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Human Rights Division

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

During the period of January to June 2006

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## I. Executive Summary

1. In the pre-electoral period, MONUC has noted a significant increase in the number of politically motivated human rights violations linked to the electoral campaigning. The police, the ANR and other members of the security forces have been involved in repressing the civil liberties of individuals suspected of holding certain political affiliations. Sometimes these assumptions have been based on the victim's perceived or actual ethnic identity. These violations have included arbitrary arrest, illegal detention or acts of physical violence, such as beatings or use of excessive force by police during demonstrations.

2. Freedom of expression in the media has also been affected. Journalists and broadcasters have at times been limited or punished in the exercise of their duties, often as a result of the application of outdated legislation. Other public critics of the current political leadership have been silenced by courts acting outside of their jurisdiction.

3. The routine use of physical violence against civilians, including summary executions, beatings and rape, committed by FARDC soldiers, who often underwent the '*brassage*' process, is reported wherever the army is deployed. MONUC has also noted with concern the level of violence against civilians perpetrated by the FARDC in the course of military operations. In the Ituri District, a number of counter-insurgency operations since the beginning of the year have led to the arbitrary killing of civilians accused of complicity with militia groups. Arbitrary arrest and ill-treatment of militia suspects in military camps (including women and children) have also led to several deaths in custody in the District.

4. The fight against impunity has seen some positive developments, but overall it has come to a stalemate due to the lack of will and capacity to investigate and prosecute serious human rights violations by the Congolese authorities. In February, Thomas Lubanga was handed over by the DRC authorities to the International Criminal Court (ICC) to be tried for crimes committed during the conflict in Ituri District. Domestic military courts delivered four important judgements: in Ituri, an officer was convicted of war crimes; in Bukavu, a former army officer was convicted for recruiting children in the armed forces; and in Equateur, 48 soldiers were found guilty of rape, murder and looting, as crimes against humanity, in two separate trials. These judgements have created important new jurisprudence for the DRC, each representing the first-time verdicts reached for such crimes. MONUC also welcomes the direct application of the Rome Statute by military courts.

5. On the other hand, MONUC is concerned that there is an increasing tendency to interfere by political and military authorities into the administration of military justice, which often paralyses the work of this institution. Arrest warrants against serving FARDC soldiers for the massacre of 30 civilians in Kilwa, Katanga Province, in October 2004 were not carried out, blocked by a lack of cooperation between the military hierarchy and the military prosecutor. Two important former warlords from Ituri, suspected of multiple international crimes, are reported to remain at liberty in the capital, Kinshasa. Eight other Ituri militiamen, charged with war crimes and crimes against humanity, have been in custody without trial for over a year. The trial of a military officer in North Kivu for the murder of seven individuals, including four children, has been suspended since July 2005 following an undue intervention by the military hierarchy, and in South Kivu, the Commander of the 10<sup>th</sup> Military Region (MR) refused to execute the arrest of four officers accused of human rights violations including rape, torture and arbitrary arrest, under the pretext that he needed those officers for military operations.

6. MONUC is also concerned by the fact that civilians are routinely tried for common crimes before military jurisdictions. Although such practice is grounded in Congolese law, it contradicts international principles according to which civilians must never be tried by military courts. A legislative reform to correct this anomaly should be one of the first priorities of the new Parliament.

7. Human rights discourse is largely absent in the manifestos of the main political parties. There are no clearly defined objectives for human rights protection and promotion. Neither are there any declarations by the main political contenders to include human rights issues in the core programme of a new administration.

