Council, Eighteenth session, Agenda item 3, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, Addendum, The situation of indigenous peoples in the Republic of the Congo, <http://www.unhcr.org/refworld/topic.4565c2253b.4565c25f473.4e731f402.0...COG.html>, accessed 23 February 2013



as Pygmies and include the Baaka (northern Likouala and Sangha departments); Mbendjele (southern Likouala and Sangha departments); Mikaya (Sangha Department); Gyeli (north-western West Cuvette Department); Luma (Sangha, Cuvette and Likouala departments); Twa (Plateaux department to border with Democratic Republic of Congo) and Babongo (Lékoumou, Niari, and Kouilou departments). Estimates of their number vary between 1.4 and 10% of the population. Groups identified as indigenous are distinct from the majority Bantu ethnic groups.<sup>237</sup> In its 2012 Countries at the Crossroads report *Freedom House* reported that there are an estimated 600,000 pygmies in the DRC.<sup>238</sup>

In July 2011 the report of the *Special Rapporteur on the rights of indigenous peoples*, James Anaya on the situation of indigenous peoples in the Republic of the Congo to the United Nations Human Rights Council stated that different groups known as Pygmies share defining features despite inhabiting different regions and speaking different languages such as having a semi-nomadic way of life.<sup>239</sup> In January 2012 the *International Fund for Agricultural Development (IFAD)* and the *International Work Group for Indigenous Affairs (IWGIA)* reported that 30-40,000 live in the forest as nomadic hunter-gatherers with others being semi-nomadic or living in sedentary communities.<sup>240</sup> In January 2012 *IFAD* and *IWGIA* stated that these groups are found across the country in more than 60 territories in nine of the country's 11 provinces including the tropical wetlands of the Bandundu, Equateur, Orientale, Kasai Oriental and Kasai Occidental Provinces; the mountains and great lakes of the eastern provinces of North Kivu, South Kivu and Maniema; 50% live in Katanga Province, characterised by woodlands and savannah.<sup>241</sup>

### 7.4.3 Societal discrimination, ethnic rivalries and harassment (by state and non-state actors)

In July 2011 the report of the *Special Rapporteur on the rights of indigenous peoples* reported that these groups find themselves in non-dominant positions in Congolese society and are subject to exclusion and marginalisation from mainstream social and economic patterns and political power. Further these groups face threats to their distinct identities and basic human rights.<sup>242</sup> In its 2012 Countries at the Crossroads report *Freedom House* reported that during conflict these groups are often targeted.<sup>243</sup> In January 2012 the *International Fund for Agricultural Development (IFAD)* and the *International Work Group for Indigenous Affairs (IWGIA)* reported that indigenous Pygmies are discriminated against by Bantus through stereotyping, denial of rights and social exclusion.<sup>244</sup> The *Special Rapporteur on the rights of indigenous peoples* reported that in DRC, the term pygmy carries negative connotations and is associated with being of inferior status, marginalised, excluded, and oppressed, use of the term pygmy is prohibited by law; the government therefore

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<sup>237</sup> United Nations Human Rights Council, Eighteenth session, Agenda item 3, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, Addendum, The situation of indigenous peoples in the Republic of the Congo, <http://www.unhcr.org/refworld/topic/4565c2253b,4565c25f473,4e731f402,0,,,COG.html>, accessed 23 February 2013

<sup>238</sup> Freedom House, Countries at Crossroads Report 2012 Democratic Republic of Congo, <http://www.freedomhouse.org/report/countries-crossroads/2012/democratic-republic-congo>, accessed 24 February 2013

<sup>239</sup> United Nations Human Rights Council, Eighteenth session, Agenda item 3, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, Addendum, The situation of indigenous peoples in the Republic of the Congo, <http://www.unhcr.org/refworld/topic/4565c2253b,4565c25f473,4e731f402,0,,,COG.html>, accessed 23 February 2013

<sup>240</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

<sup>241</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

<sup>242</sup> United Nations Human Rights Council, Eighteenth session, Agenda item 3, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, Addendum, The situation of indigenous peoples in the Republic of the Congo, <http://www.unhcr.org/refworld/topic/4565c2253b,4565c25f473,4e731f402,0,,,COG.html>, accessed 23 February 2013

<sup>243</sup> Freedom House, Countries at Crossroads Report 2012 Democratic Republic of Congo, <http://www.freedomhouse.org/report/countries-crossroads/2012/democratic-republic-congo>, accessed 24 February 2013

<sup>244</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

has a policy of not using the term instead referring to indigenous peoples or populations.<sup>245</sup> In its 2012 Countries at the Crossroads report *Freedom House* reported that peoples known as pygmies are referred to as Bambuti in many areas of the Congo.<sup>246</sup>

In January 2012 *IFAD* and *IWGIA* stated that despite the Democratic Republic of Congo being party to both regional and international human rights instruments including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the government has done little to recognize and protect the rights of indigenous Pygmies many of whom live in poverty, have no right to access land, lack decent job opportunities and access to health care and education and are the victims of pervasive and sometimes extreme discrimination. Due to forced evictions many have had to give up their traditional lifestyles. Many indigenous pygmies in eastern DRC have been internally displaced by conflict in the eastern part of the country, in 2010 an estimated 10,000 ethnic Bambuti Pygmies were displaced in North Kivu.<sup>247</sup>

In January 2012 *IFAD* and *IWGIA* reported that indigenous Pygmies lack political representation in the country's administrative and political institutions, at the local level indigenous settlements are considered to be neighbourhoods within Bantu villages and therefore under the authority of a Village Chief who is usually a Bantu.<sup>248</sup> In an undated profile of Pygmies, UK NGO *Survival International*, stated that indigenous Pygmies' low status and lack of representations means that it is difficult for them to defend their lands and resources from outsiders.<sup>249</sup> In its 2012 State of the World's Minorities and Indigenous Peoples report *Minority Rights Group International* stated that internally displaced Batwa or Bambuti who return home reported particular problems with lack of access to targeted support, and were particularly vulnerable to attack from armed forces.<sup>250</sup> In September 2011 *The Institute for War and Peace Reporting* stated that in some areas returning Batwa and Bambuti have been forced out of their traditional ways of life by local militias and legislation on the use and protection of the forest, also reporting that a lack of government support means that they don't have access to basic services such as education and healthcare.<sup>251</sup> *The Institute for War and Peace Reporting* stated that some women and children have had to resort to begging in the streets of Goma.<sup>252</sup>

In January 2012 *IFAD* and *IWGIA* stated that the Forest Code (which acknowledges certain traditional user rights to forest produce) is not being fully implemented and the rights of indigenous Pygmies are not recognized in practice and indigenous peoples are usually excluded from decisions that affect them. *IFAD* and *IWGIA* reported that access to land is often only granted on the "goodwill" of local Bantu in exchange for agricultural work. According to *IFAD* and *IWGIA* Indigenous Pygmies are increasingly dependent on the cash economy, but have limited access and are frequently paid less than other workers and expected to work longer hours and Indigenous children are disproportionately exposed to "hazardous conditions of work.". Personal debt

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<sup>245</sup> Human Rights Council, Eighteenth session, Agenda item 3, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, Addendum, The situation of indigenous peoples in the Republic of the Congo, <http://www.unhcr.org/refworld/topic/4565c2253b,4565c25f473,4e731f402,0,,,COG.html>, accessed 23 February 2013

<sup>246</sup> Freedom House, Countries at Crossroads Report 2012 Democratic Republic of Congo, <http://www.freedomhouse.org/report/countries-crossroads/2012/democratic-republic-congo>, accessed 24 February 2013

<sup>247</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

<sup>248</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

<sup>249</sup> Survival International, Pygmy Peoples: Health and Violence, undated, <http://www.survivalinternational.org/tribes/pygmies/health-and-violence#main>, accessed 10 March 2013

<sup>250</sup> Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2012, Democratic Republic of Congo, 28 June 2012, available at: <http://www.unhcr.org/refworld/docid/4fedb40130.html>, accessed 16 March 2013

<sup>251</sup> IWPR, Les pygmées congolais ont du mal à s'intégrer, Anciens habitants de la forêt dans l'est du pays, ils sont incapables de s'adapter à un mode de vie traditionnel. By [Espérance Nzigire - International Justice - ICC \(Français\) ACR Issue 302](#), 16 September 2011 <http://iwpr.net/fr/report-news/les-pygm%C3%A9es-congolais-ont-du-mal-%C3%A0-s%E2%80%99int%C3%A9grer> Accessed 10 April 2013

<sup>252</sup> IWPR, Les pygmées congolais ont du mal à s'intégrer, Anciens habitants de la forêt dans l'est du pays, ils sont incapables de s'adapter à un mode de vie traditionnel. By [Espérance Nzigire - International Justice - ICC \(Français\) ACR Issue 302](#), 16 September 2011 <http://iwpr.net/fr/report-news/les-pygm%C3%A9es-congolais-ont-du-mal-%C3%A0-s%E2%80%99int%C3%A9grer> Accessed 10 April 2013

bondage, which can span generations, leads to cases of forced labour or servitude, particularly amongst indigenous Pygmies who work on their Bantu neighbours plantations.<sup>253</sup>

In January 2012 the *International Fund for Agricultural Development (IFAD)* and the *International Work Group for Indigenous Affairs (IWGIA)* reported that indigenous women are often the victims of sexual abuse, particularly during armed conflict, contributing to the spread of STDs including HIV/AIDS in indigenous communities.<sup>254</sup> In an undated profile of Pygmies, UK NGO *Survival International*, stated that forest dwelling indigenous Pygmies have better levels of health than their Bantu neighbours but when displaced from the forests their health dramatically declines and are excluded from accessing healthcare due to lack of availability, lack of funds and ill-treatment.<sup>255</sup> In January 2012 *IFAD* and *IWGIA* reported that indigenous Pygmies face discrimination from Bantu health workers and are excluded from the healthcare system as they are unable to afford the treatments and medicine.<sup>256</sup> In September 2011 *the Institute for War and Peace Reporting* stated that indigenous Pygmies were turned away from hospitals and maternity wards as they could not pay for the services.<sup>257</sup>

In January 2012 *IFAD* and *IWGIA* reported that alleged war crimes and crimes against humanity have occurred against Batwa in the Ituri area, including cannibalism and "appalling sexual violence" against women, in part driven by the belief that Pygmies are subhuman and according to traditional Bantu beliefs, their flesh has magical power.<sup>258</sup> In an undated profile of Pygmies, UK NGO *Survival International*, stated that the conflict in the DRC has been especially brutal for the country's indigenous pygmy peoples, who have suffered killings, rape, and allegedly been the victims of cannibalism from heavily armed fighters who have hunted and eaten Pygmies "as though they were game animals."<sup>259</sup>

#### 7.4.4 Access to Justice

In January 2012 *IFAD* and *IWGIA* stated that discrimination and abuse against indigenous Pygmies such as forced labour, rape, theft of their harvest and hunting and gathering equipment is perceived as "appropriate and normal" by the majority of Bantu society and some law enforcement officials and for the indigenous Pygmies to resist would be viewed as a rebellion for which they would be tried in customary Bantu tribunals.<sup>260</sup>

In January 2012 *IFAD* and *IWGIA* reported that although DRC legislation established a right to free legal assistance this is often beyond the reach of indigenous people as they often do not know or understand their rights and lack documentation such as birth certificates and identity cards. *IFAD* and *IWGIA* report that trials are usually to indigenous people's disadvantage and the punishments

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<sup>253</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

<sup>254</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

<sup>255</sup> Survival International, Pygmy Peoples: Health and Violence, undated, <http://www.survivalinternational.org/tribes/pygmies/health-and-violence#main>, accessed 10 March 2013

<sup>256</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

<sup>257</sup> IWPR, Les pygmées congolais ont du mal à s'intégrer, Anciens habitants de la forêt dans l'est du pays, ils sont incapables de s'adapter à un mode de vie traditionnel. By [Espérance Nzigire - International Justice - ICC \(Français\) ACR Issue 302](#), 16 September 2011 <http://iwpr.net/fr/report-news/les-pygm%C3%A9es-congolais-ont-du-mal-%C3%A0-s%E2%80%99int%C3%A9grer> Accessed 10 April 2013

<sup>258</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

<sup>259</sup> Survival International, Pygmy Peoples: Health and Violence, 2013, <http://www.survivalinternational.org/tribes/pygmies/health-and-violence#main>, accessed 10 March 2013

<sup>260</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

that they receive are often cruel. *IFAD* and *IWGIA* state that because legal officials internalize such negative beliefs and attitudes about indigenous Pygmies, indigenous people are effectively excluded from access to legal services and justice.<sup>261</sup> In January 2013 *The Kongo Times* reported that discrimination and violence against pygmies continued, according to *The Kongo Times* on 2 January 2013, a Cambodian missionary in Province Oriental was arrested and beaten by the FARDC for defending Pygmies and asking questions about their arrest.<sup>262</sup>

## 2. Banyarwanda/Banyamulenge

### 2.1 Banyarwanda

*Minority Rights Group International* describes Banyarwanda as Hutus, Tutsis and Batwa who speak Kinyarwanda living in Kivu province on the Rwandan Border.<sup>263</sup>

### 2.2. Banyamulenge

In January 2013 US public broadcaster *NPR* described the Banyamulenge of South Kivu as Congo's largest Tutsi community.<sup>264</sup> *NPR* reported that Congolese Tutsi's are characterised as outsiders, since they fled Rwanda in the 1950's. *NPR* reported that many Tutsi's support the M23, who claim to protect Tutsi interests, although the group does not describe itself as pro-Tutsi. According to *NPR* M23 has allied with militants using Tutsi hate speech and who have raped and killed Tutsi's.<sup>265</sup>

In January 2013 *Pambazuka News* reported that as part of a 2009 peace deal between the DRC government and the National Congress for the Defense of the People (CNDP), largely made up of Tutsi's, the CNDP was allowed to become a political party and its soldiers were integrated into the Congolese army. According to *Pambazuka News*, when some factions of "Congolese Tutsi" felt that the government had reneged on its promises the uprising was renewed in the form of the M23 rebellion.<sup>266</sup>

In October 2011 UK daily newspaper *The Observer* reported that seven Banyamulenge NGO workers were killed in South Kivu by Mai Mai Yakutumba, in an ethnically motivated attack in which they stopped a vehicle and ordered all the "Rwandans" out before shooting them in turn, four people of a different ethnicity were released. *The Observer* reported that the "indigenous" Congolese Mai Mai consider the Banyamulenge, a minority population of ethnic Tutsi Rwandans in east Congo to be "incomers," despite the Banyamulenge having inhabited the area for centuries.<sup>267</sup> Reporting on the same event in its 2012 *Freedom in the World* report, Freedom House stated that five Banyamulenge aid workers and two other Banyamulenge civilians were ambushed and killed by Mai Mau Yakutumba and allied rebels of Burundi's National Liberation Front, in Fizi, South Kivu. It is believed that the killings were ethnically motivated as other members of the group who were

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<sup>261</sup> International Fund for Agricultural Development (IFAD) and the International Work Group for Indigenous Affairs (IWGIA), Country Technical Notes on Indigenous Peoples' Issues, DEMOCRATIC REPUBLIC OF THE CONGO, January 2012, [http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo\\_dr.pdf](http://www.ifad.org/english/indigenous/pub/documents/tnotes/congo_dr.pdf), accessed 28 February 2013

<sup>262</sup> Kongo Times, Pour avoir défendu les Pygmées : Un prêtre catholique tabassé par les soldats de «KABILA», 6 January 2013, [http://afrique.kongotimes.info/rdc/echos\\_provinces/5364-insecurite-territoire-defendu-pygmees-pretre-catholique-tabasse-soldatesques-kabila-mungbere-catholique-watsa.html](http://afrique.kongotimes.info/rdc/echos_provinces/5364-insecurite-territoire-defendu-pygmees-pretre-catholique-tabasse-soldatesques-kabila-mungbere-catholique-watsa.html) Accessed 10 April 2013

<sup>263</sup> Minority Rights Group International, World Directory of Minorities and Indigenous Peoples, Democratic Republic of Congo, <http://www.minorityrights.org/5077/democratic-republic-of-the-congo/banyarwanda.html>, accessed 18 May 2013

<sup>264</sup> NPR, Congo's Tutsi minority enveloped in complex conflict, 5 January 2013, <http://www.npr.org/2013/01/05/168678907/congos-tutsi-minority-enveloped-in-complex-conflict>, accessed 18 May 2013

<sup>265</sup> NPR, Congo's Tutsi minority enveloped in complex conflict, 5 January 2013, <http://www.npr.org/2013/01/05/168678907/congos-tutsi-minority-enveloped-in-complex-conflict>, accessed 18 May 2013

<sup>266</sup> Pambazuka News, Rwanda: The Tutsi contradictions - a Response to Jean-Paul Kimonyo, 24 January 2013, <http://allafrica.com/stories/201301251011.html?page=3>, accessed 18 May 2013

<sup>267</sup> The Observer, How the teachers of hope I met in the Congo were brutally killed, 16 October 2011, <http://www.guardian.co.uk/world/2011/oct/16/teachers-of-hope-in-congo-brutallykilled/print>, accessed 16 March 2013

not Tutsi were released.<sup>268</sup> *The Observer* reported that these killings were seen by many as "further proof of genocide against the Banyamulenge."<sup>269</sup> In its 2013 world report *Human Rights Watch* reported that one year on, no one had been arrested in connection with the attack.<sup>270</sup>

## 8. Women

### 8.1 Legal Status

Articles 14 and 15 of Chapter 1 of the 2006 Congolese Constitution states that public authorities are responsible in overseeing the elimination of all forms of discrimination against women including sexual violence and ensure the protection and promotion of their rights,

"Article 14 The public authorities see to the elimination of all forms of discrimination against women and ensure the protection and promotion of their rights. They take in all areas, and most notably in the civil, political, economic, social and cultural areas, all appropriate measures in order to ensure the full realization of the potential of women and their full participation in the development of the nation. They take measures in order to fight all forms of violence against women in their public and private life. Women are entitled to equitable representation in national, provincial and local institutions. The State guarantees the achievement of parity between men and women in said institutions. The law determines the conditions for the application of these rights.