## II. Recommendations

### 8. To the Government

- Curb violations by the FARDC by publicly denouncing and demonstrating zero tolerance for violations by the military.
- Ensure that there is no impunity for officers who have ordered, committed or condoned human rights violations, by posting high level military judges in areas where human rights violations are being perpetrated by the military. Military courts must enjoy full cooperation by military intelligence and regional military commanders. End, with immediate effect, the transfer or redeployment of military personnel suspected of having participated in human rights violations.
- The right to freedom of expression and association must be guaranteed by the Government. There must be in-depth investigations of threats or of actual human rights violations against those expressing their opinions freely or exercising their internationally and constitutionally recognized right to demonstrate. The State has the right and duty to cordon demonstrations in the interests of public safety and public order. But it is only when one or both of these are threatened that the State may intervene to disperse a demonstration.
- Clearly and publicly establish separate roles for police, military and security forces. Clear status and mandates for a number of “security services” must be established and made publicly available. This could include abolishing certain services or substantially reducing the powers of the *Garde Républicaine*, the *Agence Nationale du Renseignement* and the *Centre National de Sécurité*.
- Expose and sanction, according to the law, officials (including all branches of the police, intelligence and other security forces) responsible for having carried out arbitrary arrests, illegal detentions and/or demanding bribes from civilians. Arbitrary arrest is a crime according to Article 67 of the penal code and should be sanctioned as such. Police and military inspectorates must function without political interference.
- Include a follow-up mechanism in the training of the police in “crowd management and control”, specifically on the reasonable use of force and respect for the right to life and physical integrity. Investigations into reports of excessive use of force by security forces must be launched.
- In the prison sector, take measures to improve the material and legal condition of detention centres: adequate funds must be provided to feed the prisoners; farming and agricultural production in prisons could be initiated; overcrowding of prisons could be addressed by limiting the practice of preventive detention (see arbitrary arrest and detention below) and working actively on the release of prisoners on parole. Separate cells for women and minors should also be created; and high security military detention facilities should have adequate protection. A military prison should be established in Kinshasa and in one other province in order to reduce overcrowding and to separate military and civilian detainees.

### 9. To political parties

- Include clear and workable human rights agenda in their political programmes, which should address intolerance, discrimination and the fight against impunity; and publicly call for the respect of non-violence in the pre- and post-electoral period.

### III. Introduction

10. The MONUC Human Rights Division developed its mandate in accordance with UN Security Council Resolution 1565 (2004), as confirmed by Resolution 1628 (2005). MONUC is mandated “to assist the Government of National Unity and Transition in the promotion and protection of human rights, with particular attention to women, children and vulnerable persons. MONUC provides advice and assistance concerning the essential legislation of human rights and fundamental freedoms.” The Human Rights Division (HRD) is to assist the authorities to put an end to impunity and to ensure that those responsible for serious violations of human rights and international humanitarian law are brought to justice. The HRD monitors and documents human rights violations across the country. Special attention is paid to violations of the rights to life, liberty and physical integrity; to elections-related human rights violations and to the link between the exploitation of natural resources and human rights abuses. The Division is to protect individuals under imminent threat of physical violence, notably witnesses, victims and human rights defenders.

11. Previously, the MONUC HRD published a comprehensive report on the Human Rights situation in the DRC for the period running from April to December 2005. In the report, on the basis of its findings and activities, the HRD formulated recommendations for the transitional government, future political leaders and Congolese civil society. The Division urged the government to respect human rights, and to publicly denounce and demonstrate zero tolerance for violations committed by members of police, military and security forces. Unfortunately, no substantive action from the government has followed, and human rights violations were committed on the same, if not a wider, scale.

12. The purpose of this report is to present the human rights situation in the first six months of 2006. The report starts with an overview of the human rights situation and the political context in which violations occurred. This section is followed by the findings of Human Rights Field Offices, Special Investigation Unit (SIU) and mobile teams during this period. The final part of this report outlines activities carried out by specialised units to support the Congolese judiciary, protect victims, witnesses and human rights defenders and to promote human rights in the DRC.

### IV. Overall Human Rights Situation and Political Context

13. On 18 February 2006, the Constitution of the 3<sup>rd</sup> Republic came into force, marking the end of the transitional period set up by the *Accord global et inclusif*. The Constitution establishes and reinforces a number of important fundamental rights and freedoms. One of the most immediate effects was the abolition of the State Security Court, a tribunal established to try a limited number of crimes relating to State security. A number of pending trials before the chamber were later transferred to alternative courts. The Amnesty Law<sup>1</sup> was promulgated in January. The majority of fifty-eight detainees initially listed, including 12 pre-trial detainees and 4 witnesses held without charge in Bulowu High Security Prison in Katanga since 1999 were eventually released<sup>2</sup>. However, the Supreme Court issued an *avis consultatif*, stating that murdering the Head of State is not a political crime. Those convicted for the killing of Laurent Kabila do not, therefore, feature on the list.

#### Human Rights and Elections

14. The electoral law, paving the way for the first multi-party elections in the DRC for over 40 years, was finally promulgated on 9 March 2006. In April, the President of the IEC, Apollinaire Malu-Malu, announced that the first round of presidential elections was scheduled to be held on 30 July 2006. The timetable for the

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<sup>1</sup> The Amnesty Law No.05/23 decreed in December 2005 pardoning detainees accountable for acts of war, as well as infractions pertaining to politics and opinion.