Article 15 The public authorities are responsible for the elimination of sexual violence used as an instrument in the destabilization and displacement of families. International treaties and agreements notwithstanding, any sexual violence committed against any person with the intention to destabilize or to displace a family and to make a whole people disappear is established as a crime against humanity punishable by law."<sup>271</sup>

In 1980 the Government established the Ministère de la condition féminine pour l'émancipation des Femmes. It also adopted the Déclaration solennelle sur l'Égalité entre les sexes en Afrique in 2004. In 2009, DRC ratified the Protocole sur les Droits de Femmes en Afrique. DRC is also party to the Protocole de SADC sur le Genre et le Développement.<sup>272</sup> The DRC ratified CEDAW in 1986 but has not ratified the optional protocol,<sup>273</sup> and ratified the Maputo Protocol in 2009.<sup>274</sup>

*The Coalition of the Campaign of Africa for Women's Rights* stated in an undated posting that the Congolese Family Code contains provisions that are discriminatory against women, including the minimum age of marriage and rights within marriage,

"[ ] the family code contains provisions that are particularly discriminatory against women. Article 352 sets a minimum age of marriage for women that is different to that for men (18 for men, 15 for women). Article 355 states that "Women may not remarry until a period of

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<sup>268</sup> Freedom House, Freedom in the World Report 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 28 February 2013

<sup>269</sup> The Observer, How the teachers of hope I met in the Congo were brutally killed, 16 October 2011, <http://www.guardian.co.uk/world/2011/oct/16/teachers-of-hope-in-congo-brutallykilled/print>, accessed 16 March 2013

<sup>270</sup> Human Rights Watch, World Report 2013, <http://www.hrw.org/world-report/2013/country-chapters/democratic-republic-congo>, accessed 24 May 2013

<sup>271</sup> Congolese Constitution, Chapter 1 Articles 14 and 15, 2005, available at <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>, accessed 10 March 2013

<sup>272</sup> Solemn Declaration on Gender Equality in Africa (SDGEA), <http://www.africa-union.org/root/au/Conferences/Past/2006/October/WG/doc.htm> ; AU/ Protocol to the African Charter on Human and Peoples' Rights on the [http://www.achpr.org/english/info/women\\_en.html](http://www.achpr.org/english/info/women_en.html); SADC Protocol on Gender and Development. <http://www.sadc.int/index/browse/page/465>, accessed 2 April 2013

<sup>273</sup> Campaign of Africa for Women's Rights, Democratic Republic of Congo, [http://www.africa4womensrights.org/public/Dossier\\_of\\_Claims/DRCENG.pdf](http://www.africa4womensrights.org/public/Dossier_of_Claims/DRCENG.pdf), accessed 12 March 2013

<sup>274</sup> Campaign of Africa for Women's Rights, Democratic Republic of Congo, [http://www.africa4womensrights.org/public/Dossier\\_of\\_Claims/DRCENG.pdf](http://www.africa4womensrights.org/public/Dossier_of_Claims/DRCENG.pdf), accessed 12 March 2013

300 days has passed from the time of dissolution or annulment of the previous marriage. This period ends in the event of childbirth”.

[ ] Article 444 states that the husband is the head of the household, that he owes protection to his wife and that the wife must obey him. Article 445 states that the married couple contribute to the moral and material management of the household under the leadership of the husband. According to article 450, apart from some exceptions, “the wife cannot appear in court on civil matters, acquire, sell or undertake commitments without the authorisation of her husband. If the husband refuses to authorise his wife, authorisation may be given by a judge. The husband can give general authorisation, but he still retains the right to revoke it”. According to article 454, only the husband has the right to establish the marital home or residence. Article 467 establishes discrimination in the area of adultery, as it penalises adultery by the husband only in certain circumstances, while adultery by the wife is punishable in all circumstances.

The nationality law: Although article 5 of this law (Law No004/24 of 2004) permits women to pass on their Congolese nationality to their descendants, in the same way as men, article 30 states that women may not retain their Congolese nationality if they marry a foreigner.”<sup>275</sup>

Article 448 of the *Family Code* limits states that a married woman must obtain permission from her husband for all judicial actions she wishes to undertake<sup>276</sup>.

In June 2011 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that revisions to the Penal Code are inconsistent with other laws and cultural norms, for example the Family Code permits women to marry at 15 but the Penal Code defines sexual contact with someone under 18 as rape, *IRIN* reported that magistrates and the general population do not recognise the Penal Code revisions.<sup>277</sup>

In 2010 the *Women's International League for Peace and Freedom (WILPF)*, which has offices in the DRC and the UK published a report analysing inheritance laws and traditional practices that discriminate against women. *WILPF* report that in cases where a court of justice rules a husband absent or he is deceased the wife must share the running of the household with a male member of her husband's family.<sup>278</sup> Article 758 of the Family Code gives preferential treatment to the children and does not discriminate between women and men as the second category of heirs. However, in most traditions and tribes, a widow must share the running of the household with a male relative of her deceased husband. *WILPF* reported that this was in part to compensate for the widows lack of legal capacity. *WILPF* stated that in many cases the house and some belongings are confiscated from the widow.<sup>279</sup>

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<sup>275</sup> Campaign of Africa for Women's Rights, Democratic Republic of Congo, [http://www.africa4womensrights.org/public/Dossier\\_of\\_Claims/DRCENG.pdf](http://www.africa4womensrights.org/public/Dossier_of_Claims/DRCENG.pdf), accessed 12 March 2013

<sup>276</sup> Loi n°87/010 du code de la famille, <http://www.unhcr.org/refworld/category%2cLEGAL%2cNATLEGBOD%2c%2cCOD%2c%2c0.html> Accessed 3 April 2013

<sup>277</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, Analysis: New laws have little impact on sexual violence in DRC, 7 June 2011, <http://www.irinnews.org/Report/92925/Analysis-New-laws-have-little-impact-on-sexual-violence-in-DRC>, accessed 14 March

<sup>278</sup> WILPF, ÉGALITÉ DU GENRE ET LES INSTITUTIONS SOCIALES EN R.D.CONGO. Annie Matundu Mbambi (WILPF DRC) et Marie-Claire Faray-Kele (UK WILPF), April-December 2010, [http://peacewomen.org/assets/file/Resources/NGO/hrinst\\_genderinequalityinthedrc\\_wilpf\\_december2010english.pdf](http://peacewomen.org/assets/file/Resources/NGO/hrinst_genderinequalityinthedrc_wilpf_december2010english.pdf), and [www.congoforum.be/fr/congodetail.asp](http://www.congoforum.be/fr/congodetail.asp), accessed 3 April 2013

<sup>279</sup> WILPF, ÉGALITÉ DU GENRE ET LES INSTITUTIONS SOCIALES EN R.D.CONGO. Annie Matundu Mbambi (WILPF DRC) et Marie-Claire Faray-Kele (UK WILPF), April-December 2010, [http://peacewomen.org/assets/file/Resources/NGO/hrinst\\_genderinequalityinthedrc\\_wilpf\\_december2010english.pdf](http://peacewomen.org/assets/file/Resources/NGO/hrinst_genderinequalityinthedrc_wilpf_december2010english.pdf), and [www.congoforum.be/fr/congodetail.asp](http://www.congoforum.be/fr/congodetail.asp), accessed 3 April 2013

## 8.2 Discrimination

*The Coalition of the Campaign of Africa for Women's Rights* stated that in 2010, women made up 8.4% of members of the National Assembly and 4.6% of senators and that although article 14 of the Constitution provides for equitable representation and non-discrimination against women there are no laws or policies to ensure the application of the principles of "fair representation."<sup>280</sup> In February 2013 the *Inter-Parliamentary Union* recorded in *Women in National Parliaments* that the Democratic Republic of Congo ranked 116th out of 139 countries: After the elections in November 2011, 44 women had seats in the lower house (8.9%) and in the upper house women had 6 seats (5.6%).<sup>281</sup> In its 2011 *Freedom of the World* report *Freedom House* stated that despite constitutional guarantees, women faced discrimination in nearly every aspect of their lives, especially in rural areas.<sup>282</sup> In its 2012 country report *USDOS* stated that women did not possess the same rights as men under the law or in practice and experienced economic discrimination.<sup>283</sup> In its 2012 report *Freedom in the World* *Freedom House* stated that despite constitutional guarantees, women faced discrimination in nearly every aspect of their lives, particularly in rural areas.<sup>284</sup> In an undated document *The Coalition of the Campaign of Africa for Women's Rights* stated that women are vulnerable to economic difficulties due to the "persistence of deep-rooted patriarchal and stereotyped behaviour with regard to their role and responsibilities."<sup>285</sup> In its 2012 country report *USDOS* stated that by law a married woman is required to obtain her husband's consent before engaging in legal transactions including selling and renting property, opening a bank account and applying for a passport. *USDOS* reported that women found guilty of adultery may be sentenced to up to one year in prison whereas adultery by men is only punishable if found to have had an "injurious quality."<sup>286</sup> In its 2011 country report *USDOS* reported that by law women must obtain their husband's consent prior to accepting employment and are forbidden from working at night. *USDOS* reported that women rarely held positions of authority or of high responsibility and often received less pay in the private sector than men doing the same job.<sup>287</sup> In June 2011 UK daily newspaper *The Guardian* reported that Congolese women stated that they are treated as second-class citizens with limited opportunity to participate in political life or advance gender relations. *The Guardian* reports that women have constantly been targets of the armed forces during conflicts in North and South Kivu provinces.<sup>288</sup> In 2012 the UK *Foreign and Commonwealth Office* stated that women suffer widespread disempowerment, lack of access to education, reduced political participation, severe poverty and "extraordinarily high levels of sexual violence."<sup>289</sup>

In March 2010 the second joint report of seven *United Nations experts on the situation in the Democratic Republic of the Congo* to the UN Human Rights Council stated that levels of violence against women across the country, particularly in the east, formed part of a broader pattern of discrimination against women and girls and that "in an increasingly militarized society, impunity, absence of the rule of law and women's subordinate social and legal position reinforces a climate

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<sup>280</sup> Campaign of Africa for Women's Rights, Democratic Republic of Congo,

[http://www.africa4womensrights.org/public/Dossier\\_of\\_Claims/DRCENG.pdf](http://www.africa4womensrights.org/public/Dossier_of_Claims/DRCENG.pdf), accessed 12 March 2013

<sup>281</sup> The Inter-Parliamentary Union, *Women in National Parliaments*, 1 February 2013, <http://www.ipu.org/wmn-e/classif.htm>, accessed 16 March 2013

<sup>282</sup> Freedom House, *Freedom in the World 2011 Democratic Republic of Congo*, May 2011,

<http://www.freedomhouse.org/report/freedom-world/2011/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>283</sup> US Department of State, *Country Report on Human Rights Practices 2012*,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204107>, accessed 25 May 2013

<sup>284</sup> Freedom House, *Freedom in the World Report 2012*, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>285</sup> Campaign of Africa for Women's Rights, Democratic Republic of Congo,

[http://www.africa4womensrights.org/public/Dossier\\_of\\_Claims/DRCENG.pdf](http://www.africa4womensrights.org/public/Dossier_of_Claims/DRCENG.pdf), accessed 12 March 2013

<sup>286</sup> US Department of State, *Country Report on Human Rights Practices 2012*,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204107>, accessed 25 May 2013

<sup>287</sup> US State Department *Human Rights Report 2011*, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

<sup>288</sup> *The Guardian*, *The worst places in the world for women: Congo*, 14 June 2011, <http://www.guardian.co.uk/world/2011/jun/14/worst-places-in-the-world-for-women-congo>, accessed 22 February 2013

<sup>289</sup> The Foreign and Commonwealth Office, *Human Rights and Democracy the 2011 Foreign and Commonwealth Office Report, 2012*, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/35439/hrd-report-2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35439/hrd-report-2011.pdf), accessed 13 March 2013

of general acceptance and tolerance for violence against women and girls.”<sup>290</sup> In January 2011 the *United Nations High Commissioner for Human Rights* reported that women's inferior social, economic and political status in Congolese society were at the social roots of sexual violence.<sup>291</sup> In November 2010 the United Nations *Final Report of the Experts on the DRC* stated that women and children are among the victims of armed attacks on civilian populations, which usually involved a series of violations of international humanitarian law including displacement, forced labour, abduction and sexual violence. Incidents include houses being burned and the villagers being forced to help perpetrators carry away looted goods.<sup>292</sup> In its 2011 Freedom of the World report *Freedom House* stated that armed groups regularly loot women's harvests.<sup>293</sup>

## 8.3 Vulnerability to Sexual and Gender based violence

### 8.3.1 Rape and Sexual Violence

In its 2012 country report the *USDOS* stated that the law criminalizes rape the legal definition of which included male victims, sexual slavery, sexual harassment, forced pregnancy, and other sexual crimes (but not spousal rape) but that the government did not effectively enforce the law. *USDOS* reported that the law prohibits compromise fines and forced marriage and allows victims to waive appearance in court and permits closed hearings to protect confidentiality. The minimum penalty for rape is a five year prison sentence.<sup>294</sup> In its 2012 country report *USDOS* reported that prosecutions for rape and sexual violence were rare, but that there were some indications that the situation had improved, citing UN information that military justice prosecuted 355 cases of serious human rights violations from July 2010 to June 2011, an increase from 337 during the previous 12 months which the UN attributed to a greater number of prosecutions for sexual violence crimes.<sup>295</sup> In its 2011 country report *USDOS* cited information from the High Military Prosecutors Office that in 2010 17 FARDC soldiers were convicted by the military justice system of crimes of sexual violence in North Kivu. Of the 14,200 rape cases reported in South Kivu between 2005 and 2007 only 287, 2 percent, went to court.<sup>296</sup> In January 2012 the report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to the *United Nations General Assembly* stated that the adoption, on 16 December 2011, by the Heads of State and Government of the International Conference on the Great Lakes Region of a declaration on sexual and gender-based violence that recognized its severe impact on the individual, family, community and State in the Great Lakes region marked an important step by the States on this issue, but that little progress was made in DRC regarding the prosecution of rape cases.<sup>297</sup>

In its 2011 country report the *USDOS* reported that rape was common and widespread throughout the country and was not limited to conflict zones although cases were especially pervasive in

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<sup>290</sup> United Nations General Assembly, second joint report of seven United Nations experts on the situation in the Democratic Republic of the Congo to the UN Human Rights Council A/HRC/13/63 Thirteenth session Agenda item 10, 8 March 2010, [http://reliefweb.int/sites/reliefweb.int/files/resources/97A83BA55D3A9071852576E100607E7C-Full\\_Report.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/97A83BA55D3A9071852576E100607E7C-Full_Report.pdf), accessed 13 March 2013

<sup>291</sup> United Nations General Assembly Human Rights Council Thirteenth session Agenda item 10 Technical assistance and capacity-building Report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo (A/HRC/13/64), 10 January 2011, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-64.pdf>, accessed 12 March 2013

<sup>292</sup> United Nations Final Report of the Experts on the DRC, 26 November 2010, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2010/596](http://www.un.org/ga/search/view_doc.asp?symbol=S/2010/596), accessed 14 March 2013

<sup>293</sup> Freedom House, Freedom in the World 2011 Democratic Republic of Congo, May 2011, <http://www.freedomhouse.org/report/freedom-world/2011/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>294</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204107>, accessed 25 May 2013

<sup>295</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204107>, accessed 25 May 2013

<sup>296</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

<sup>297</sup> United Nations Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to the UN General Assembly, 26 January 2012, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/206/29/PDF/N1220629.pdf?OpenElement>, accessed 13 March 2013



conflict areas in the East.<sup>298</sup> In its 2012 country report *USDOS* reported that rape had been perpetrated by the SSF, RMG and civilians against women and girls.<sup>299</sup> In June 2011 UK daily newspaper *The Guardian* reported that "rape is rife" and cited UN sources that more than 8,000 women were raped in 2009.<sup>300</sup> In January 2011 *Human Rights Watch* stated that in the first six months of 2010 7,685 rape cases were reported and that more than half of the victims were under 18 years of age.<sup>301</sup> In January 2011 the report of the *United Nations High Commissioner for Human Rights* on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo stated that sexual violence remained widespread throughout the country affecting thousands of women and children, despite the authorities' efforts to stop it.<sup>302</sup> In May 2012 the *UN Secretary General's Special Representative* in responsible for addressing sexual violence in armed conflicts expressed her concern about the deteriorating security situation in eastern DRC, following intense fighting between governmental forces, dissident groups and militias.<sup>303</sup> She named the actors in the violence as being the chef of the Mai-Mai Sheka, Ntabo Ntaberi, and General Bosco Ntaganda, both of whom have been sanctioned by the UN Security Council for a variety of crimes including sexual violence<sup>304</sup>. In February 2012 the *UN* named the DRC armed forces as among the armed groups suspected of committing some of the worst acts of sexual violence in the world.<sup>305</sup> In March 2013 *Jeune Afrique* stated that Dr. Denis Mukwede, who treats rape victims at his clinic in Bikavu, reported that 2013 has seen an increase in rape. Dr Denis Mukwede cited the redeployment of the armed forces in Eastern Congo as being the driving factor behind the systematic sexual violence against women in the area. He reported treating approximately 300 women a month. *Jeune Afrique* reported that although instances of sexual violence had decreased in 2011, it increased again in 2012 and has remained at that level in the first few months on 2013.<sup>306</sup>

In an undated document *The Coalition of the Campaign of Africa for Women's Rights* stated that "rape has been used as a weapon of war, deployed systematically and on a huge scale" and are committed in areas considered to be relatively stable.<sup>307</sup> In August 2010 the *International Centre for Migration, Health and Development Blog (ICMHD)* stated that sexual and gender-based violence had reached epidemic proportions, especially in the eastern provinces, reporting that "hundreds of thousands of women and girls have been raped and mutilated."<sup>308</sup> The *International Centre for Migration, Health and Development* reported that rape was being used as a weapon of war, in which women were often mutilated, traumatised and rejected by their own communities; the psychological and physical impact of the attack lasting long after the assault.<sup>309</sup> In January 2011 the *United Nations High Commissioner for Human Rights* reported that rape continued to be used

<sup>298</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

<sup>299</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dld=204107>, accessed 25 May 2013