<sup>2</sup> They were released on 16 June 2006.

second round of elections will be announced by the IEC shortly. The announcement was made after the initial call for presidential and legislative party candidates failed to produce a significant number of nominations and the deadline for applications was extended by ten days. Subsequently, 33 presidential candidates and 8650 candidates for the national assembly were registered by the IEC, amid a growing climate of political tension, particularly in the capital, Kinshasa, and in other provinces such as Kasai Oriental and Katanga.

15. The HRD noted with alarm the absence of any reference to the protection and promotion of human rights by both political actors running for office and by the main political parties in the run up to elections. Similarly neither the media, nor Congolese civil society paid sufficient attention to the importance of respecting human rights by future administrations and the need to bring to justice those believed to be responsible for war crimes, crimes against humanity and other international crimes that were committed in the course of the Congolese conflict. Furthermore, there has been little mention of the desperate needs of the infrastructure of the justice system and its human resources; from policemen, prosecutors, and judges to usable installations such as police stations, courtrooms and detention centres.

16. The Union for Democracy and Social Progress (UDPS)<sup>3</sup> – a major opposition political party in the DRC – failed to join the electoral process and launched a series of protests to criticise the transitional government and the support given to it by the international community. MONUC noted that the constitutional right of the opposition to carry out public demonstrations was not always respected by the police and other authorities in Kinshasa, excessive use of force was noted (see below) and individual members of the UDPS continued to suffer from persecution, including arbitrary arrest and illegal detention. In Mbuji Mayi, for example, a UDPS official and his 16-year-old son were arbitrarily arrested and mistreated by police officers at the *Groupe Mobile d'Intervention* (GMI) where they were allegedly punched and slapped on 13 May. Another UDPS member was arbitrarily arrested and taken to the GMI holding cells in Mbuji Mayi on 22 May, after the victim admitted to being a member of the UDPS. In the night of 27-28 June, 12 UDPS members were arrested by the ANR without being informed of the motive for their arrest. ANR officials claimed that the arrest was part of an operation against certain groups who had weapons caches at various places in the city. According to the ANR, the fact that these people were all UDPS members and the timing of their arrest (just before 30 June) was a coincidence. Four of the detainees were released on 29 June and another four on 1 July. Four UDPS members who are still in detention were allegedly transferred to a military camp and are allegedly detained in an underground holding cell. The victims were not officially charged and were not brought before a judge while held by the ANR.

17. A number of politically related incidents in the first six months of 2006 potentially undermined the electoral process and demonstrated the considerable steps that must be taken to protect and promote basic civil and political rights in the DRC. On 24 May, 11 political leaders, including presidential contenders and national assembly candidates, saw their residences in the capital surrounded by armed special police officers<sup>4</sup> and ANR officials between 1 am and 3 pm, with the aim of preventing them from participating in a demonstration planned by the political opposition and civil society the same day. On 19 May, 32 foreign nationals were arrested by special police and accused of plotting a coup attempt. The group, mainly South Africans, from a private security firm providing protection for a number of presidential candidates, was illegally held at Kin-Mazière detention centre until 27-29 May, before being expelled from the DRC without charge. A presidential candidate, Pastor Paul Joseph Mukungubila, was threatened and 18 of his supporters were arbitrarily arrested in Kinshasa on 5 April and illegally detained for three days. Four mini-buses and two trucks full of military and police officers arrived at the pastor's private residence to carry out the arrests.

18. Political parties operating in areas where they represent a political minority faced difficulties in this pre-electoral period. For example, a member of the local RCD branch in Baraka (South Kivu) was arbitrarily arrested by the ANR on 18 January for having raised the flag of his party. Other members of the RCD claim to have suffered similar forms of harassment in the Fizi area, south of Uvira, in the last few months; four members of the RCD were arbitrarily arrested by the ANR in Mitwaba (Northern Katanga) on 11 January while on a mission to open party offices in villages in the area; three members of the MLC were arbitrarily

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<sup>3</sup> UDPS – Union pour la démocratie et le progrès social

<sup>4</sup> Services spéciaux de la police de Kin-Mazière

arrested by the ANR in Bukavu on 14 April and FONUS claims that ANR officials prevented them from establishing a presence in the village of Miketo in Katanga in May.