<sup>300</sup> The Guardian, The worst places in the world for women: Congo', 14 June 2011 <http://www.guardian.co.uk/world/2011/jun/14/worst-places-in-the-world-for-women-congo>, accessed 22 February 2013

<sup>301</sup> Human Rights Watch, 2011 World Report Democratic Republic of Congo, <http://www.hrw.org/en/world-report-2011/democratic-republic-congo>, accessed 15 March 2013

<sup>302</sup> United Nations General Assembly Human Rights Council Thirteenth session Agenda item 10 Technical assistance and capacity-building Report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo (A/HRC/13/64), 10 January 2011, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-64.pdf>, accessed 12 March 2013

<sup>303</sup> UN, L'ONU inquiète du risque d'un retour de la violence sexuelle dans l'est de la RDC, Communiqué de l'ONU, 3 Mai 2012, <https://www.un.org/apps/newsFr/storyF.asp?NewsID=28120> Accessed 4 April 2013

<sup>304</sup> UN, L'ONU inquiète du risque d'un retour de la violence sexuelle dans l'est de la RDC, Communiqué de l'ONU, 3 Mai 2012, <https://www.un.org/apps/newsFr/storyF.asp?NewsID=28120> Accessed 4 April 2013

<sup>305</sup> UN, L'ONU inquiète du risque d'un retour de la violence sexuelle dans l'est de la RDC, Communiqué de l'ONU, 3 Mai 2012, <https://www.un.org/apps/newsFr/storyF.asp?NewsID=28120> Accessed 4 April 2013

<sup>306</sup> JeuneAfrique, Est RDC: poursuite des violences sexuelles massives et systématiques, 12 mars 2013, <http://www.jeuneafrique.com/actu/20130312T155251Z20130312T155247Z/> Accessed 4 April 2013

<sup>307</sup> Campaign of Africa for Women's Rights, Democratic Republic of Congo, [http://www.africa4womensrights.org/public/Dossier\\_of\\_Claims/DRCENG.pdf](http://www.africa4womensrights.org/public/Dossier_of_Claims/DRCENG.pdf), accessed 12 March 2013

<sup>308</sup> International Centre for Migration, Health and Development Blog (ICMHD) ICMHD in DRC: Protecting the Health of Women and Girls, August 2010, <https://icmhd.wordpress.com/2010/08/13/icmhd-in-drc-protecting-the-health-of-women-and-girls/>, accessed 12 March 2013

<sup>309</sup> International Centre for Migration, Health and Development Blog (ICMHD) ICMHD in DRC: Protecting the Health of Women and Girls, August 2010, <https://icmhd.wordpress.com/2010/08/13/icmhd-in-drc-protecting-the-health-of-women-and-girls/>, accessed 12 March 2013

as a weapon of war in the DRC.<sup>310</sup> In May 2011 US news website *Voice of America (VoA)* stated that in Eastern Congo rape can be an act of war or revenge and that many rapes are a part of military operations, designed to terrorize and control the population.<sup>311</sup> In its 2011 Freedom of the World report *Freedom House* stated that violence including rape and sexual slavery has dramatically increased since fighting began in 1994. *Freedom House* reported that between late July and early August 2010 it is estimated that 560 women, children and men were raped by various armed groups in a series of incidents in North and South Kivu and that a UN investigation has found links between the rapes and the exploitation of mineral rich areas controlled by armed groups. *Freedom House* reported that "almost total impunity" for these crimes means that people are rarely prosecuted regardless of whether they are soldiers, rebels or civilians.<sup>312</sup> In November 2010 *Forced Migration Review*, published by the Refugee Studies Centre at the University of Oxford, stated that there was a "shocking level of sexual violence against women and girls" in eastern DRC, often in settings beyond the reach and protection capacity of humanitarian and civil society organisations. The *Forced Migration Review* reported that the mandates of humanitarian agencies and civil society organisations alone would not be able to address the underlying causes of sexual and gender-based violence or provide protection in eastern DRC and that political will and action from the national authorities and international security forces are required in addition to reform of the military, police, penitentiary and judicial systems.<sup>313</sup> In its 2012 report Freedom in the World *Freedom House* reported that mass rapes were carried out in 2011 by all parties to the conflict, but that convictions were rare.<sup>314</sup>

In its 2012 country report the *USDOS* stated that statistical information on rape was fragmented, incomplete and focused on priority implementation areas.<sup>315</sup> In its 2011 country report *USDOS* reported that the UN and NGOs stated that the statistics on sexual violence represented only a small percentage of the actual number of incidents and did not include "victims who were unable, afraid, or ashamed to seek assistance."<sup>316</sup>

### **8.3.1.1 Incidents of rape**

In March 2011 the third joint report of seven *United Nations experts on the situation in the Democratic Republic of the Congo* to the Office of the High Commissioner for Human Rights stated that sexual violence remains a cause of major concern not only in the eastern part of the country but throughout the rest as well, reporting that between 30 July and 2 August 2010 at least 380 women, man and children were raped in 13 villages in Walikale territory in North Kivu. The perpetrators were armed members of the FDLR, members of the Mai Mai Cheka and combatants affiliated with a former FARDC member who founded his own armed group in early 2010. The *United Nations experts on the situation in the Democratic Republic of the Congo* reported that security forces had committed many rapes.<sup>317</sup>

In June 2011 *The Guardian* reported that women were vulnerable to rape as they carried out daily tasks such as going to the fields or collecting water, "Masika Katsuva, 44, lives in a small village

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<sup>310</sup> United Nations General Assembly Human Rights Council Thirteenth session Agenda item 10 Technical assistance and capacity-building Report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo (A/HRC/13/64), 10 January 2011, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-64.pdf>, accessed 12 March 2013

<sup>311</sup> *Voice of America*, Domestic Rape in Congo a Rapidly Growing Problem, 30 May 2011 <http://www.voanews.com/content/domestic-rape-in-congo-a-rapidly-growing-problem-122826644/140086.html>, accessed 12 March 2013

<sup>312</sup> *Freedom House*, Freedom in the World 2011 Democratic Republic of Congo, May 2011, <http://www.freedomhouse.org/report/freedom-world/2011/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>313</sup> *Forced Migration Review*, Protection from sexual violence in DRC, November 2010, <http://www.fmreview.org/DR Congo/mosely-cetinoglu-glad.html>, accessed 24 February 2013

<sup>314</sup> *Freedom House*, Freedom in the World Report 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>315</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid=204107>, accessed 25 May 2013

<sup>316</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

<sup>317</sup> United Nations Human Rights Council, Third joint report of seven United Nations experts on the situation in the Democratic Republic of the Congo, 9 March 2011, A/HRC/16/68, <http://www.unhcr.org/refworld/docid/4ed4e77c2.html>, accessed 17 March 2013

near Minova and takes care of hundreds of women who have been raped, as well as babies who have survived the violence." Women are raped while going to the fields or on their way to market to trade, or also on the road to the stream while going to fetch water," she says." When there are attacks on villages, the number of new cases of sexual violence increases. Cases of sexual violence continue to increase because women cannot stop going to fields and markets and to fetch water."<sup>318</sup>

In January 2012 the report of the *United Nations High Commissioner for Human Rights* on the human rights situation and the activities of her Office in the Democratic Republic of the Congo stated that the United Nations Joint Human Rights Office (UNJHRO) had documented allegations of rape, including gang-rape, of at least 102 women and one girl by combatants of the Democratic Forces for the Liberation of Rwanda (FDLR) between November 2010 and January 2011.<sup>319</sup> In its 2012 country report *USDOS* stated that Goma based NGO *Heal Africa* recorded 178 male and 2339 female survivors of sexual violence including 745 minors, in 14 clinics in North Kivu in the first six months of 2012.<sup>320</sup>

In 2012 the UK *Foreign and Commonwealth Office* stated that there were a number of mass rapes in 2011, committed by Congolese soldiers and armed groups, including multiple mass rapes in Fizi in South Kivu during January 2011 and a mass rape in July 2011 in the same town. The UK *Foreign and Commonwealth Office* stated reported that a senior commander of the Congolese army, Lt Col Mutuare Daniel Kibibi, and eight soldiers were tried and convicted for their role in the January rapes but stated that the majority of sexual violence crimes go unpunished in the DRC. The UK *Foreign and Commonwealth Office* reported that UN sanctions had been imposed against the leader of the Mai Mai Sheka militia group, Commander Ntabo Ntaberi Sheka, for his part in mass rapes committed in Walikale in August 2010.<sup>321</sup> In June 2011 *Amnesty International* stated that fighters of a former armed group integrated into the Congolese army deserted from an army training camp and raped possibly up to 100 women, in an attack on the village of Nyakiele near Fizi town in the east of the country, on the night of 11 June, members of the same group were implicated in mass rapes in the same area in January 2011.<sup>322</sup> In August 2011, news magazine *Slate Afrique* stated that the national coordinator of the NGO Arche Alliance, Baudouin Kipala reported that 150 men attacked Nakiele, Kanguli and Abala in Fizi (Eastern DRC) on 11 June 2011. The villagers have reported that the men were deserters from the national army lead by Colonel Nyiragire Kulimushu. *Slate Afrique* reported that more than 276 women were believed to have been raped that day. An investigation was opened at the beginning of July and 75 victims have agreed to appear before the military prosecutor.<sup>323</sup>

In its 2012 country report *USDOS* reported that between December 2010 and November 2011 the UN reported 625 cases of sexual violence perpetrated by factions in the conflict in North Kivu, South Kivu and Orientale provinces. 602 cases were against women and girls and 23 were against men and boys. *USDOS* stated that according to the Ministry of Gender there were 11,672 reported cases of sexual and gender based violence in 2011 in North Kivu, South Kivu, Ituri district, Bandundu, Bas-Congo, Katanga and Kinshasa, 10,037 of which were reported in North Kivu,

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<sup>318</sup> The Guardian, The worst places in the world for women: Congo', 14 June 2011 <http://www.guardian.co.uk/world/2011/jun/14/worst-places-in-the-world-for-women-congo>, accessed 22 February 2013

<sup>319</sup> Human Rights Council Nineteenth session Agenda items 2 and 10 Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General Technical assistance and capacity-building Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office in the Democratic Republic of the Congo [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-38\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-38_en.pdf), accessed 12 March 2013

<sup>320</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>321</sup> The Foreign and Commonwealth Office, Human Rights and Democracy the 2011 Foreign and Commonwealth Office Report, 2012, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/35439/hrd-report-2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35439/hrd-report-2011.pdf), accessed 13 March 2013

<sup>322</sup> Amnesty International, New Mass Rapes in DRC are Result of Horrific Failure of Justice, 23 June 2011 <http://www.amnesty.org/en/news-and-updates/new-mass-rapes-drc-are-result-horrific-failure-justice-2011-06-23>, accessed 10 March 2013

<sup>323</sup> Slate Afrique, RDC: la double peine des femmes violées. 25 August 2011 <http://www.slateafrique.com/26875/republique-democratique-congo-la-double-peine-des-femmes-violees> Accessed 21 April 2013

South Kivu and Ituri.<sup>324</sup> In March 2013 the *UN Secretary General* reported to the UN Security Council stated that the UN has established that between December 2011 and November 2012, 764 people were victims of conflict related sexual violence, including 280 children. 242 victims were in province Orientale, 278 Northern-Kivu and 244 in Southern-Kivu. In half of the cases the attacks have been attributed to elements of the FARDC (345 victims, of which 137 were children) and the national police (30 victims, of which 20 were children). 15 cases, of which one was a child were attributed to the Agence Nationale de Renseignements. The remaining 374 cases were attributed to the FDLR (103 victims including 19 children), Mai-Mai (138 victims of which 42 were children), the Forces de résistance patriotique de l'Ituri (20 victims, including 10 children); the Forces de défense congolaises (FDC) (16 victims); the M23 (20 victims, including 10 children); the Raïa Mutomboki (28 victims, including 23 children); and other armed groups (46 victims, including 23 children).<sup>325</sup> In March 2013 the *UN Secretary General* reported that on the 24 and 25 June 2012 at least 28 women and 23 girls were allegedly raped in two attacks against the nature reserve in Okapis in Manbasa (Ituri) by about 100 members of the Mai-Mai Morgan. According to the *UN Secretary General* the attacks were part of a Mai-Mai Lumumba and Morgan strategy aiming to spread terror to gain control of the mining resources. In province Orientale, at the beginning of November 2012 at least 66 women and 4 children were allegedly raped by Mai-Mai samba/Lumumba in the Manbasa region. The victims were targeted during attacks on their villages due to their alleged collaboration with the FARDC. In Northern Kivu at least 30 cases of rape took place between December 2011 and March 2012, during fighting between the FDC and a coalition of fighters of the FDLR and the Mai-Mai Akilo in Walikele, Ntoto and Brazza. A lot of victims reported being subjected to gang rape. In the region of Masisi 5 women and 4 children were raped on 6 August 2012 near the village of Katoyi. The *Secretary General* reported that these rapes are part of ethnically motivated attacks aimed to displaced civilians. Witnesses describe that on their arrival in the villages, elements of the Raïa Mutomboki stated that the Hutus had to leave and not return. A number of witnesses also reported sexual mutilation on the dead, including 4 cases where foetuses were cut out of the bodies of pregnant women.<sup>326</sup> In January 2013 *Radio Okapi* reported that local authorities had confirmed that in North Kivu, the FDLR raped 228 women that month in several villages in Itala and Tala in Lubero.<sup>327</sup> In January 2013, *Medecin Sans Frontieres* reported that it had treated 95 cases of sexual violence in December 2012 in the IDP camps of Mugunga III. At the end of December they saw an increase of attacks raising the numbers to 6 consultations a day on average. The presence of armed forces in the vicinity of the camps creates chronic insecurity. Women are also being attacked inside the camps. Marie Jacob an MSF psychologist explained that violence is semi-permanent, reporting that it was a generalized violence for power, in which the law of the strongest prevailed.<sup>328</sup> In February 2013 *OHCHA* reported 2 030 cases of sexual violence in Djugu and Mambasa (Province Orientale) recorded between March 2012 and January 2013. Information provided by the NGO Association pour la protection de l'enfance au Congo (APEC) shows that 75% of these cases occurred in Mambasa alone, where the few health centres available are not trained to deal with sexual violence.<sup>329</sup>

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<sup>324</sup> US Department of State, Country Report on Human Rights Practices 2012,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid=204107>, accessed 25 May 2013

<sup>325</sup> UN Security Council, Assemblée générale Soixante-septième session Point 33 de l'ordre du jour Prévention des conflits armés, Conseil de sécurité Soixante-huitième année, Violence sexuelle liée aux conflits, Rapport du Secrétaire général, A/67/792 S/2013/149, <http://reliefweb.int/report/world/violence-sexuelle-li%C3%A9e-aux-conflits-rapport-du-secr%C3%A9taire-g%C3%A9n%C3%A9ral-a67792%E2%80%93s2013149>, accessed 14 March 2013.

<sup>326</sup> UN Security Council, Assemblée générale Soixante-septième session Point 33 de l'ordre du jour Prévention des conflits armés, Conseil de sécurité Soixante-huitième année, Violence sexuelle liée aux conflits, Rapport du Secrétaire général, A/67/792 S/2013/149, <http://reliefweb.int/report/world/violence-sexuelle-li%C3%A9e-aux-conflits-rapport-du-secr%C3%A9taire-g%C3%A9n%C3%A9ral-a67792%E2%80%93s2013149>, accessed 14 March 2013.

<sup>327</sup> Radio Okapi, Nord-Kivu: les FDLR ont violé 28 femmes en un mois à Lubero, selon la société civile 31 January 2013, <http://reliefweb.int/report/democratic-republic-congo/nord-kivu-les-fdlr-ont-viol%C3%A9-28-femmes-en-un-mois-%C3%A0-lubero-selon-la> Accessed 23 April 2013

<sup>328</sup> MSF, Violence sexuelle omniprésente dans des camps de déplacés à Goma et autour, 16 January 2013, <http://reliefweb.int/report/democratic-republic-congo/violence-sexuelle-omnipr%C3%A9sente-dans-des-camps-de-d%C3%A9plac%C3%A9s-%C3%A0-goma-et> Accessed 22 April 2013

<sup>329</sup> OHCHR, Situation humanitaire en République Démocratique du Congo - Note d'information à la presse, 20 février 2013, <http://reliefweb.int/report/democratic-republic-congo/situation-humanitaire-en-r%C3%A9publique-d%C3%A9mocratique-du-congo-note-d-68> Accessed 24 April 2013

### 8.3.1.2 Access to Justice

In its 2012 country report *USDOS* reported that most victims did not pursue legal action as they feared possible reprisals and being further humiliated within the justice system.<sup>330</sup> In an undated document *The Coalition of the Campaign of Africa for Women's Rights* stated that "numerous obstacles limit women's ability lodge complaints: prolonged, costly legal proceedings, fear of stigmatisation and reprisals, etc," reporting that due to defects in the Congolese justice system there is "zero" chance of perpetrators of sexual crimes being brought to justice. *The Coalition of the Campaign of Africa for Women's Rights* reported that women's access to justice was undermined by a lack of training for police and legal personnel.<sup>331</sup> In January 2010 *the United Nations High Commissioner for Human Rights* reported that ignorance of the law among police in rural areas was a barrier to women accessing justice.<sup>332</sup> In June 2011 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that sexual and gender-based violence goes unpunished because of judicial inaction and a legal culture at odds with changes to the penal code in 2006. *IRIN* reported that the revised penal code made provisions to prevent and reprimand crimes relating to sexual violence and to provide systematic support to victims, however according to *IRIN*, magistrates show little regard to the revisions and focus instead on failures such as the requirement for police to open a case within 30 days of receiving a complaint. *IRIN* reported that "the laws, ignored and misinterpreted, have left escalating numbers of sexual violence survivors unprotected, and perpetrators free to violate again."<sup>333</sup> In June 2011 *IRIN* stated that the burden of proving allegations usually falls on the survivor and when cases do go to court, judicial decisions are sometimes influenced by corruption. *IRIN* stated that magistrates often wrongly demanded a medical certificate as proof, before they would register a complaint and may demand fees to prepare a case and ensure its progression. *IRIN* stated that magistrates and security forces are reluctant to investigate perpetrators in influential positions. *IRIN* reported that due to corruption in some cases the guilty are allowed to buy their freedom "the ease with which suspects bribe or escape their way out of custody leaves survivors even more afraid to testify for fear of reprisal."<sup>334</sup> In January 2010 *the United Nations High Commissioner for Human Rights* also reported that alleged perpetrators with money could buy their way out and regularly "escape" from prison.<sup>335</sup>

### 8.3.1.3 Impunity

In January 2010 the *Report of the United Nations High Commissioner for Human Rights* on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo stated that impunity for the perpetrators of crimes of sexual violence is "chronic" and high ranking officials are rarely prosecuted, further the justice sector is under-resourced and understaffed.<sup>336</sup>

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<sup>330</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204107>, accessed 25 May 2013

<sup>331</sup> Campaign of Africa for Women's Rights, Democratic Republic of Congo, [http://www.africa4womensrights.org/public/Dossier\\_of\\_Claims/DRCENG.pdf](http://www.africa4womensrights.org/public/Dossier_of_Claims/DRCENG.pdf), accessed 12 March 2013

<sup>332</sup> United Nations General Assembly Human Rights Council Thirteenth session Agenda item 10 Technical assistance and capacity-building Report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo (A/HRC/13/64), 28 January 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-64.pdf> accessed 12 March 2013

<sup>333</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, Analysis: New laws have little impact on sexual violence in DRC, 7 June 2011, <http://www.irinnews.org/Report/92925/Analysis-New-laws-have-little-impact-on-sexual-violence-in-DRC>, accessed 14 March

<sup>334</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, Analysis: New laws have little impact on sexual violence in DRC, 7 June 2011, <http://www.irinnews.org/Report/92925/Analysis-New-laws-have-little-impact-on-sexual-violence-in-DRC>, accessed 14 March

<sup>335</sup> United Nations General Assembly Human Rights Council Thirteenth session Agenda item 10 Technical assistance and capacity-building Report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo (A/HRC/13/64), 28 January 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-64.pdf> accessed 12 March 2013

<sup>336</sup> United Nations General Assembly Human Rights Council Thirteenth session Agenda item 10 Technical assistance and capacity-building Report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her

In November 2010 the *Forced Migration Review* reported that impunity for sexual offences is widespread and the security and judicial system are not capable of ensuring accountability, a lack of command structure means that members of the armed forces continue to carry out abuses without repercussions and middle and senior level personnel within the army and police are not held accountable for the actions of men under their command. The *Forced Migration Review* reported that "few sexual criminals are brought in front of a court of law and even fewer actually spend time in prison for their actions." The *Forced Migration Review* reported that corruption and the length of trial are factors discouraging survivors from seeking justice and that in some cases survivors are required to pay a fee to press charges.<sup>337</sup> In November 2010 *Forced Migration Review* stated that the attitudes and behaviour of military personnel regarding sexual assaults will only change when military discipline is installed, including members of the armed forces being held accountable for acts of sexual violence and when personnel are regularly paid and provided with adequate lodging and food.<sup>338</sup> In March 2011 *The Office of the High Commissioner for Human Rights* reported that a number of cases of sexual violence committed by FARDC members had been investigated and prosecuted by military courts, including the case of a high-ranking commander who was jailed for crimes against humanity having sent his troops to rape, beat and loot the population in the town of Fizi on 1 January 2011.<sup>339</sup> In January 2012 the report of the *United Nations High Commissioner for Human Rights* on the human rights situation and the activities of her Office in the Democratic Republic of the Congo stated that between January and July 2011 mobile hearings of military courts and tribunals were held but that despite this progress "relatively few rape cases result in conviction of the perpetrators". The *United Nations High Commissioner for Human Rights* reported that victims rarely received any damages that they are awarded due to a lack of legal assistance and the state not having allocated funds for such purposes.<sup>340</sup> In its 2012 country report *USDOS* reported that no progress had been made in the trial of seven surviving individuals accused of organising the 2010 Walikale mass rapes in which 303 women, children and men were raped by a coalition of the FDRL, Mai-Mai Cheka, Patriotic Forces for the Liberation of Congo and combatants led by Colonel Emmanuel Nsengiyamba, in North Kivu. One man arrested for his involvement escaped from Goma's central prison and all seven accused remain at large.<sup>341</sup>

#### **8.3.1.4 Social stigma and discrimination**

In June 2011 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that the President of the Association of Women Magistrates in the DRC reported that in Bantu culture a woman who has been raped is considered dirty and is excluded from the community and that the victim must make a choice between justice and social consequences.<sup>342</sup> In its 2012 country report the *USDOS* reported victims of sexual violence faced "enormous social stigma" and that it was common for victims to be pressured by family members to remain silent to protect the reputation of the victim and her family because victims of sexual and gender based violence face social stigma and may be viewed as unsuitable for marriage or abandoned by their husbands. Some rape

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Office in the Democratic Republic of the Congo (A/HRC/13/64), 28 January 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-64.pdf> accessed 12 March 2013

<sup>337</sup> Forced Migration Review, Protection from sexual violence in DRC, November 2010, <http://www.fmreview.org/DR Congo/mosely-cetinoglu-glad.htm>, accessed 24 February 2013

<sup>338</sup> Forced Migration Review, Protection from sexual violence in DRC, November 2010, <http://www.fmreview.org/DR Congo/mosely-cetinoglu-glad.htm>, accessed 24 February 2013

<sup>339</sup> United Nations Human Rights Council, Third joint report of seven United Nations experts on the situation in the Democratic Republic of the Congo, 9 March 2011, A/HRC/16/68, <http://www.unhcr.org/refworld/docid/4ed4e77c2.html>, accessed 17 March 2013

<sup>340</sup> Human Rights Council Nineteenth session Agenda items 2 and 10 Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General Technical assistance and capacity-building Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office in the Democratic Republic of the Congo [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-38\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-38_en.pdf), accessed 12 March 2013

<sup>341</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204107>, accessed 25 May 2013

<sup>342</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, Analysis: New laws have little impact on sexual violence in DRC, 7 June 2011, <http://www.irinnews.org/Report/92925/Analysis-New-laws-have-little-impact-on-sexual-violence-in-DRC>, accessed 14 March

victims were forced to marry the man who had assaulted them or accept money or goods from the rapist rather than take the case to court.<sup>343</sup> In March 2011 *the Office of the High Commissioner for Human Rights (OHCHR)* stated that efforts had been undertaken by the government to address sexual violence but that the needs of the victims of sexual violence it interviewed were largely unmet and that "the lives they knew have been largely destroyed, and they are suffering greatly - physically, psychologically, and materially. This victimization continues and is compounded by the stigma they often face in families and communities. Their husbands abandon them, and they are socially ostracized."<sup>344</sup> OHCHR reported that this rejection is compounded for those who suffer from fistula, became pregnant and bear children as a result of rape or contract sexually transmitted diseases.<sup>345</sup> In August 2011 *Slate Afrique* reported that many men have left their wives after learning they had been raped during the mass attacks in Fizi on 11 June 2011, leaving the victims on their own to support themselves and their children. According to *Slate Afrique* some have taken second wives, many of those that remained with their wives maintained physical separation, sleeping in separate rooms, not talking to their wives and not providing them with food. There have been reports, by the 57 victim's willing to be interviewed that women are made to sleep on the floor. *Slate Afrique* reported that as a result of this marginalisation, many women have not reported being raped. *Slate Afrique* reported that the reasons for the stigmatisation of rape victims in these villages has revealed that among Babembes rape is considered the fault of the woman that deserves punishment. Furthermore many husbands consider that their wives were not raped but consented to have sexual relations with those she accuses of violence. There is also a fear of sleeping with a woman who may have been infected with HIV/AIDS.<sup>346</sup>

### **8.3.3.5 Shelter/Assistance**

In June 2010 a report by US NGO *Refugee International* stated that access to adequate medical assistance for survivors of sexual violence remains extremely difficult as although free medical care is available in the provincial capitals in eastern DRC, most conflict-related sexual violence takes place in remote areas. *Refugees International* cite the case of one woman who was gang raped in the conflict-affected area of Walikale who had to walk for two weeks in the forest to reach a transport link to Goma in order to receive medical treatment. *Refugees International* report that victims of rape need to access medical services within 72 hours in order to benefit from post-exposure prophylaxis (PEP) kits but that many of the medical facilities outside of the provincial capitals lack PEP kits.<sup>347</sup>

In January 2012 the report of the *United Nations High Commissioner for Human Rights* on the human rights situation and the activities of her Office in the Democratic Republic of the Congo to the United Nations General Assembly stated that the UN had established 25 legal clinics, operating in all provinces except Orientale, to support victims of sexual violence free-of-charge.<sup>348</sup>

In January 2012 the report of the *United Nations High Commissioner for Human Rights* on the human rights situation and the activities of her Office in the Democratic Republic of the Congo to

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<sup>343</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dlic=204107>, accessed 25 May 2013

<sup>344</sup> The Office of the High Commissioner for Human Rights, Report of the Panel on Remedies and Reparations for Victims of Sexual Violence in the DRC, March 2011, [http://www.ohchr.org/Documents/Countries/ZR/DRC\\_Reparations\\_Report\\_en.pdf](http://www.ohchr.org/Documents/Countries/ZR/DRC_Reparations_Report_en.pdf), accessed 3 March 2013

<sup>345</sup> The Office of the High Commissioner for Human Rights, Report of the Panel on Remedies and Reparations for Victims of Sexual Violence in the DRC, March 2011, [http://www.ohchr.org/Documents/Countries/ZR/DRC\\_Reparations\\_Report\\_en.pdf](http://www.ohchr.org/Documents/Countries/ZR/DRC_Reparations_Report_en.pdf), accessed 3 March 2013

<sup>346</sup> Slate Afrique, RDC: la double peine des femmes violées. 25 August 2011 <http://www.slateafrique.com/26875/republique-democratique-congo-la-double-peine-des-femmes-violees> Accessed 21 April 2013

<sup>347</sup> Refugee International, DR Congo: Emergency Response to Sexual Violence Still Essential, June 2010, <http://www.refugeesinternational.org/policy/field-report/drc-emergency-response-sexual-violence-still-essential>, accessed 10 March 2013

<sup>348</sup> Human Rights Council Nineteenth session Agenda items 2 and 10 Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General/Technical assistance and capacity-building/Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office in the Democratic Republic of the Congo [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-38\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-38_en.pdf), accessed 12 March 2013

the United Nations General Assembly stated that although the Minister of Justice and Human Rights had devised a draft law concerning the creation of a fund for victims of sexual violence in 2009, it had not yet been introduced in Parliament.<sup>349</sup> In March 2013 the *UN Secretary General* reported that in 2012 the government ratified national protocols for medical assistance, psychosocial support, legal aid and socioeconomic reintegration in order to set out minimal levels of care for survivors.<sup>350</sup>

## 8.4 Domestic violence

In its 2012 country report *USDOS* stated that domestic violence was common throughout the country with 71% of women in the 2007 Demographic Health Survey reporting some form of sexual, mental or physical abuse. *USDOS* reported that in Equateur Province 86% of women were the victims of domestic abuse. *USDOS* stated that spousal abuse is not specifically addressed in legislation dealing with assault and police rarely intervened in domestic disputes and there were no reports of judicial authorities taking action in cases of domestic abuse.<sup>351</sup>

In May 2011 US news website *Voice of America (VoA)* stated that rates of domestic rape were increasing rapidly, citing research that future programmes against sexual violence should focus on abuse within families.<sup>352</sup> In May 2011 UK daily newspaper *The Guardian* stated that the problem of sexual violence is bigger and more pervasive than previously thought and that its estimate of the number of women are raped every day (1,152) is 26 times more than the previous estimate of 16,000 rapes reported in one year by the United Nations.<sup>353</sup> In June 2011 an article in the *American Journal of Public Health* stated that according to a survey on domestic violence in the DRC, approximately 1.69 – 1.80 million women reported being raped in their lifetime, 407,397 – 433,785 of those within the last 12 months.<sup>354</sup> In June *IRIN* stated that Marie Josée Mijinga, the President of the Association of Women Magistrates in the DRC reported that incest survivors are often silenced by female relatives out of fear of losing the income brought into the family by the male offender. Marie Josée Mijinga reported that less than one in three SGBV cases brought to the police in North Kivu were investigated.<sup>355</sup> Marie Josée Mijinga reported that the law was open to abuse by the families of girls under 18 who used accusations of statutory rape by older boyfriends to extract dowries and pledges of marriage.<sup>356</sup>

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<sup>349</sup> Human Rights Council Nineteenth session Agenda items 2 and 10 Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General Technical assistance and capacity-building Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office in the Democratic Republic of the Congo [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-38\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-38_en.pdf), accessed 12 March 2013

<sup>350</sup> UN Security Council, Assemblée générale Soixante-septième session Point 33 de l'ordre du jour Prévention des conflits armés, Conseil de sécurité Soixante-huitième année, Violence sexuelle liée aux conflits, Rapport du Secrétaire général, A/67/792 S/2013/149, [http://reliefweb.int/organization/un-sc?sl=environment-term\\_listing%252Ctaxonomy\\_index\\_tid\\_country-64%252Ctaxonomy\\_index\\_tid\\_vulnerable\\_groups-6871](http://reliefweb.int/organization/un-sc?sl=environment-term_listing%252Ctaxonomy_index_tid_country-64%252Ctaxonomy_index_tid_vulnerable_groups-6871), 14 March 2013.

<sup>351</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>352</sup> Voice of America, Domestic Rape in Congo a Rapidly Growing Problem, 30 May 2011 <http://www.voanews.com/content/domestic-rape-in-congo-a-rapidly-growing-problem-122826644/140086.html>, accessed 12 March 2013

<sup>353</sup> The Guardian, Forty-eight Women Raped Every Hour in Congo, Study Finds, 12 May 2011, <http://www.guardian.co.uk/world/2011/may/12/48-women-raped-hour-congo>, accessed 10 March 2013

<sup>354</sup> The American Journal of Public Health, Sexual violence against women in the Democratic Republic of the Congo: Population-based estimates and determinants, June 2011, <http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2010.300070?prevSearch=congo+2011&searchHistoryKey=>, accessed 11 March 2013

<sup>355</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, Analysis: New laws have little impact on sexual violence in DRC, 7 June 2011, <http://www.irinnews.org/Report/92925/Analysis-New-laws-have-little-impact-on-sexual-violence-in-DRC>, accessed 14 March

<sup>356</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, Analysis: New laws have little impact on sexual violence in DRC, 7 June 2011, <http://www.irinnews.org/Report/92925/Analysis-New-laws-have-little-impact-on-sexual-violence-in-DRC>, accessed 14 March



## 8.5 Reproductive Health

In its 2012 country report *USDOS* stated that it was common for health practitioners to require permission from a woman's husband before issuing her with family planning. *USDOS* stated that women's access to contraception was "extremely" low and that 5.8% of women used modern contraceptive methods.<sup>357</sup> In its 2012 Freedom of the World report *Freedom House* stated that abortion was prohibited and women's access to contraception is "extremely low."<sup>358</sup> In an undated document *The Coalition of the Campaign of Africa for Women's Rights* stated that the armed conflict has had an "extremely negative effect" on maternal mortality due to a lack of access to obstetric care, inadequate healthcare centres and limited access to reproductive health and sexual hygiene services for women, particularly for those living in rural areas. *The Coalition of the Campaign of Africa for Women's Rights* stated that there is a lack of information regarding HIV/Aids which "helps the virus to propagate, and women are the main victims."<sup>359</sup>

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<sup>357</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

<sup>358</sup> Freedom House, Freedom in the World 2012 Democratic Republic of Congo, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013

<sup>359</sup> Campaign of Africa for Women's Rights, Democratic Republic of Congo, [http://www.africa4womensrights.org/public/Dossier\\_of\\_Claims/DRCENG.pdf](http://www.africa4womensrights.org/public/Dossier_of_Claims/DRCENG.pdf), accessed 12 March 2013

## 9. Children

Article 41 of the *Constitution* reported that a child is legally defined as being an individual under 18 years of age, regardless of gender,

“Article 41

Every person who has not yet completed 18 years of age is a minor, without distinction on grounds of sex.

All minors have the right to know the names of their father and their mother.

They also have the right to enjoy the protection of their family, of society and of the public authorities.

The abandonment and maltreatment of children, in particular pedophilia, sexual abuse and the charge of engaging in witchcraft, are prohibited and punishable by law.

The parents have the duty to take care of their children and to ensure their protection against any act of violence inside as well as outside their parental home.

The public authorities have the obligation to ensure the protection of children in a difficult situation and to bring the authors of acts of violence against children and their accomplices to justice. <sup>360</sup>

### 9.1 Birth registration

In 2004 the *International Bureau for Children's Rights (IBCR)* reported that national legislation provides that all children can be registered for free in the 30 days following their birth. However after those 30 days, the legal fees can be up to USD 200.<sup>361</sup> The *IBCR* reported that there are several reasons preventing parents from registering their children in the required time frame, the government offices can be a long way from the birth and parents are not informed about the importance of the registration. The *IBCR* reported that the birth certificate has to be associated with a permanent residence, for displaced populations this means that they cannot register any children born after they fled. The *IBCR* stated that as there is no benefit for the parents in registering their child's birth (child support for example), many parents simply do not consider it necessary.<sup>362</sup>

In October 2010 *UNICEF* reported that two out of three children under five do not have a birth certificate and that in 2010 only 28% of children under five were registered.<sup>363</sup> In its 2012 country report *USDOS* stated that according to UNICEF 50.6% of children whose birth was observed in "some form of medical facility" were registered with the state. *USDOS* reported that birth registration was lowest among ethnic minorities such as Pygmies. *USDOS* reported that lack of registration did not affect access to government services.<sup>364</sup>

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<sup>360</sup> Constitution of the Democratic Republic of Congo, 2006, <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>. Accessed 2 April 2013

<sup>361</sup> IBCR, Profil des droits de l'enfant de la République démocratique du Congo, January 2004, [http://www.ibcr.org/fra/thematic\\_reports.html](http://www.ibcr.org/fra/thematic_reports.html) Accessed 4 April 2013

<sup>362</sup> IBCR, Profil des droits de l'enfant de la République démocratique du Congo, January 2004, [http://www.ibcr.org/fra/thematic\\_reports.html](http://www.ibcr.org/fra/thematic_reports.html) Accessed 4 April 2013

<sup>363</sup> UNICEF, Latest UNICEF data reveal iniquities in Democratic Republic of the Congo, Results of 'Multiple Indicator Cluster Survey, October 2010, [http://www.unicef.org/infobycountry/drcongo\\_56342.html](http://www.unicef.org/infobycountry/drcongo_56342.html), accessed 15 March 2013

<sup>364</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

## 9.2 Access to Education

Articles 42 to 45 of the *Constitution* guarantees the right to education and provides for compulsory and free primary school education,

“Article 42

The public authorities are obliged to protect the youth against any attack on their health, education or integral development.