19. Private media, television, radio and, in Kinshasa, the print media came under pressure in this period, as political debate and electoral campaigning got underway. Criticism of President Kabila by the media or individuals was considerably limited. Patrice Booto, a journalist, accused of insulting the Head of State and the government in November 2005, and whose case had been one of the last before the now dissolved State Security Court, was sentenced to a six month sentence on 30 May by the *Tribunal de Paix de Kinshasa*. The journalist had published an article claiming the President had made a significant financial gift to schools in Tanzania. The prison term and \$500 fine sent a strong message to other journalists about publishing such information. In another incident, a journalist of RTNC-Katanga was abducted and seriously beaten, allegedly by two FARDC soldiers and two civilians in Lubumbashi, on 18 May 2006. The victim was accused by his attackers of criticizing the PPRD in his reports.

20. On 31 May, the *Haute Cour Militaire* in Kinshasa charged a high profile religious preacher, Pastor Kutino, with three serious offences including the possession of weapons, the latter used to justify his trial before a military judge. Pastor Kutino, who was arrested on 14 May shortly after criticising the Head of State in one of his televised sermons, stood trial with four co-defendants, including one military officer working for Vice-President Bemba. On 22 May, special police services destroyed the transmitter and interrupted the broadcasting of the pastor's sermons on *Radio Télévision Message de Vie (RTMV)*. On 16 June, Pastor Kutino and three of his co-defendants were found guilty of attempted murder, criminal association and the illegal possession of arms by the tribunal. The Pastor and two others were sentenced to 20-year prison terms; a fourth defendant to 10 years and a fifth defendant, a soldier, was acquitted of the charges. An appeal was lodged by the prosecutor against the acquittal of the soldier. The defendants were not present to hear the verdict against them. The HRD noted that the arrest and trial came immediately after the Pastor criticised the President in his sermons. The Division is investigating reports that the trial was politically motivated based on its timing, the haste with which the hearings were conducted, and the fact that the official charges were changed after the trial commenced.

21. In mid-May, Kabeya Pindi Pasi, a television journalist and president of the National Press Union in Congo (UNPC), received anonymous death threats after reporting alleged human rights abuses by Vice-President Jean-Pierre Bemba's forces. After receiving the threats, the journalist had to flee the country, but he is now back in the DRC and has resumed his functions as president of the UNPC.

22. On 17 February 2006, hearings were postponed in the trial of another preacher, Pastor Theodore Ngoy, the day before the new Constitution came into effect. Pastor Ngoy later evaded police custody in Kinshasa (on 1 March 2006) and sought asylum at the South African Embassy, where he remains. The defendant was arrested for the sole reason that he was the leader of a protest against the constitutional referendum in December 2005. He was provisionally released, then rearrested for breach of his bail conditions and charged with defamation<sup>5</sup> for comments made in the international media. The Pastor has declared that he will remain in the Embassy until the Supreme Court decides on his case.

23. Ethnically motivated human rights violations took various forms in several parts of the country. In South Kivu, the ANR in Uvira arbitrarily arrested numerous members of the *Banyamulenge* community, accusing them of 'threatening State security' or similar allegations. Thirty-four civilian members of this community were arrested on the border with Burundi in early April, and 22 of them were transferred to Bukavu, where they were held for several weeks in a military camp without charge. Several other individuals were held *incommunicado* by the ANR in Uvira. A group of Ethiopian students were arrested in Bukavu and transferred to ANR custody in Kinshasa in April, where they are still believed to be held. Although these detainees appear to be civilians fleeing from their home country, they are allegedly suspected of threatening Congolese State security, as they allegedly bear physical resemblance to the Tutsi ethnic group. Six civilians from the Hema ethnic group were arrested on 23 April and detained for two days by the *Garde Républicaine* near Kisangani airport. They were accused of being Rwandan nationals due to their physical appearance, despite having showed their Congolese identity papers.

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<sup>5</sup> *Outrage aux magistrats et aux membres du gouvernement*<sup>5</sup>



24. In Kalemie, arbitrary arrests were made in late May and June of individuals – presumably on the basis of their actual or perceived ethnic identity – alleged to be planning to threaten the life of the Head of State, who made a visit to the town in early June.

25. In Ituri, soldiers have been allegedly confiscating and destroying the voter registration cards of individuals. However the motive for this may be purely financial, as the soldiers demanded money from the victims, before destroying the cards.