Article 43

All persons have the right to a school education. It is provided by national education. National education consists of public establishments and approved private establishments.

The law defines the conditions for the creation and functioning of these establishments. The parents have the right to choose the way in which their children are educated. Primary education is compulsory and free in the public establishments.

Article 44

The eradication of illiteracy is a national duty, the fulfilment of which the Government must elaborate a specific program.

Article 45

Education is free.

It is nevertheless subject to supervision by the public authorities under the conditions prescribed by law.

All persons have access to establishments of national education without discrimination on grounds of place of origin, race, religion, sex, political or philosophical opinions, physical, mental or sensorial condition in accordance with their capacities.

The national education establishments may, in cooperation with the religious authorities, ensure to pupils who have not attained the age of maturity an education in accordance with their religious convictions if their parents ask for it. <sup>365</sup>

In September 2012 *UNICEF* reported that the DRC ratified the Convention on the Rights of Children in 1990. <sup>366</sup>

In its 2012 country report *USDOS* stated the constitution and law provide for compulsory free public education until the age of 16 but that in practice primary school education was not compulsory, tuition-free, or universal, and few functioning government-funded schools existed, with parents typically funding 80 to 90% of school expenses. *USDOS* reported that parents were unwilling to send their child to school due to these expenses and the potential loss of income or labour whilst their child attended class. Further attendance rates for girls were lower as parents were less likely to send their daughters to school due to financial, cultural or security reasons. <sup>367</sup> In an undated document *The Coalition of the Campaign of Africa for Women's Rights* stated that although articles 43 and 44 of the Constitution guaranteed the provision of free, obligatory primary

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<sup>365</sup> Constitution of the Democratic Republic of Congo, 2006, <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>. Accessed 2 April 2013

<sup>366</sup> UNICEF, Rentrée scolaire 2012-2013 : plus de 11 millions d'élèves reprennent le chemin de l'école primaire en RDC, 5 September 2012 [www.unicef.org/drcongo/french/media\\_7028.html](http://www.unicef.org/drcongo/french/media_7028.html) Accessed 10 April 2013

<sup>367</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

education there is a disparity between boys and girls attendance, particularly at secondary level and in higher education, largely attributed to early and forced marriage and teenage pregnancy.<sup>368</sup>

In October 2010 *UNICEF* stated that three out of four children go to school in DRC.<sup>369</sup> In its 2011 country report *USDOS* stated that approximately 7.6 million children in DRC did not go to school.<sup>370</sup> In September 2012 *UNICEF* reported that 11 million children aged 6-12 were registered for school, of which 46% were girls, however 56.7% of children will drop out or repeat the year.<sup>371</sup> In March 2013 *UNICEF* stated that 1 in 4 children in DRC do not attend school, this equates to 7.4 million children of school age (5-17 years old).<sup>372</sup> In September 2012 *UNICEF* reported that many children are not registered for classes at the official age of 6 and that there is a lack of infrastructure and school materials. According to *UNICEF* repeated displacements in the east have also led to many children dropping out. In the east more than 1.1 million children have been displaced including 690,000 of primary school age.<sup>373</sup> In September 2012 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that in South Kivu education has been disrupted by the destruction of classrooms, increased class sizes due to displaced children and the use of some schools as temporary accommodation for IDPs.<sup>374</sup> In its 2012 country report *USDOS* stated that many schools in the conflict zones were dilapidated and had been closed due to insecurity, reporting that the FDLR, Mai Mai and some FARDC units had looted and occupied schools.<sup>375</sup> In January 2013 *OHCHR* reported that in South Kivu over 20 schools have been closed due to being occupied by IDPs and armed groups.<sup>376</sup> In January 2013 *OHCHR* reported that in North Kivu, since April 2012, 258 schools have been looted or burned.<sup>377</sup> In 23 January 2013 *Radio Okapi* reported that students and teachers were deserting schools in the area of Mpati in Northern-Kivu, in fear of the forced recruitment being carried out by the armed groups that are active in the region. Since the beginning of January the M26 has launched a recruitment campaign for young people in the area. The FDLR and Mai-Mai are also accused of carrying out forced recruitment in the area. *Radio Okapi* reported that students and teachers are scared of being caught out on the road to school as well as in the school itself. The leaders of the M26 have stated they want to recruit people aged 17 to 50.<sup>378</sup>

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<sup>368</sup> Campaign of Africa for Women's Rights, Democratic Republic of Congo, [http://www.africa4womensrights.org/public/Dossier\\_of\\_Claims/DRCENG.pdf](http://www.africa4womensrights.org/public/Dossier_of_Claims/DRCENG.pdf), accessed 12 March 2013

<sup>369</sup> UNICEF, Latest UNICEF data reveal iniquities in Democratic Republic of the Congo, Results of Multiple Indicator Cluster Survey, October 2010, [http://www.unicef.org/infobycountry/drcongo\\_56342.html](http://www.unicef.org/infobycountry/drcongo_56342.html), accessed 15 March 2013

<sup>370</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

<sup>371</sup> UNICEF, Rentrée scolaire 2012-2013 : plus de 11 millions d'élèves reprennent le chemin de l'école primaire en RDC, 5 September 2012 [www.unicef.org/drcongo/french/media\\_7028.html](http://www.unicef.org/drcongo/french/media_7028.html) Accessed 10 April 2013

<sup>372</sup> Radiokapi, RDC : plus d'un enfant sur quatre ne fréquente pas l'école, selon l'Unicef, 3 March 2013, <http://radiokapi.net/actualite/2013/03/03/rdc-plus-dun-enfant-sur-quatre-ne-va-pas-lecole-selon-lunicef/> Accessed 10 April 2013

<sup>373</sup> UNICEF, Rentrée scolaire 2012-2013 : plus de 11 millions d'élèves reprennent le chemin de l'école primaire en RDC, 5 September 2012 [www.unicef.org/drcongo/french/media\\_7028.html](http://www.unicef.org/drcongo/french/media_7028.html) Accessed 10 April 2013

<sup>374</sup> Integrated Regional Information Networks of the UN Office for the Coordination of Humanitarian Affairs (IRIN), 25 September 2012, <http://www.irinnews.org/Report/96390/DRC-Children-bear-brunt-of-conflict-in-the-east>, accessed 19 February 2013

<sup>375</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204107>, accessed 25 May 2013

<sup>376</sup> OHCHA, Rapport de situation humanitaire sur la République Démocratique du Congo 25 January 2013, <http://reliefweb.int/report/democratic-republic-congo/rapport-de-situation-humanitaire-sur-la-r%C3%A9publique-d%C3%A9mocratique--10> Accessed 2 April 2013

<sup>377</sup> OHCHA, Rapport de situation humanitaire sur la République Démocratique du Congo 25 January 2013, <http://reliefweb.int/report/democratic-republic-congo/rapport-de-situation-humanitaire-sur-la-r%C3%A9publique-d%C3%A9mocratique--10> Accessed 2 April 2013

<sup>378</sup> Radio Okapi, Nord-kivu: les élèves désertent les écoles à cause du recrutement des groupes armés à Mpati 23 January 2013, <http://reliefweb.int/report/democratic-republic-congo/nord-kivu-les-%C3%A9l%C3%A8ves-d%C3%A9sertent-les-%C3%A9coles-%C3%A0-cause-du-recrutement> Accessed 23 April 2013

### 9.3 Early and Forced Marriage

Article 40 of the *Constitution* provides for the right for an individual to marry a person of their choice;

“All individuals have the right to marry a person of their choice of the opposite sex and to create a family.

The family, the basic unit of the human community, is organized in a way which ensures its unity, stability and protection. It is placed under the protection of the public authorities.

For the parents, the care and the education to be given to children constitute a natural right and duty which they exercise under the control and with the assistance of the public authorities.

The children have the duty to assist their parents.

The law defines the rules on marriage and the organization of the family”<sup>379</sup>

In an undated document *The Coalition of the Campaign of Africa for Women’s Rights* stated that within secondary and higher education there is a high drop out rate for girls, largely attributed to early and forced marriage and teenage pregnancy.<sup>380</sup> In February 2011 *UNICEF* stated that 58% of women aged 20-24 were first married or in union by the age of 20 and approximately half of that number were married or in union by the age of 18.<sup>381</sup> In June 2011 *The Guardian* reported that the forced marriages of girls under 18 was a "severe obstacle to education" and that those officials best placed to curb forced marriage, such as policemen, soldiers and the local authorities, practiced it themselves.<sup>382</sup>

In its 2012 country report *USDOS* stated that the law prohibits marriage of girls under 14 years and boys under 18. *USDOS* stated that forced marriage is prohibited by law and parents face up to 12 years hard labour and a fine of 92,500 Congolese francs for forcing a child to marry, the penalty doubles if the child is under 15, however according to *USDOS* there were no reports of prosecutions for forced marriage. *USODS* reported that the payment of dowries greatly contributed to underage marriage as parents married off a daughter against her will in order to collect the dowry or finance a dowry for a son.<sup>383</sup>

In its 2012 country report *USDOS* stated that the minimum age for consensual sex is 14 for girls and 18 for men. *USDS* stated that prostitution by anyone under the age of 18 is illegal, however child prostitution occurred throughout the country, some of whom were forced to do so.<sup>384</sup>

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<sup>379</sup> Constitution of the Democratic Republic of Congo, 2006, <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>. Accessed 3 April 2013

<sup>380</sup> Campaign of Africa for Women’s Rights, Democratic Republic of Congo, [http://www.africa4womensrights.org/public/Dossier\\_of\\_Claims/DRCENG.pdf](http://www.africa4womensrights.org/public/Dossier_of_Claims/DRCENG.pdf), accessed 12 March 2013

<sup>381</sup> UNICEF, State of the World’s Children 2011, February 2011, <http://www.unicef.org.uk/Latest/Publications/SOWTC-2011>, accessed 10 March 2013

<sup>382</sup> The Guardian, The worst places in the world for women: Congo’, 14 June 2011 <http://www.guardian.co.uk/world/2011/jun/14/worst-places-in-the-world-for-women-congo>, accessed 22 February 2013

<sup>383</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>384</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

## 9.4 Use of children in armed conflict

Article 190 of the *Constitution* of 2005 prohibits the formation of a youth army,

“No one may, under sentence of high treason, organize military groups, paramilitary or private militias, or entertain a youth army”.<sup>385</sup>

Decree no. 066 of the 9 June 2000 on the demobilization and reintegration of vulnerable groups present in the fighting forces sets out the law in regards to the demobilisation and reintegration of child soldiers.<sup>386</sup>

In November 2010 *Forced Migration Review* stated that the recruitment and military use of children in conflict is prohibited by national laws but that, even with a global legal framework in place to protect children, the institutional capacity and public will for its application in the DRC is too weak.<sup>387</sup> The *USDOS Trafficking in Persons Report 2012* stated that the government did not sign a UN-sponsored action plan to end the recruitment of child soldiers in its armed forces, forming a ministerial committee for this purpose instead and did not apply legal sanctions against those who recruit and use child soldiers. The *USDOS* stated that FARDC commanders accused of using child soldiers were not investigated and remained in leadership positions.<sup>388</sup> In its 2012 country report *USDOS* reported that the government had made steps to reduce the use of child soldiers including signing a UN backed Action Plan to end the recruitment of child soldiers, running awareness campaigns for FARDC personnel and working with partner organisations to develop training materials and ensure children were not recruited by the FARDC. *USDOS* reported that FARDC commanders made an increased effort to remove child soldiers, in multiple cases requesting assistance from MONUSCO, UNICEF and other humanitarian organisations and transferred children to their care.<sup>389</sup> In March 2010, the *Thirty-first report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC)* stated that the systematic recruitment and use of children in armed conflict continued, particularly in North and South Kivu, Katanga and Orientale Province.<sup>390</sup>

In March 2010, the *Thirty-first report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC)* stated that there had been an increased presence of children in FARDC.<sup>391</sup> In February 2010 the NGO the *Coalition to Stop the Use of Child Soldiers* stated that the forced recruitment of children by Mai Mai is not uncommon and abuses against children include being sent to the frontline, subjected to whippings and violent punishment, made to perform rituals believed to protect their members in battle; girls are vulnerable to rape and sexual slavery.<sup>392</sup> In June 2011 *Voice of America (VoA)* stated that all types of military groups have recruited or abducted children to serve as soldiers, porters, spies, scouts,

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<sup>385</sup> Constitution of the Democratic Republic of Congo, 2006, <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>, accessed 2 April 2013

<sup>386</sup> IBCR, Profil des droits de l'enfant de la République démocratique du Congo, January 2004, [http://www.ibcr.org/fra/thematic\\_reports.html](http://www.ibcr.org/fra/thematic_reports.html) Accessed 4 April 2013

<sup>387</sup> *Forced Migration Review* Issue 36, November 2010, Press-ganged children, Axel Poullard, <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/DR Congo.pdf>, accessed 21 March 2013

<sup>388</sup> US Department of State Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 10 March 2013

<sup>389</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>390</sup> United Nations Security Council Thirty-first report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo, 30 March 2010 [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2010/164](http://www.un.org/ga/search/view_doc.asp?symbol=S/2010/164), accessed 12 March 2013

<sup>391</sup> United Nations Security Council Thirty-first report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo, 30 March 2010 [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2010/164](http://www.un.org/ga/search/view_doc.asp?symbol=S/2010/164), accessed 12 March 2013

<sup>392</sup> *Coalition to Stop the Use of Child Soldiers*, Democratic Republic of the Congo (DRC): Coalition calls for end to Mai Mai child soldier recruitment and use, [http://www.child-soldiers.org/research\\_report\\_reader.php?id=312](http://www.child-soldiers.org/research_report_reader.php?id=312) February 2010 (in reference to its February 2010 briefing paper Mai Mai Child Soldier Recruitment and use: Entrenched and Unending), accessed 8 March 2013

cooks, and sex slaves.<sup>393</sup> In its 2012 country report *USDOS* reported that many parties to the conflict in Eastern DRC used child soldiers.<sup>394</sup>

In November 2010 *Forced Migration Review* stated that 30,000 children have been recruited to armed groups either voluntarily or by force.<sup>395</sup> In June 2011 *Voice of America (VoA)* stated that more than 31,000 children, 20% of whom are girls, have been rescued or have escaped from militias in the past seven years and that thousands are still serving. *Voice of America* reported that girls are less likely to escape or be rescued as commanders keep them hidden.<sup>396</sup> In August 2012 *UNICEF* reported that since the beginning of 2012 the Monitoring and Reporting Mechanism of the Security Council Resolution 1612/2005 recorded that 35 children had been abducted by the LRA, there were 147 cases of child recruitment and use and 188 children were released from armed forces and groups, 46 of whom were released from the national army.<sup>397</sup> In August 2012 *UNICEF* reported that in North Kivu two thousand children are reported to still be being used by armed forces and groups.<sup>398</sup> In September *Integrated Regional Information Networks (IRIN)* stated that children in North Kivu are at risk of forced recruitment by foreign and Congolese militia including M23, Mai Mai groups and the Forces Démocratiques pour la Libération du Rwanda (FDLR).<sup>399</sup> The *USDOS Trafficking in Persons Report 2012* stated that an unspecified number of children who were recruited by the CNDP prior to its incorporation into the Congolese military have not been demobilized and remain within integrated FARDC units. *USDOS* reported that MONUSCO had documented 272 cases of children identified in North and South Kivu who were both recruited and separated from armed groups in 2011.<sup>400</sup> In its 2012 country report *USDOS* stated that the recruitment and use of children in armed conflict continued in North Kivu, South Kivu and Orientale provinces by RMG and the FARDC.<sup>401</sup> In January 2013 *OHCHA* reported that since January 2013, thirty children aged 14-17 from Olcha (north Beni) had been kidnapped. An NGO reported that they had been forcefully recruited by armed forces in Mambasa, Oriental Province.<sup>402</sup> In February 2013 *Radio Okapi* reported that children continued to be recruited into the armed forces and armed groups in Southern Kivu and that some children who have left militias after UNICEF intervention have been retaken by militias<sup>403</sup>. In its 2013 world report *Human Rights Watch* reported that M23 fighters recruited children and, although not specifying whether children or adults, stated that "at least 33 new recruits and other M23 fighters were executed when they attempted to flee."<sup>404</sup> In February 2010 the NGO the *Coalition to Stop the Use of Child Soldiers* stated that Mai Mai often have the support of the authorities who have sought their support in military operations with full knowledge that they have child soldiers in their ranks. The *Coalition to Stop the Use of Child Soldiers* reported that the government had failed to implement its own policy and laws by not systematically prosecuting those who have recruited children and ensuring that any former Mai Mai integrated into FARDC and have committed abuses against children are removed. The *Coalition*

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<sup>393</sup> Voice of America, 'Congolese Girls Abducted Into War', June 2011 <http://www.voanews.com/content/congolese-girls-abducted-into-war-123043658/140230.html>, accessed 9 March 2013

<sup>394</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>395</sup> *Forced Migration Review* Issue 36, November 2010, Press-ganged children, Axel Poullard, <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/DR Congo.pdf>, accessed 21 March 2013

<sup>396</sup> Voice of America, 'Congolese Girls Abducted Into War', June 2011 <http://www.voanews.com/content/congolese-girls-abducted-into-war-123043658/140230.html>, accessed 9 March 2013