26. The rights of other groups and individuals exercising their right to freedom of expression and association have also come under threat, particularly those protesting for a fair wage or standard of living, or calling for transparency and accountability in the management of the country's vast mineral resources. The head of a Trade Union "*Prosperité*" was arbitrarily arrested on 27 January in Kinshasa, following a meeting where he denounced the irregularities in payment of salaries in the public sector. He was detained in Kin-Mazière detention centre for four days. A member of the Trade Union SOLISICO<sup>6</sup> was arbitrarily arrested on 30 January in Mbandaka and was accused of instigating industrial action, following a health workers' strike in early January. Other human rights defenders came under threat for publicly expressing their opinions and turned to MONUC for protection (see section on Protection of Individuals).

27. The Electoral Law and the new Constitution guarantee the right to demonstrate<sup>7</sup>. They provide, *inter alia*, that a demonstration's organisers are obliged to inform local authorities of a demonstration before it takes place. The previous legislation, imposing an obligation on organisers to obtain an authorisation before staging a demonstration, was therefore repealed. However, MONUC noticed a worrying trend in as far as the suppression of public demonstrations by State security forces is concerned. Demonstrations, especially in Kinshasa and Mbuji Mayi during June 2006, were often dispersed before they could take form, sometimes violently. Police were apparently receiving orders to cut certain demonstrations off at the root, insisting that they were subject to authorisation or on the pretext that public order was threatened. This practice, selectively applied by local authorities, is contrary to the rights laid down in the Constitution, and reaffirmed by a circular from the Interior Ministry<sup>8</sup>, which states clearly that the requirement for authorisation of demonstrations has been repealed.



*Demonstration in Kinshasa on 10 March 2006*

28. In Matadi, 12 civilians and one soldier were killed and 20 others (15 civilians and 5 soldiers) were injured mostly by being shot at by the FARDC. The incident occurred when supporters of a politico-religious movement hostile to the Transitional Government, the Bundu Dia Kongo (BDK) tried to demonstrate on 30 June. Violence was apparently triggered by the killing of a soldier by a BDK adept, who seized his gun and fired at him. In response, soldiers purposefully and in a disproportionate way opened fire on demonstrators, destroyed the BDK church and looted several shops. There is information suggesting that FARDC violence against BDK may have been premeditated and aimed at cracking down on the BDK.

### **The Police Human Rights Violations**

29. The police again resorted to the excessive use of force to curb protests in this period. Police officers used tear gas, truncheons and metal chains against a group of no more than 200 unarmed demonstrators in Kinshasa, as the protestors attempted to deliver a memorandum to MONUC Headquarters on 10 March. A bystander and a child were admitted to hospital after being struck by a tear gas canister. Fifteen

<sup>6</sup> Solidarité syndicale des infirmiers du Congo

<sup>7</sup> See Articles 29 and 26 respectively.

<sup>8</sup> No. 002/2006, 29 June 2006

demonstrators, most of them from the UDPS, were arbitrarily arrested. On 30 June 2006, nine people were injured and 53 arrested by the police in Kinshasa in the course of the events of the day.

30. In Katanga, Mines Police<sup>9</sup> opened fire on demonstrators, shooting dead two of them, following an incident involving self-employed mine diggers and a multinational mining corporation in Kolwezi on 24 April. Local mine workers protested against *Anvil Mining* in the town, after a clandestine digger drowned in an incident involving one of the company's security guards. When the protest turned violent, police opened fire with live ammunition. In Kasambulesa, mine workers in a State-owned industry were violently dispersed by the PNC, when they protested on 24 April against their employer for salaries, unpaid for 68 months. One of the demonstrators was struck with a baton. Three civilians were allegedly killed by the PNC in Kipushi on 15 May 2006 during a demonstration organised by a political party (*Front Démocrate pour le Progrès*) against a power company responsible for regular blackouts. Two civilians were arrested. Five other civilians were injured by gunshot when police opened fire during a protest after the funeral of the victims on 18 May.

31. In Mbuji Mayi, violations continued to be committed in the MIBA *polygone* by the police guarding it. In November 2005, the HRD had conducted a special investigation mission to investigate alleged violations committed at the *polygone*. The extent of the violations is hard to determine and document as not all incidents are reported to MONUC. In the reporting period, at least two civilians were wounded and four others arbitrarily arrested and submitted to cruel, inhuman and degrading treatment by MIBA guards. Currently, the MIBA *polygone* is secured by the *Brigade minière* consisting of 400 police officers reporting directly to Kinshasa, 200 FARDC soldiers and 600 security guards employed by MIBA (mostly ex-FAZ).