<sup>397</sup> UNICEF Humanitarian Action Update, 4 August 2012,

[http://www.unicef.org/hac2012/files/UNICEF\\_DRC\\_Humanitarian\\_Action\\_Update\\_2012.pdf](http://www.unicef.org/hac2012/files/UNICEF_DRC_Humanitarian_Action_Update_2012.pdf), accessed 10 March 2013

<sup>398</sup> UNICEF Humanitarian Action Update, 4 August 2012,

[http://www.unicef.org/hac2012/files/UNICEF\\_DRC\\_Humanitarian\\_Action\\_Update\\_2012.pdf](http://www.unicef.org/hac2012/files/UNICEF_DRC_Humanitarian_Action_Update_2012.pdf), accessed 10 March 2013

<sup>399</sup> Integrated Regional Information Networks of the UN Office for the Coordination of Humanitarian Affairs (IRIN), 25 September 2012, <http://www.irinnews.org/Report/96390/DRC-Children-bear-brunt-of-conflict-in-the-east>, accessed 19 February 2013

<sup>400</sup> US Department of State Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 10 March 2013

<sup>401</sup> US Department of State, Country Report on Human Rights Practices 2012,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>402</sup> OHCHA, Rapport de situation humanitaire sur la République Démocratique du Congo 25 January 2013,

<http://reliefweb.int/report/democratic-republic-congo/rapport-de-situation-humanitaire-sur-la-r%C3%A9publique-d%C3%A9mocratique--10> Accessed 2 April 2013

<sup>403</sup> Radio Okapi, Sud-Kivu : des groupes armés continuent d'enrôler des enfants, selon une ONG, 12 February 2013,

<http://reliefweb.int/report/democratic-republic-congo/sud-kivu-des-groupes-arm%C3%A9s-continuent-d%E2%80%99enr%C3%B4ler-des-enfants-selon> Accessed 23 April 2013

<sup>404</sup> Human Rights Watch, World Report 2013, <http://www.hrw.org/world-report/2013/country-chapters/democratic-republic-congo>, accessed 24 May 2013

to *Stop the Use of Child Soldiers* reported Jean-Piere Biyoyo, a former Mai Mai who was found guilty of recruiting children by a military court in 2006 escaped and is now reportedly serving as a deputy commander in the Congolese armed forces.<sup>405</sup>

In November 2010 the *Forced Migration Review* reported that the Mai Mai believe that members possess magical protective powers after performing rituals such as tattooing or taking hallucinogenic potions. The *Forced Migration Review* reported that due to their age children are considered to be "pure" and are specifically recruited as mascots and healers and used to prepare and administer potions. According to the *Forced Migration Review* Mai Mai believe that children have protective powers and that children should be the first to be sent into battle to intimidate the enemy by crying, shouting or by invoking their protective powers.<sup>406</sup> In November 2010 the *Forced Migration Review* stated that the use of child soldiers in eastern DRC is deeply rooted in custom and tradition, reporting that the recruitment of children by the Mai Mai is "ingrained in social and cultural attitudes towards children." The *Forced Migration Review* reported that childhood within the communities from which the majority of the recruited children come from ends early, boys are initiated as adults at 16 when they can marry and "become warriors" and girls are expected to marry at puberty, at around 14 years. According to the *Forced Migration Review* defending the community is considered a duty for all, including children.<sup>407</sup>

In November 2010 the *Forced Migration Review* reported that in addition to being forcibly enrolled in armed groups children in armed conflicts may be abducted, killed, injured, mutilated or uprooted from their original community. They may also be orphaned, separated from their parents, subjected to violence or sexual abuse or deprived of education and healthcare.<sup>408</sup> In September 2012 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that children in the Kivu provinces are caught up in the area's ongoing violence and also facing health risks, threats of forced recruitment by local and foreign militias, and interrupted education. *IRIN* reported that children who are displaced by conflict may spend days or weeks hiding in malarial forests cut off from medical care.<sup>409</sup> In February 2010 the NGO the *Coalition to Stop the Use of Child Soldiers* stated that the lives of many children in the conflict-affected areas are additionally blighted by poverty, lack of access to education and few economic opportunities and joining a Mai Mai group is sometimes seen as a way out of poverty or just another job.<sup>410</sup> In August 2012 *UNICEF* reported that in South Kivu 15 children were killed during two attacks on villages by the FDLR in May 2012.<sup>411</sup> In August 2012 *UNICEF* reported that 135 women and girls were reportedly abducted and sexually abused in North Katanga, 70 by the FARDC in April 2012 and 65 in Province Orientale by elements of the Mayi-Mayi group Simba and by FARDC.<sup>412</sup>

In August 2012 *UNICEF* stated that there were 40 Child Friendly Spaces in eastern DRC in areas where displaced populations have settled. Child Friendly Spaces places where children can access

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<sup>405</sup> *Coalition to Stop the Use of Child Soldiers*, Democratic Republic of the Congo (DRC): Coalition calls for end to Mai Mai child soldier recruitment and use, [http://www.child-soldiers.org/research\\_report\\_reader.php?id=312](http://www.child-soldiers.org/research_report_reader.php?id=312) February 2010 (in reference to its February 2010 briefing paper Mai Mai Child Soldier Recruitment and use: Entrenched and Unending), accessed 8 March 2013

<sup>406</sup> *Forced Migration Review* Issue 36, November 2010, Press-ganged children, Axel Poullard, <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/DRCCongo.pdf>, accessed 21 March 2013

<sup>407</sup> *Forced Migration Review* Issue 36, November 2010, Press-ganged children, Axel Poullard, <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/DRCCongo.pdf>, accessed 21 March 2013

<sup>408</sup> *Forced Migration Review* Issue 36, November 2010, Press-ganged children, Axel Poullard, <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/DRCCongo.pdf>, accessed 21 March 2013

<sup>409</sup> *Integrated Regional Information Networks of the UN Office for the Coordination of Humanitarian Affairs (IRIN)*, 25 September 2012, <http://www.irinnews.org/Report/96390/DRC-Children-bear-brunt-of-conflict-in-the-east>, accessed 19 February 2013

<sup>410</sup> *Coalition to Stop the Use of Child Soldiers*, Democratic Republic of the Congo (DRC): Coalition calls for end to Mai Mai child soldier recruitment and use, [http://www.child-soldiers.org/research\\_report\\_reader.php?id=312](http://www.child-soldiers.org/research_report_reader.php?id=312) February 2010 (in reference to its February 2010 briefing paper Mai Mai Child Soldier Recruitment and use: Entrenched and Unending), accessed 8 March 2013

<sup>411</sup> *UNICEF Humanitarian Action Update*, 4 August 2012,

[http://www.unicef.org/hac2012/files/UNICEF\\_DRC\\_Humanitarian\\_Action\\_Update\\_2012.pdf](http://www.unicef.org/hac2012/files/UNICEF_DRC_Humanitarian_Action_Update_2012.pdf), accessed 10 March 2013

<sup>412</sup> *UNICEF Humanitarian Action Update*, 4 August 2012,

[http://www.unicef.org/hac2012/files/UNICEF\\_DRC\\_Humanitarian\\_Action\\_Update\\_2012.pdf](http://www.unicef.org/hac2012/files/UNICEF_DRC_Humanitarian_Action_Update_2012.pdf), accessed 10 March 2013



creative and recreational activities, psychosocial support, participate in community life and provide basic services such as clean water, sanitation and hygiene facilities and family tracing services.<sup>413</sup>

## 9.4 Witchcraft

In its 2012 country report *USDOS* stated that the law prohibits parents abandoning children who are believed to have committed sorcery, but that in practice parents and other care providers sometimes abandoned or abused such children and the authorities did not implement the law regarding imprisonment for this offence effectively. *USDOS* stated that many churches in Kinshasa conducted exorcisms of children who had been accused of witchcraft, methods included isolating, beating, whipping, starvation and forced ingestion of purgatives.<sup>414</sup>

In June 2010 the report of the *Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston* to the United Nations General Assembly stated that significant numbers of children and women are accused of being witches and have been subjected to torture, harsh beatings, some have been killed or have died following cruel treatment. The *Special Rapporteur* reported that vulnerable individuals are blamed for causing misfortune such as the loss of a job or illness.<sup>415</sup> The *Special Rapporteur* reported that tens of thousands of abandoned children on the streets of Kinshasa are especially vulnerable to witchcraft accusations, as are individuals with "physical or mental disabilities who are perceived to have "brought defects" into a family of community." The *Special Rapporteur* reported that there was almost total impunity for such killings as witnesses and family members are reluctant to report such incidents to the authorities and "officials all too often turn a blind eye to preventing or investigation the violence."<sup>416</sup> In March 2011, *Le Nouvel Observateur* reported that 80% of the 30,000 to 50,000 street children in Kinshasa were chased from their homes after being accused of witchcraft by independent churches.<sup>417</sup> In its 2012 country report *USDOS* reported that according to UNICEF approximately 70% of the street children that it assisted claimed to have been accused of witchcraft.<sup>418</sup>

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<sup>413</sup> UNICEF Humanitarian Action Update, 4 August 2012,

[http://www.unicef.org/hac2012/files/UNICEF\\_DRC\\_Humanitarian\\_Action\\_Update\\_2012.pdf](http://www.unicef.org/hac2012/files/UNICEF_DRC_Humanitarian_Action_Update_2012.pdf), accessed 10 March 2013

<sup>414</sup> US Department of State, Country Report on Human Rights Practices 2012,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>415</sup> UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Addendum : Study on targeted killings, 28 May 2010, A/HRC/14/24/Add.6, <http://www.unhcr.org/refworld/docid/4c0767ff2.html>, accessed 17 March 2013

<sup>416</sup> UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Addendum : Study on targeted killings, 28 May 2010, A/HRC/14/24/Add.6, <http://www.unhcr.org/refworld/docid/4c0767ff2.html>, accessed 17 March 2013

<sup>417</sup> *Le Nouvel Observateur*, RDC : mieux vaut tuer l'enfant sorcier que lui vous tue, *Le Nouvel Observateur*, 27 March 2011,

<http://www.rue89.com/2011/03/27/rdc-mieux-vaut-tuer-lenfant-sorcier-que-lui-vous-tue-196502> Accessed 10 April 2013

<sup>418</sup> US Department of State, Country Report on Human Rights Practices 2012,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

## 10. LGBTI persons

In May 2012 a report by the *International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)* stated that homosexual acts are legal and never have been criminalised. It also stated that the country has an equal age of consent for both homosexual and heterosexual acts.<sup>419</sup> In its 2012 country report *USDOS* stated that while there are no laws specifically prohibiting homosexuality or homosexual acts, homosexuality was a cultural taboo and individuals engaging in public displays of homosexuality were subject to prosecution under public decency provisions in the penal code and articles in the law on sexual violence.<sup>420</sup> In its 2011 world report *Human Rights Watch* stated that a private member's bill introduced in the National Assembly in October 2010 proposes a punishment of three to five year's imprisonment for "homosexual relations," to outlaw publications and films that show "sexual practices against nature" and seeks to criminalize members and financiers of associations that promote or defend "sexual relations against nature" with six months to one year in prison.<sup>421</sup> In an article posted on 3 November 2010 African LGBTI website *Behind the Mask* stated that the Sexual Practices Against Nature Bill presented before the national parliament aimed to criminalise homosexuality and zoophilia as sexual practices against nature.<sup>422</sup> In March 2011 African political website the *African Activist* stated that the bill criminalizing homosexuality received a large amount of support from the public.<sup>423</sup>

In 2011 *International Lesbian Gay Bisexual, Trans and Intersex Association* stated that LGBT organisations in the country were not able to mobilise or take action against the bill due to a lack of funds which had been promised by international funder.<sup>424</sup> In 2011 *International Lesbian Gay Bisexual, Trans and Intersex Association* stated that LGBT activists thought that given its public support, parliament will probably pass the law that criminalizes homosexuality if no action is taken.<sup>425</sup> In 2012 an article by the UK NGO the *Fahamu Refugee Programme* stated that legislation regarding the bill had still not been drafted as of the beginning of 2012 but that "it is likely that it will not be forgotten and remains an ever-present threat to the LGBTI society."<sup>426</sup>

In 2012 the *Fahamu Refugee Programme* stated that the Groupe Hirondelles Bukavu (GHB) in South Kivu is currently the only support service for homosexuals in the country.<sup>427</sup> In 2011 an article by the *International Lesbian Gay Bisexual, Trans and Intersex Association* stated that "small groups of gays are timidly trying to make a place for themselves" in the city of Lubumbashi and that as in some other major cities it is no longer rare to see homosexuals.<sup>428</sup> In 2011 an article by the *International Lesbian Gay Bisexual, Trans and Intersex Association* stated that Congolese society remains hostile to homosexuality in general, including in Lubumbashi and the homosexuals are considered "abnormal."<sup>429</sup> In its 2011 country report *USDOS* stated that some homosexuals

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<sup>419</sup> International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) report 'State-sponsored Homophobia', May 2012, <http://ilga.org/ilga/en/countries/CONGO.%20THE%20DEMOCRATIC%20REPUBLIC%20OF%20THE/Articles>, accessed 10 March 2013

<sup>420</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204107>, accessed 25 May 2013

<sup>421</sup> Human Rights Watch, 2011 World Report Democratic Republic of Congo, <http://www.hrw.org/en/world-report-2011/democratic-republic-congo>, accessed 15 March 2013

<sup>422</sup> Behind the Mask, Groups Mobilise Against DRC's Anti Gay Bill, 3 November 2010 <http://www.mask.org.za/gay-rights-groups-mobilise-against-drc-s-anti-gay-bill/>, accessed 11 March 2013

<sup>423</sup> African Activist, Democratic Republic of Congo (DRC) Bill Criminalising Homosexuality Will Likely Die in Committee, 8 March 2011, <http://www.africanactivist.org/>, accessed 21 February 2013

<sup>424</sup> International Lesbian Gay Bisexual, Trans and Intersex Association DR Congo: lack of funds impede fight against DRC's anti homosexuality bill, 2011, <http://ilga.org/ilga/en/article/mT9sgjw17i>, accessed 21 March 2013

<sup>425</sup> International Lesbian Gay Bisexual, Trans and Intersex Association DR Congo: lack of funds impede fight against DRC's anti homosexuality bill, 2011, <http://ilga.org/ilga/en/article/mT9sgjw17i>, accessed 21 March 2013

<sup>426</sup> Fahamu Refugee Programme, Democratic Republic of Congo LGBTI Sources, 2012, <http://www.refugeeegalaidinformation.org/democratic-republic-congo-lgbti-resources>, accessed 21 March 2013

<sup>427</sup> Fahamu Refugee Programme, Democratic Republic of Congo LGBTI Sources, 2012, <http://www.refugeeegalaidinformation.org/democratic-republic-congo-lgbti-resources>, accessed 21 March 2013

<sup>428</sup> International Lesbian Gay Bisexual, Trans and Intersex Association, Congo: gays in a misunderstood struggle, 24 November 2011 <http://ilga.org/ilga/en/article/nh9snSk1Vm>, accessed 21 March 2013

<sup>429</sup> International Lesbian Gay Bisexual, Trans and Intersex Association, Congo: gays in a misunderstood struggle, 24 November 2011 <http://ilga.org/ilga/en/article/nh9snSk1Vm>, accessed 21 March 2013

were harassed by the SFF.<sup>430</sup> In October 2010 an article for independent African news agency *Afrol News* stated that homosexuality is an issue not known to the general population, as same-sex relations "typically find other manifestations in traditional culture," *Afrol News* reported that homosexuality is considered "immoral" in the DRC.<sup>431</sup> In August 2011 American writer Doug Cooper-Spencer published an account from gay Congolese man 'W' on his blog *The View From Here Thoughts on Being Black, Gay, Here and Now* which stated that both media and religion encourage homophobia and that to be freely homosexual is very difficult.<sup>432</sup> In August 2011 the correspondence with 'W' published by American writer Doug Cooper-Spencer on his blog *The View From Here Thoughts on Being Black, Gay, Here and Now* stated that homosexuality is seen as being "satanic" and related to mysticism.<sup>433</sup>

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<sup>430</sup> US Department of State Human Rights Report 2011, 2012, <http://www.state.gov/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 12 March 2013

<sup>431</sup> *Afrol News* 'Congo Kinshasa discusses criminalising gays' 29 October 2010, <http://www.afrol.com/articles/36842>, accessed 10 March 2013

<sup>432</sup> Doug Cooper-Spencer: *The View From Here Thoughts on Being Black, Gay, Here and Now*, Part 2: Being Gay in Democratic Republic of Congo (Anonymous Correspondence, As told to Doug Cooper Spencer), August 2011, <http://dougcooperspencer.blogspot.co.uk/2011/08/being-gay-in-democratic-republic-of.html>, accessed 25 March 2013

<sup>433</sup> Doug Cooper-Spencer: *The View From Here Thoughts on Being Black, Gay, Here and Now*, Part 2: Being Gay in Democratic Republic of Congo (Anonymous Correspondence, As told to Doug Cooper Spencer), August 2011, <http://dougcooperspencer.blogspot.co.uk/2011/08/being-gay-in-democratic-republic-of.html>, accessed 25 March 2013