32. In rural areas, the police force often took the law into its own hands. A group of 12 police officers, supported by soldiers from the *Force navale*<sup>10</sup>, FARDC territorial units and ex-soldiers went on a rampage in the *groupement* of Waka – approximately 515 km north-east of Mbandaka – in the early morning of 19 March. The group raped 32 women and two girls and systematically looted over 120 homesteads, apparently in reprisal for the kidnapping by the local population of a police commander, whose officers were believed to be responsible for beating to death a local civilian who refused to cave in to extortion attempts by the officers. Following an investigation by the Mbandaka military prosecutor's office, three suspects were arrested in June in connection with this incident. The other perpetrators are still at large.

### FARDC Human Rights Violations

33. As part of the *Accord global et inclusif*, the process of intermingling troops from different belligerent factions, known as *brassage*, was due to conclude before the end of the transitional period. Although some 40,000 troops have undergone the process and have since been deployed, MONUC is alarmed at the behaviour of many of these troops and insists that urgent measures must be taken to halt extremely serious human rights violations committed by the FARDC. Many of these violations have been committed in the context of ongoing military operations against militia groups who remain active in Ituri, North and South Kivu and Katanga Provinces (see Chart 1). Such high levels of violence and insecurity continue to prevent displaced civilians from returning to their homes. In Ituri, IDP numbers remain at approximately 200,960, while in Katanga they number around 234,960, in South Kivu around 195,325 and in North Kivu about 686,327.

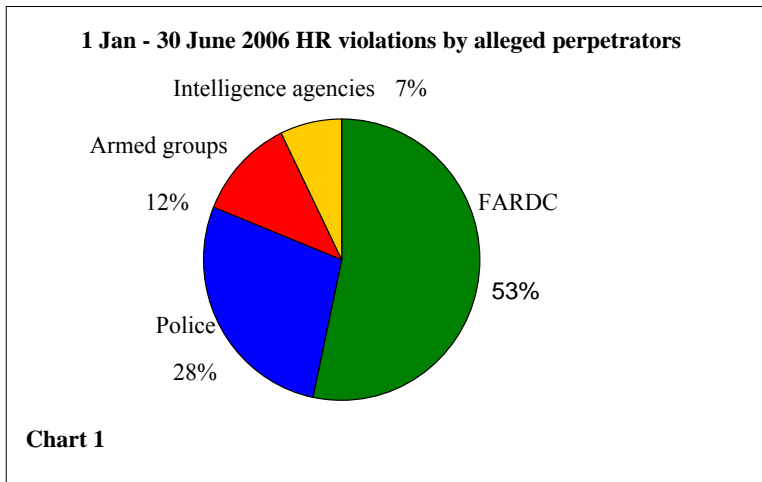


*IDPs of North Katanga*

<sup>9</sup> Police used to guard mines

<sup>10</sup> Navy





34. In Ituri, FARDC Integrated Brigades have been responsible for summary executions and torture, as well as arbitrarily arrests of civilians accused of being members of militia groups or of complicity with them. Soldiers of the 4<sup>th</sup> and 6<sup>th</sup> Brigades allegedly shot dead 13 civilians and injured two others as they were attending Sunday mass in Nyata Church on 22 January 2006 in the Kagaba area; there were two children and four women among the victims. Three more women were reportedly killed in Byro, a locality near Kagaba the following day. Four other civilians reportedly “disappeared” after being taken into military custody in the area. IDPs from Kagaba are now living on the outskirts of Bunia. One of them, a 74 year-old woman, claimed 12 soldiers dragged her along the ground when they found her alone in a village near Kagaba, after the rest of the population had fled on 16 March.

35. The *Force Navale* based in Sabe, near Tchomia in the Ituri District, committed serious human rights violations including summary executions and forced disappearances. These violations occurred in the wake of fighting between the FARDC and the *Mouvement Révolutionnaire Congolais* (MRC) on 29 March. Two FARDC soldiers were killed in this incident. On 30 March, two civilians were arrested in the street by soldiers and taken to Sabe Camp. The body of one of these detainees was found a few days later on the banks of Lake Albert. The whereabouts of the second detainee remain unknown. Four other bodies, bearing gunshot wounds in the nape of the neck, were allegedly found in the area. In Bukuku – 7 km from Tchomia – the military rounded up villagers after repelling the MRC attack on Tchomia and randomly picked a victim from the crowd forcing him to indicate the whereabouts of the militia. The victim was allegedly killed soon thereafter. At least further five possible summary executions, plus the use of torture and cruel, inhuman and degrading treatment were reportedly committed by the *Force Navale* in this area in April.