## 11. Internally Displaced Persons (IDPs)

In September 2010 a report by the *United States Agency for International Development (USAID)* stated that as of July 2010 there were an estimated 1.9 million IDPs within the country and that 93% were located in North Kivu, South Kivu and Orientale.<sup>434</sup> In March 2010 the thirty-first report of the *Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo* stated that in Orientale Province, an estimated 300,000 people remain displaced, while up to 60,000 people were internally displaced in Equateur Province.<sup>435</sup> In September 2011 the *Internal Displacement Monitoring Centre (IDMC)* stated that there were an estimated 1.7 million DRC as of July 2011, the majority of which were in the eastern provinces of North and South Kivu, 128,000 of who, were newly displaced in the first quarter of 2011.<sup>436</sup> In December 2011 the *UN* reported that there were 1.77 million recorded IDPs, of which 65% were in the East.<sup>437</sup> In June 2012 the *United Nations High Commissioner for Refugees (UNHCR)* Global Report 2011 stated that out of the 152,600 IDPs who were assisted by UNHCR and its partners in 2011, some 78,700 live in 31 IDP settlements in North Kivu province.<sup>438</sup> In May 2012 *UNHCR* reported that a new surge of displacement occurred in the wake of the November 2011 elections, with approximately 300 000 newly displaced.<sup>439</sup> In its 2012 country report *USDOS* reported that more than 2.4 million people were displaced throughout the country, 900,000 of which were displaced in North Kivu.<sup>440</sup> In September 2012 *IRIN* stated that in South Kivu alone, more than 374,000 people were displaced between January and August, creating growing needs for food assistance, non-food items, water and sanitation.<sup>441</sup> In 2013 the *Office of the United Nations High Commissioner for Refugees* country operations profile for the DRC stated that since renewed violence in the east and north-east at the beginning of 2012 more than 2.2 million people have been displaced inside the country.<sup>442</sup> In October 2012 *RDC Humanitaire* stated that there was an increase in displaced populations in Katanga province in the last 6 months of 2012, going from 71,692 on 31 March to 224,084 by 30 September 2012, representing more than a 200% increase.<sup>443</sup> *RDC Humanitaire* reported the displacement was caused by fighting in the centre of the province between the FARDC and other armed groups in Malemba-Nkulu, Manono, Mitwaba and Pweto. *RDC Humanitaire* reported that access to the displaced is limited due to continued insecurity and lack of infrastructures.<sup>444</sup> In January 2013, OHCHR reported that 29000 IDPs had arrived in Mulamba (Territoire de Walungu) and neighbouring areas, in the province of Chishadu, Luntukulu, Maziba, Nyamareghe, Nzibira as well as in Chulwe and Luhago in the Kabare territory.<sup>445</sup> In January 2013

<sup>434</sup> United States Agency International Development (USAID), USAID Office of Food for Peace Democratic Republic of Congo Bellmon Estimation, September 2010, <http://www.usaidbest.org/docs/DRCBellmon2010.pdf> accessed 15 March 2013

<sup>435</sup> United Nations Security Council Thirty-first report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo, 30 March 2010 [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2010/164](http://www.un.org/ga/search/view_doc.asp?symbol=S/2010/164), accessed 12 March 2013

<sup>436</sup> Internal Displacement Monitoring Centre (IDMC), Democratic Republic of the Congo: IDPs need further assistance in context of continued attacks and insecurity, Overview, 14 September 2011, [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/111D01A00B251BE0C125790B002DFC4C/\\$file/DRC-Overview-Sept2011.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/111D01A00B251BE0C125790B002DFC4C/$file/DRC-Overview-Sept2011.pdf), accessed 12 March 2013

<sup>437</sup> UN, La RDC compte plus de 1,7 million de déplacés internes, Centre D'Actualités de L'ONU, 25 March 2013, [http://www.un.org/apps/news/fr/storyF.asp?NewsID=27798#\\_UWUj1F1wblU](http://www.un.org/apps/news/fr/storyF.asp?NewsID=27798#_UWUj1F1wblU) Accessed 3 April 2013

<sup>438</sup> United Nations High Commissioner for Refugees (UNHCR) Global Report 2011, 2012, <http://www.unhcr.org/gr11/index.xml>, accessed 12 March 2013

<sup>439</sup> UNHCR, Le déplacement de populations dans l'est de la RDC est catastrophique, selon le chef du HCR, Communiqués de presse, 16 Mai 2012 <http://www.unhcr.fr/4fb3ab7fc.html> Accessed 10 April 2013

<sup>440</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>441</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, DRC: Growing humanitarian needs in Goma, 28 November 2012, <http://www.irinnews.org/fr/Report/96913/DRC-Growing-humanitarian-needs-in-Goma>, accessed 23 February 2013

<sup>442</sup> The Office of the United Nations High Commissioner for Refugees UNHCR, 2013 Country Operations Profile - Democratic Republic of the Congo, <http://www.unhcr.org/pages/49e45c366.html>, accessed 6 March 2013

<sup>443</sup> RDC Humanitaire, rd congo - province du katanga : déplacements de population au 30 septembre 2012, 23 October 2012, <http://rdc-humanitaire.net/index.php/features-mainmenu-48/cartes-de-mouvements-de-populations/2696-rd-congo-province-du-katanga-deplacements-de-population-au-30-septembre-2012-format-a4> Accessed 10 April 2013

<sup>444</sup> RDC Humanitaire, rd congo - province du katanga : déplacements de population au 30 septembre 2012, 23 October 2012, <http://rdc-humanitaire.net/index.php/features-mainmenu-48/cartes-de-mouvements-de-populations/2696-rd-congo-province-du-katanga-deplacements-de-population-au-30-septembre-2012-format-a4> Accessed 10 April 2013

<sup>445</sup> OHCHA, Rapport de situation humanitaire sur la République Démocratique du Congo 25 January 2013, <http://reliefweb.int/report/democratic-republic-congo/rapport-de-situation-humanitaire-sur-la-r%C3%A9publique-d%C3%A9mocratique--10> Accessed 2 April 2013

OHCHA reported that since fighting between the FARDC and the Raïa Mutomboki in December 2012 in Kasese (Territoire de Punia), 10 806 households have been displaced.<sup>446</sup> OHCHA reported that armed clashes between the FARDC's self-defence groups and suspected members of the FNL led to massive population displacements between the 12 and 23 January 2013 in Ruhuha and Makambi in the Bijombo district as well as in Katwenge and Natutwa in the Muhungu district in the Moyens et Hauts Plateaux d'Uvira. OHCHA reported that the number of displaced is not yet known.<sup>447</sup>

In July 2011 *Oxfam France* reported the following causes for displacement, in order of their frequency; extortion, kidnapping for ransom, illegal taxation, illegal arrests and detention by FARDC, LRA, Police Nationale Congolaise, local authorities; murder, torture, kidnappings and death threats, by LRA rape and other sexual violence by FARDC, civilians, LRA and UPDF; pillaging, destruction of crops (often associated with rape) by LRA, FARDC, civilians and UPDF and forced labour instigated by FARDC and the PNC<sup>448</sup> In October 2012 *RDC Humanitaire* reported that of those IDPs interviewed 22,049 (10%) stated that their displacement was preventative, while 202,035 (90%) said it was the direct result of armed attacks.<sup>449</sup> In November 2012 the *Integrated Regional Information Networks of the UN Office for the Coordination of Humanitarian Affairs (IRIN)* stated that a humanitarian "crisis" was growing as thousands fled fighting or retreating troops and that humanitarian organisations are assisting 140,000 in 12 sites for IDPs in and around Goma. *IRIN* stated that Oxfam reported that "people are living with very little shelter, food or water."<sup>450</sup> In its 212 country report USDOS reported that as of 30 November 2012 approximately 105,000 IDPS lived in 31 sites and camps managed by NGOs and coordinated by UNHCR.<sup>451</sup> In September 2012 *IRIN* stated that civilians in South Kivu were facing an "unprecedented, high level of armed violence due to the renewed activism of armed groups in the province" and that most of the vulnerable in the region are not able to access the assistance that they need.<sup>452</sup> In its 2012 country report *USDOS* reported that "the government was not able to adequately protect or assist IDPs" who were forced to rely on humanitarian organisations, however fighting and insecurity impeded the organisation's efforts.<sup>453</sup> In February 2013 *OHCHA* reported that in order to facilitate the transport of humanitarian aid in Shabunda, the UK government's Department for International Development is financing aerial transport from Bukavu to Kolula, Lusenge, Shabunda centre and Tchonka. This area which currently has more the 27 000 IDPs is difficult to access due to insecurity and badly maintained roads.<sup>454</sup> In its 2011 country report *USDOS* reported that IDPs residing outside camps "stayed with host families, friends or relatives, found shelter in schools or other buildings, or found refuge in the forest."<sup>455</sup>

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<sup>446</sup> OHCHA, Rapport de situation humanitaire sur la République Démocratique du Congo 25 January 2013, <http://reliefweb.int/report/democratic-republic-congo/rapport-de-situation-humanitaire-sur-la-r%C3%A9publique-d%C3%A9mocratique--10> Accessed 2 April 2013

<sup>447</sup> OHCHA, Rapport de situation humanitaire sur la République Démocratique du Congo 25 January 2013, <http://reliefweb.int/report/democratic-republic-congo/rapport-de-situation-humanitaire-sur-la-r%C3%A9publique-d%C3%A9mocratique--10> Accessed 2 April 2013

<sup>448</sup> Oxfam, Results from studies in 9 communities in High Uele and Province Oriental, Briefing Oxfam, Nous sommes pleinement exploitables Le manque de protection des civils à l'est de la RDC 28 July 2011, <http://www.oxfam.org/sites/www.oxfam.org/files/bn-protection-civilians-eastern-drc-2011-08-02-fr.pdf>, accessed 10 April 2013

<sup>449</sup> RDC Humanitaire, rd congo - province du katanga : déplacements de population au 30 septembre 2012, 23 October 2012, <http://rdc-humanitaire.net/index.php/features-mainmenu-48/cartes-de-mouvements-de-populations/2696-rd-congo-province-du-katanga-deplacements-de-population-au-30-septembre-2012-format-a4> Accessed 10 April 2013

<sup>450</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, DRC: Growing humanitarian needs in Goma, 28 November 2012, <http://www.irinnews.org/fr/Report/96913/DRC-Growing-humanitarian-needs-in-Goma>, accessed 23 February 2013

<sup>451</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>452</sup> Integrated Regional Information Networks of the UN Office for the Coordination of Humanitarian Affairs (IRIN), 25 September 2012, <http://www.irinnews.org/Report/96390/DRC-Children-bear-brunt-of-conflict-in-the-east>, accessed 25 February 2013

<sup>453</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>454</sup> OHCHR, Situation humanitaire en République Démocratique du Congo - Note d'information à la presse, 20 février 2013, <http://reliefweb.int/report/democratic-republic-congo/situation-humanitaire-en-r%C3%A9publique-d%C3%A9mocratique-du-congo-note-d-68> Accessed 24 April 2013

<sup>455</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

In its 2011 country report *USDOS* reported that some IDPs in North Kivu were victims of abuses by all factions engaged in fighting and other civilians, abuses included the "sexual exploitation of women and children, abduction, forced conscription, looting, plundering of crops, illegal taxation, and general harassment."<sup>456</sup> In its 2012 State of the World's Minorities and Indigenous Peoples report *Minority Rights Group International* stated that internally displaced Batwa or Bambuti who return home reported particular problems with lack of access to targeted support.<sup>457</sup>

In November 2012 the *Integrated Regional Information Networks of the UN Office for the Coordination of Humanitarian Affairs (IRIN)* stated that the crisis remains "chronically underfunded", with just 56 percent of the UN's \$791 million 2012 humanitarian appeal for DRC funded so far.<sup>458</sup>

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<sup>456</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 17 March 2013

<sup>457</sup> Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2012, Democratic Republic of Congo, 28 June 2012, available at: <http://www.unhcr.org/refworld/docid/4fedb40130.html>, accessed 16 March 2013

<sup>458</sup> United Nations Office for the Coordination of Humanitarian Affairs Integrated Regional Information Networks (IRIN), DRC: Growing humanitarian needs in Goma, 28 November 2012, <http://www.irinnews.org/fr/Report/96913/DRC-Growing-humanitarian-needs-in-Goma>, accessed 23 February 2013

## 12. Refugees

Article 33 of the *Constitution* recognizes the right to asylum,

"The right to asylum is recognized.

Subject to national security, the Democratic Republic of the Congo grants asylum on its territory to foreign nationals pursued or prosecuted in particular for their opinion, their belief, their racial, tribal, ethnic, linguistic affiliation or their action in favour of democracy and the defence of human and peoples' rights, in accordance with the laws and regulations in force.

All persons legally enjoying the right to asylum are prohibited from undertaking any subversive activity against their country of origin or any other country from the territory of the Democratic Republic of the Congo.

The refugees may neither be transferred to the authority of the State where they are prosecuted nor sent back to the territory of the latter.

In no case may a person be turned over to the territory of a State in which he/she risks torture, cruel, degrading or inhumane punishment or treatment.

The law establishes the conditions for the exercise of this right."<sup>459</sup>

In its 2012 country report *USDOS* stated that legislation provided for the granting of refugee status, and that the government had established a rudimentary system for providing protection to refugees. The *USDOS* stated that in practice the government did grant refugee and asylum status to individuals and provided protection against expulsion or return to countries where their lives or freedom would be threatened on Convention grounds. In its 2012 country report *USDOS* reported that the government cooperated with UNHCR and other humanitarian organisations in assisting refugees and asylum seekers.<sup>460</sup> In June 2011 the *United Nations High Commissioner for Refugees (UNHCR) Global Report 2010* stated that agreements had been signed by UNHCR, the Democratic Republic of the Congo (DRC) and neighbouring countries hosting Congolese refugees in order to facilitate the repatriation of more than 200,000 refugees.<sup>461</sup>

In its 2012 country report *USDOS* reported that as of November 2012 there were 137,164 refugees in the country, originating from seven adjacent countries, the majority from Angola and Rwanda. *USDOS* stated that there were 441,598 Congolese refugees residing in other African countries the majority of whom were in Uganda, the Republic of the Congo, Tanzania, Rwanda and Burundi.<sup>462</sup> In 2013 the *UNHCR* country operations profile for the Democratic Republic of the Congo stated that more than 400,000 Congolese refugees currently remain outside the DRC with almost 70,000 crossing into Rwanda and Uganda since the beginning of 2012.<sup>463</sup>

In June 2012 the *United Nations High Commissioner for Refugees Global Report 2011* reported that 600 Congolese refugees returned to the DRC in 2011. In 2013 the *UNHCR* country operations profile for the Democratic Republic of the Congo stated that more than 15,000 refugees

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<sup>459</sup> Constitution of the Democratic Republic of Congo, 2006, <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>. Accessed 2 April 2013

<sup>460</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>461</sup> United Nations High Commissioner for Refugees (UNHCR) Global Report 2010, <http://www.unhcr.org/gr10/index.html#/home>, accessed 27 February 2013

<sup>462</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186183>, accessed 17 March 2013

<sup>463</sup> Office of the United Nations High Commissioner for Refugees UNHCR, 2013 UNHCR Country Operations Profile, Democratic Republic of the Congo, <http://www.unhcr.org/pages/49e45c366.html>, accessed 23 February 2013

returned to DRC in the first half of 2012, mainly to Equateur province.<sup>464</sup> In its 2011 country report *USDOS* reported that as of November 2011 7,626 refugees had returned voluntarily to Rwanda and 3,941 refugees had voluntarily returned to Burundi.<sup>465</sup> In June 2012 the *United Nations High Commissioner for Refugees Global Report 2011* stated that nearly 4000 Burundians had been repatriated by the end of the year and more than 8000 Rwandans were repatriated during the year.<sup>466</sup> In June 2012 the *United Nations High Commissioner for Refugees Global Report 2011* stated that it had signed agreements with the Republic of the Congo and Angola that paved the way for the voluntary repatriation from those countries of more than 40,000 Congolese refugees.<sup>467</sup> In its 2011 country report *USDOS* stated that 1,538 Angolans returned to Angola after UNHCR resumed the voluntary repatriation operation on 4 November.<sup>468</sup> In 2013 the *UNHCR country operations profile for the Democratic Republic of the Congo* stated that the cessation clauses for Angolan refugees were invoked on 30 June 2012 and that 16,000 Angolans have returned to Angola and 2000 will benefit from an exemption procedure, 71,000 Angolan former refugees remain in the DRC.<sup>469</sup>

In March 2013 *OHCHA* reported that the fighting in the Central African Republic have caused millions of people to seek refuge in two of the provinces in northern Congo: Equator and Province Orientale. A first wave of around 12,156 people arrived at the end of 2012 and a second wave of more than 18,500 people arrived in 2013. *OHCHA* reported that as well as civilians almost 250 military officers, policemen and members of the administration with their families had also sought refuge in the DRC. *OHCHA* reported that the living conditions in the reception areas are poor, having fled suddenly bringing very little with them, refugees have found themselves in an area of DRC with very little humanitarian access and where the reception capacity is very limited. *OHCHA* reported that the presence of so many new arrivals could make local communities even more vulnerable. *OHCHA* stated that the implementation of relief measures will be hampered by lack of access caused mainly by the lack of maintained roads in Northern and southern Ubangi as well as in Bas Uele. *OHCHA* reported that there is the additional security problem due to the presence of armed men. UNHCR has started to relocate a number of people to refugee camps in Worobe.<sup>470</sup>

In June 2012 the *United Nations High Commissioner for Refugees Global Report 2011* stated that over 350 refugees aged 12 and above who lived in urban areas received refugee identity cards. *UNHCR* stated that all other refugees possessed attestations of their status, except for Rwandan refugees living in accessible areas in the Kivu provinces.<sup>471</sup> In 2013 the *UNHCR country operations profile for the Democratic Republic of Congo* stated that due to insecurity in some areas of eastern DRC, UNHCR was forced to suspend assistance to approximately 47,500 Rwandans.<sup>472</sup> In 2013 the *UNHCR country operations profile for the Democratic Republic of Congo* stated that it would "continue to protect refugees in both urban and rural areas" but that insecurity and poor infrastructure were likely to impede these efforts.<sup>473</sup>

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<sup>464</sup> Office of the United Nations High Commissioner for Refugees UNHCR, 2013 UNHCR Country Operations Profile, Democratic Republic of the Congo, <http://www.unhcr.org/pages/49e45c366.html>, accessed 23 February 2013

<sup>465</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dclid=186183>, accessed 17 March 2013

<sup>466</sup> United Nations High Commissioner for Refugees (UNHCR) Global Report 2011, <http://www.unhcr.org/gr11/index.xml>, accessed 27 February 2013

<sup>467</sup> United Nations High Commissioner for Refugees (UNHCR) Global Report 2011, <http://www.unhcr.org/gr11/index.xml>, accessed 27 February 2013

<sup>468</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dclid=186183>, accessed 17 March 2013

<sup>469</sup> Office of the United Nations High Commissioner for Refugees UNHCR, 2013 UNHCR Country Operations Profile, Democratic Republic of the Congo, <http://www.unhcr.org/pages/49e45c366.html>, accessed 23 February 2013

<sup>470</sup> OHCHA, République Démocratique du Congo | Bulletin humanitaire | 4, 31 March 2013, <http://reliefweb.int/report/democratic-republic-congo/r%C3%A9publique-d%C3%A9mocratique-du-congo-bulletin-humanitaire-num%C3%A9ro-02> Accessed 23 April 2013

<sup>471</sup> United Nations High Commissioner for Refugees (UNHCR) Global Report 2011, <http://www.unhcr.org/gr11/index.xml>, accessed 27 February 2013

<sup>472</sup> Office of the United Nations High Commissioner for Refugees UNHCR, 2013 UNHCR Country Operations Profile, Democratic Republic of the Congo, <http://www.unhcr.org/pages/49e45c366.html>, accessed 23 February 2013

<sup>473</sup> Office of the United Nations High Commissioner for Refugees UNHCR, 2013 UNHCR Country Operations Profile, Democratic Republic of the Congo, <http://www.unhcr.org/pages/49e45c366.html>, accessed 23 February 2013



## 12.1 2009 expulsions of Angolans

In October 2009 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* reported that thousands of Angolans fled to the DRC during its 30 year civil which ended in 2002, prior to August 2009 111,000 Angolans were living in the DRC.<sup>474</sup> In its 2011 country report *USDOS* reported that in 2009 Angola forcibly expelled 85,000 irregular Congolese migrants to Bas-Congo Province and in response the DRC forcibly expelled 30,00 Angolans, including those with refugee status.<sup>475</sup> On 13 October 2009 *IRIN* stated that the expulsion of thousands of Angolan refugees living in DRC, and the repatriation of thousands of undocumented Congolese migrants working in Angola, raised fears of a potential "humanitarian catastrophe."<sup>476</sup> *IRIN* reported that the large scale expulsion operation started in August 2009 and by 13 October 23,000 had been repatriated.<sup>477</sup> In October 2009 an article for the independent news agency *Afrol News* stated that the number of Angolans expelled from DRC had risen to 60,000, including an undetermined but perhaps significant number of refugees, and that UN agencies were providing humanitarian aid including food, shelter and medical supplies.<sup>478</sup> On 16 October 2009 a report by the *United Nations News Centre* stated that United Nations humanitarian officials had voiced concerns for the health and living conditions of between 20,000 and 40,000 Angolan refugees in DRC's Bas-Congo province near the Lufu and Kuzi border posts.<sup>479</sup> On 28 October 2010 *IRIN* stated that in 2009 39,000 Angolan nationals were expelled from the DRC and that a joint communiqué issued by the two governments on 13 October 2009 agreed to "immediately stop the expulsions of citizens of their respective states."<sup>480</sup> *Amnesty International* reported that in October 2009 both countries agreed to stop the expulsions, but "no action was known to have been taken against anyone for the human rights violations that accompanied the expulsions."<sup>481</sup> In its 2010 annual report *Amnesty International* stated that the mass expulsions at the end of September 2009 were carried out by authorities "under deplorable conditions and accompanied by human rights violations," including physical and sexual violence by the armed forces. *Amnesty International* reported that people were transported to the borders in overcrowded vehicles and there were reports that some died of asphyxiation and family members including children were separated, those deported were left in remote areas without food or shelter.<sup>482</sup>

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<sup>474</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, ANGOLA-DRC: Expulsions mark rising tensions over resources, 28 October 2010, <http://www.irinnews.org/Report/90906/ANGOLA-DRC-Expulsions-mark-rising-tensions-over-resources>, accessed 19 March 2013

<sup>475</sup> US State Department Human Rights Report 2011, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186183http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186183>, accessed 17 March 2013

<sup>476</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, ANGOLA-DRC: Retaliatory expulsions reach a new peak, 13 October 2009, <http://www.irinnews.org/Report/86567/ANGOLA-DRC-Retaliatory-expulsions-reach-a-new-peak>, accessed 19 March 2013

<sup>477</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, ANGOLA-DRC: Retaliatory expulsions reach a new peak, 13 October 2009, <http://www.irinnews.org/Report/86567/ANGOLA-DRC-Retaliatory-expulsions-reach-a-new-peak>, accessed 19 March 2013

<sup>478</sup> *Afrol News*, UN steps in to help in Angola/DRC refugee saga, 29 October 2009, <http://www.afrol.com/articles/34559>, accessed 19 March 2013

<sup>479</sup> United Nations News Centre, Almost 30,000 Angolans expelled from DR Congo need help – UN refugee agency, 20 October 2009, [http://www.un.org/apps/news/story.asp?NewsID=32624#.UVc\\_TJOSJyU](http://www.un.org/apps/news/story.asp?NewsID=32624#.UVc_TJOSJyU), accessed 19 March 2013

<sup>480</sup> United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)*, ANGOLA-DRC: Expulsions mark rising tensions over resources, 28 October 2010, <http://www.irinnews.org/Report/90906/ANGOLA-DRC-Expulsions-mark-rising-tensions-over-resources>, accessed 19 March 2013

<sup>481</sup> Amnesty International, Annual Report 2010: the state of the world's human rights: DRC, 27 May 2010, [http://thereport.amnesty.org/sites/default/files/AIR2010\\_AZ\\_EN.pdf#page=69](http://thereport.amnesty.org/sites/default/files/AIR2010_AZ_EN.pdf#page=69) accessed 10 March 2013

<sup>482</sup> Amnesty International, Annual Report 2010: the state of the world's human rights: DRC, 27 May 2010, [http://thereport.amnesty.org/sites/default/files/AIR2010\\_AZ\\_EN.pdf#page=69](http://thereport.amnesty.org/sites/default/files/AIR2010_AZ_EN.pdf#page=69) accessed 10 March 2013

## 13 Slavery, forced labor, and human trafficking

Article 16 of the 2006 Congolese Constitution states that no individual shall be held in slavery, analogous conditions or subjected to cruel, inhuman or degrading treatment or engage in forced or compulsory labour,

"The human being is sacred. The State has an obligation to respect and protect it. Every individual has the right to life, to physical integrity as well as the free development of his personality subject to respect for the law and public law and order, the right of others and good behaviour. No individual shall be held in slavery or in analogous conditions. No individual shall be subjected to cruel, inhuman or degrading treatment. No individual shall be obliged to engage in forced or compulsory labour."<sup>483</sup>

In its 2012 country report *USDOS* stated that the constitution prohibits all forms of forced or compulsory labour and that forced labour is punishable by a maximum of six month's imprisonment, plus a fine. *USDOS* reported that forced labour regularly occurred throughout the country, including bonded labour, domestic servitude and slavery.<sup>484</sup>

The *USDOS* Trafficking in Persons Report 2012 stated that the Democratic Republic of the Congo is a source, destination, and possibly a transit country for men, women, and children subjected to forced labor and sex trafficking and that much of this trafficking is perpetrated by armed groups and rogue elements of government forces outside government control in the country's unstable eastern provinces, although incidents of trafficking occur in all 11 provinces. *USDOS* reported that artisanal miners, men and boys, are exploited in conditions of debt bondage by business people and supply dealers who give them cash advances, tools and provisions at inflated prices and to whom the miners must sell the mined minerals at prices below the market value. The miners work to repay accumulating debts which become impossible to repay. *USDOS* reported that armed groups in North Kivu, South Kivu and Katanga Provinces, including the Democratic Forces for the Liberation of Rwanda and FARDC, routinely used threats and coercion to force men and children to mine for minerals, turn over their production, pay illegal "taxes," or carry looted goods from mining villages.<sup>485</sup> In its 2012 world report *Human Rights Watch* stated that government soldiers frequently killed and raped civilians and pressed them into forced labour or looted their belongings.<sup>486</sup> The *USDOS* Trafficking in Persons Report 2012 stated that FARDC elements pressed men, women and children, including IDPs and prisoners into forced labour, carrying ammunition, supplies and looted goods, fetching water and firewood, serving as guides and domestic labourers, mining for minerals, or constructing military facilities and temporary huts.<sup>487</sup> In its 2011 annual report *Amnesty International* stated that between 27 July and 1 August, at least eight people arbitrarily arrested by FARDC soldiers were reportedly subjected to forced labour in Rutshuru territory in North Kivu.<sup>488</sup> In February 2012 a report by the *Sanela Diana Jenkins Human Rights Project*, based at the University of California, on their field study to assess the extent of sex trafficking and forced labour trafficking in North Kivu and the Ituri District stated that armed groups and elements of the national army are involved in forced labour practices in order to make a profit for themselves, often within the mining industry. Both the FDLR and FARDC members have abducted men, women and children following raids on villages, to be their slaves in the mines. The *Sanela Diana Jenkins Human Rights Project* reported that forced labourers are given only food,

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<sup>483</sup> Congolese Constitution, Chapter 2 Article 16, 18 February 2006, available at <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>, accessed 10 March 2013

<sup>484</sup> US Department of State, Country Report on Human Rights Practices 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204107>, accessed 25 May 2013

<sup>485</sup> US Department of State Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 10 March 2013

<sup>486</sup> Human Rights Watch, World Report 2012 Democratic Republic of Congo, <http://www.hrw.org/world-report-2012/world-report-2012-democratic-republic-congo>, accessed 12 March 2013

<sup>487</sup> US Department of State Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 10 March 2013

<sup>488</sup> Amnesty International Annual Report 2012, Democratic Republic Of The Congo, <https://www.amnesty.org/en/region/democratic-republic-congo/report-2012#section-36-12>, accessed 23 February 2013

water, clothing and sometimes medication.<sup>489</sup> In 2011, NGO *Free the Slaves* reported that 40% of the people they interviewed in the mining areas of Kivu were slaves and an additional 10% presented strong indicators of slavery. *Free the Slaves* reported that two thirds of the children were being exploited. The ages of those enslaved ranged generally from 14 to 60 years old, with some as young as 5.<sup>490</sup> In February 2012 a report by the *Sanela Diana Jenkins Human Rights Project* cites research that despite not wanting to be forced into labour at the mine, children often voluntarily return after a year out of the need to find a way to eat and earn a small amount of money.<sup>491</sup> In May 2012 the DRC based human rights group *Haki Za Bindadmu-Maniema* raised concern at the practice of "salongo" in Kindu, Maniema in which women working in the markets of the commune of Mikelenge are being subjected to forced labour cleaning public areas and buildings every Saturday. *Haki Za Bindadmu-Maniema* reported that refusal would result in fines and/or the withdrawal of permission to hold a stall in the market.<sup>492</sup>

The *USDOS Trafficking in Persons Report 2012* stated that some members of Batwa or Pygmy groups are exploited in conditions of forced labour in agriculture, mining, mechanics and domestic servitude in remote areas.<sup>493</sup> The *USDOS Trafficking in Persons Report 2012* stated that in Equateur province Pygmies are exploited in a form of hereditary slavery in which a non pygmy family controls a pygmy family who are forced to work for them in timber, agriculture or hunting with little or no compensation.<sup>494</sup>

The *USDOS Trafficking in Persons Report 2012* stated that there were reports of police arbitrarily arresting people, in order to extort money from them and forcing those who couldn't pay to work until they had "earned" their freedom.<sup>495</sup>

The *USDOS Trafficking in Persons Report 2012* stated that some girls are forced into prostitution in hut based brothels or informal camps, including in markets and mining areas, by loosely organised networks, gangs and brothel operators. The *USDOS Trafficking in Persons Report 2012* stated that some girls in Bas-Congo province are reportedly coerced into prostitution by family members or are transported to Angola and placed into the sex trade.<sup>496</sup> In February 2012, a report by the *Sanela Diana Jenkins Human Rights Project* on their field study to assess the extent of sex trafficking and forced labour trafficking in North Kivu and the Ituri District stated that sex trafficking takes place on a large scale and is connected to the mining industry and that MONUSCO peacekeepers are clients. The *Sanela Diana Jenkins Human Rights Project* cite a CREDDHO representative as reporting that armed forces and groups abduct girls after attacking villages and force them to service as labourers in the mines during the day and to serve the men sexually at night, the girls fear being killed if they refuse the advances. The *Sanela Diana Jenkins Human Rights Project* reports that in another form of sexual exploitation men act as pimps, recruiting women and girls to work in bars under false pretences and then force the women and girls to carry out sexual tasks for which the money is given to the bar owner and the women are only given enough for the bare necessities to survive, such as food, clothes and shelter. Older women are

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<sup>489</sup> Sanela Diana Jenkins Human Rights Project at UCLA, Preliminary Assessment of Trafficking in the Democratic Republic of Congo (DRC), March 2012, [http://uclalawforum.com/media/sdj\\_human\\_rights\\_project/2012-03\\_SDJ\\_Human\\_Rights\\_Project\\_at\\_UCLA\\_Report-Trafficking\\_in\\_the\\_DRC.pdf](http://uclalawforum.com/media/sdj_human_rights_project/2012-03_SDJ_Human_Rights_Project_at_UCLA_Report-Trafficking_in_the_DRC.pdf), accessed 21 March 2013

<sup>490</sup> Free the Slaves, Le rapport Congo l'esclavage dans Les mineraux du conflit, free the slaves, June 2011, [www.freetheslaves.net/Document.Doc?id=256](http://www.freetheslaves.net/Document.Doc?id=256) Accessed 10 April 2013

<sup>491</sup> Sanela Diana Jenkins Human Rights Project at UCLA, Preliminary Assessment of Trafficking in the Democratic Republic of Congo (DRC), March 2012, [http://uclalawforum.com/media/sdj\\_human\\_rights\\_project/2012-03\\_SDJ\\_Human\\_Rights\\_Project\\_at\\_UCLA\\_Report-Trafficking\\_in\\_the\\_DRC.pdf](http://uclalawforum.com/media/sdj_human_rights_project/2012-03_SDJ_Human_Rights_Project_at_UCLA_Report-Trafficking_in_the_DRC.pdf), accessed 21 March 2013

<sup>492</sup> ArcEnCiel, *RDC: A Kindu, les femmes sont victimes d'esclavage*, 5 June 2012 <http://arcenciel.agence-presse.net/2012/06/05/rdc-a-kindu-les-femmes-sont-victimes-desclavage/> Accessed 10 April 2013

<sup>493</sup> US Department of State Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 10 March 2013

<sup>494</sup> US Department of State Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 10 March 2013

<sup>495</sup> US Department of State Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 10 March 2013

<sup>496</sup> US Department of State Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 10 March 2013

used in the recruitment of girls to the mines and bars.<sup>497</sup> The *USDOS* reported that women and children are exploited within DRC in conditions of domestic servitude, some who migrate abroad to Angola, South Africa, Republic of the Congo, as well as East African, Middle Eastern, and European nations are exploited in sex trafficking, domestic servitude or forced labour in agriculture and diamond mines. Children may be transited through DRC on route to Angola or South Africa where they are subject to domestic slavery.<sup>498</sup> In February 2012 the *Sanela Diana Jenkins Human Rights Project* reported a practice called "ingamba" where parents give their child as a labourer to a farmer for six months and at the end of the period the farmer may pay the parents by giving them a goat. The *Sanela Diana Jenkins Human Rights* reported that orphans are vulnerable to domestic enslavement by rich families.<sup>499</sup> The *USDOS Trafficking in Persons Report 2012* stated that it is suspected that some homeless children in Kinshasa who act as beggars and thieves are controlled by a third party.<sup>500</sup>

The *USDOS Trafficking in Persons Report 2012* stated that the government does not fully comply with the minimum standards for the elimination of trafficking and did not make any discernable law enforcement efforts to combat any form of trafficking.<sup>501</sup> *USDOS* reported that the government did not identify victims of trafficking other than child soldiers and did not provide protective services or make referrals to NGO facilities for victims of forced labour or sex trafficking.<sup>502</sup> In February 2012 a report by the *Sanela Diana Jenkins Human Rights Project* stated that the current judicial system has a limited capacity to prosecute trafficking cases and focuses on sex-related cases on a smaller scale, particularly statutory rape. The *Sanela Diana Jenkins Human Rights Project* stated that Congolese women are often unaware of current laws, their rights as women, and the international prohibition on trafficking.<sup>503</sup> In its 2012 report *Freedom in the World* *Freedom House* stated that "there is little available redress for victims of violations."<sup>504</sup>

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<sup>497</sup> Sanela Diana Jenkins Human Rights Project at UCLA, Preliminary Assessment of Trafficking in the Democratic Republic of Congo (DRC), March 2012, [http://uclalawforum.com/media/sdj\\_human\\_rights\\_project/2012-03\\_SDJ\\_Human\\_Rights\\_Project\\_at\\_UCLA\\_Report-Trafficking\\_in\\_the\\_DRC.pdf](http://uclalawforum.com/media/sdj_human_rights_project/2012-03_SDJ_Human_Rights_Project_at_UCLA_Report-Trafficking_in_the_DRC.pdf), accessed 21 March 2013

<sup>498</sup> US Department of State Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 10 March 2013

<sup>499</sup> Sanela Diana Jenkins Human Rights Project at UCLA, Preliminary Assessment of Trafficking in the Democratic Republic of Congo (DRC), March 2012, [http://uclalawforum.com/media/sdj\\_human\\_rights\\_project/2012-03\\_SDJ\\_Human\\_Rights\\_Project\\_at\\_UCLA\\_Report-Trafficking\\_in\\_the\\_DRC.pdf](http://uclalawforum.com/media/sdj_human_rights_project/2012-03_SDJ_Human_Rights_Project_at_UCLA_Report-Trafficking_in_the_DRC.pdf), accessed 21 March 2013

<sup>500</sup> US Department of State Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 10 March 2013

<sup>501</sup> US Department of State Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 10 March 2013

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<sup>503</sup> Sanela Diana Jenkins Human Rights Project at UCLA, Preliminary Assessment of Trafficking in the Democratic Republic of Congo (DRC), March 2012, [http://uclalawforum.com/media/sdj\\_human\\_rights\\_project/2012-03\\_SDJ\\_Human\\_Rights\\_Project\\_at\\_UCLA\\_Report-Trafficking\\_in\\_the\\_DRC.pdf](http://uclalawforum.com/media/sdj_human_rights_project/2012-03_SDJ_Human_Rights_Project_at_UCLA_Report-Trafficking_in_the_DRC.pdf), accessed 21 March 2013

<sup>504</sup> Freedom House, *Freedom in the World Report 2012*, <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 25 February 2013