36. Sexual violence in the course of military operations was routine. Dozens of women and girls were targeted for rape in the Ituri District. Many of the victims were from the Ngiti ethnic group associated with the MRC militia group, which remains active in the District. Women and girls as young as 14 were allegedly raped at roadblocks and in private homes on their way home from school, or in military camps.

37. In North Kivu, both military who went through the *brassage* process (such as the 5<sup>th</sup> and 2<sup>nd</sup> Integrated Brigades) and those who remain resolutely outside it (such as the 83<sup>rd</sup> Brigade), have carried out serious human rights violations with impunity. On 15 February in Katwiguru, 87 houses were set on fire by soldiers of the 5<sup>th</sup> FARDC Integrated Brigade, apparently in revenge for attacks by FDLR on military vehicles. On 21 February, soldiers of the FARDC 2<sup>nd</sup> Brigade replaced them and looted several houses in Katwiguru. A local chief, from Bugina in Rutshuru territory, died on 22 April 2006, allegedly after he was flogged by the 3<sup>rd</sup> Company of the 2<sup>nd</sup> Integrated Brigade in Runyoni. The chief was reportedly tortured after his arrest on 21 April and accused of harbouring enemy combatants.

38. A Hutu civilian was allegedly apprehended by the 23<sup>rd</sup> Battalion of the 2<sup>nd</sup> Integrated Brigade and later killed. Seventeen other Hutu civilians from Katwiguru and nearby Kisharu were arrested by soldiers of the

23<sup>rd</sup> Battalion FARDC 2<sup>nd</sup> Integrated Brigade on 26 April 2006. The military claimed that they were FDLR combatants, but the detainees claim that they were apprehended by the 2<sup>nd</sup> Integrated Brigade in their fields.

39. Demobilised soldiers have been subjected to human rights violations by their former comrades in North Kivu and other areas. A demobilised soldier was reportedly beaten to death in January before being “crucified” on a tree by soldiers of the FARDC 83<sup>rd</sup> Brigade in Masisi. In April, a demobilised soldier was reportedly abducted by the 812<sup>th</sup> Battalion deployed at Kazinga in Masisi and has since “disappeared”. Two other soldiers who attempted to demobilise from the Battalion were reportedly summarily executed. A 70 year-old recently demobilised soldier claimed to have been seriously beaten by three soldiers in Uvira in February.

40. In South Kivu and Katanga, where armed groups have maintained the upper hand in controlling territory, the FARDC have carried out brutal acts in a legal vacuum without being held responsible for their actions. In the area north of Uvira, sexual violence was a particular problem, where girls as young as 10 years-old were allegedly raped. FARDC soldiers of the 110<sup>th</sup> Military Brigade under the command of Lt.Cl. Mosala based in Luvungi were repeatedly accused of perpetrating such acts. However, despite the fact that an arrest warrant against Lt.Cl. Mosala was issued, the commanding officer and men under his command continue to enjoy impunity.

41. MONUC received allegations of serious human rights violations committed by FARDC soldiers of the 63<sup>rd</sup> Brigade in Katanga. The Brigade is composed of ex-FAC soldiers who have not undergone the *brassage* process and, thus, it retains its old chain of command from the time when they were based in the village of Tshonka in Shabunda territory. In Mufunga Sampwe (Mitwaba territory) in northern Katanga Province, an officer commanding the 63<sup>rd</sup> Brigade in Mitwaba territory has reportedly been terrorising the population of the village of Kayalwe, occupied by a group of around 50 soldiers. Soldiers under his command reportedly carried out seven summary executions of suspected *Mayi-Mayi* collaborators in March and April.

42. Wherever the FARDC are deployed, acts of abuse of power and attempts to illegally carry out law enforcement activities were documented. In North Kivu, soldiers allegedly detained civilians for forced labour within their camps. Five civilians illegally held at a military camp in Muhangi near Butembo were forced by the military to build shelters, clean the camp, transport water and cook after they were “arrested” on the pretext of having committed petty crimes. A civilian who claimed to have escaped from a camp in Rwahwa, near Butembo was found in his home and shot in the leg by soldiers in January. In Kisangani, a man and his wife were allegedly seriously beaten by soldiers, who accused them of stealing electricity from a military camp in February 2006.

### **Abuses by Armed Groups**

43. *Mayi-Mayi* militia under the command of “Gédéon” reportedly killed four civilians in early January 2006 in the Pweto area. In the same period, another civilian was allegedly abducted in Kapulo – 60 km from Pweto. A number of other abuses by this group of *Mayi-Mayi* in northern Katanga were reported during this period.

44. Attacks against the civilian population by armed Rwandan Hutu groups continue unabated in North and South Kivu. Captives of an armed Rwandan Hutu group, probably the FDLR, were allegedly forced to watch the killings of several people on the orders of a Rwandan commander known as “Musha”. A woman was abducted by the same group on 15 September 2005 and managed to escape in the course of an FARDC attack on her kidnappers on 15 April. She claimed that several people had been executed by this group, and that she had been subjected to forced labour and multiple acts of sexual violence during her captivity. In early June, local officials in Kanyola *groupement*, Walungu territory – 55 km south-west of Bukavu – reported that attacks by armed Rwandan Hutu groups were continuing, despite the presence of the FARDC, who are now based there. For example, on 7 June two women were abducted during the night from the village of Mbuba Cihola, while a third was shot dead just 3 km from the military camp. At Kahya, a few kilometres from Kanyola, two villagers were killed in the night of 10 June and livestock was stolen. The Rwandan Hutu responsible for these abuses had also allegedly threatened other villagers “not to vote for President Kabila, or they will be decapitated.” Many civilians in the area reportedly sleep near the FARDC camp, given that the military appear unable to halt these attacks.

## Fight against Impunity

45. MONUC welcomes the positive steps taken in the fight against impunity, but is increasingly concerned that the vast majority of human rights violations committed by members of security forces remain unpunished, even when investigations were undertaken and some of the suspects are in custody.

46. Thomas Lubanga, founder and former chief of the UPC, an Ituri militia group, in detention in Kinshasa since March 2005, was charged by the International Criminal Court for enrolment of children into armed forces and transferred to the Court's headquarters in the Hague on 17 March 2006. Domestic courts delivered four important judgements. On 17 March, the *Tribunal Militaire de Garnison de Bukavu* found Colonel Biyoyo, formerly of the dissident Mudundu 40 group, guilty of recruiting children. This was the first judgement in the history of the DRC when an individual was sentenced for having recruited children into an armed group<sup>11</sup>. In April, the *Tribunal Militaire de Garnison de Mbandaka* sentenced seven soldiers to life for crimes against humanity (rape and looting) committed in Songo Mboyo, Equateur province, in December 2003, and granted reparations to the victims. In June, the Equateur Military Court (Appeals Chamber) confirmed this judgment for the most part, acquitting one of the seven for lack of evidence. Also in Mbandaka, 42 soldiers were found guilty of crimes against humanity (rape and murder) and other crimes by the *Tribunal Militaire de Garnison* on 21 June, in the trial for crimes committed during a mutiny on 3-5 July 2005 in Mbandaka.

47. MONUC welcomes the direct application of the ICC Rome Statute by the military courts in these judgements. This jurisprudence, recently confirmed by the *Haute Cour Militaire*, presents several important advantages. First, judges apply the definitions of international crimes according to international law, as the definitions contained in Congolese military law are less precise and less complete. Second, it permits the application of the ICC Rules of Procedure and Evidence, granting more protection to victims and defendants. For example, victims of rape in the Songo Mboyo trial were granted *in camera* hearings on the basis of the



*Six of these soldiers on trial in Songo Mboyo were sentenced for crimes against humanity*

ICC Rules of Procedure. Third, the courts have decided to apply the sentences envisaged in the ICC Statute, thus excluding the application of the death penalty. This jurisprudence could mark an important step in the march towards the abolition of this sentence.

48. On the other hand, there have been unjustifiable delays in delivering justice in other potentially landmark cases. The trial of Colonel Ademars Ilunga, under arrest since July 2005 for his alleged role in the massacre of at least 30 civilians in Kilwa, Katanga province in October 2004, has yet to begin. The arrest of other military suspects in the massacre was effectively blocked by the Commander of the 6<sup>th</sup> MR. Military prosecutors were unable to secure the collaboration of Military Region Commander to execute certain arrest warrants, and are refusing to bring the Colonel to trial on the basis of the available evidence.

49. The lack of any progress into crimes committed by Mayi-Mayi groups in Katanga is also a cause for serious concern. No investigation was opened by the military prosecutor into crimes allegedly committed by the Mayi-Mayi leader Ngoy Banza, known through his aptly chosen battle name of "Tshinja Tshinja", which means "the throat-cutter" in Swahili. Offers of assistance from MONUC, which shared a full case file on

<sup>11</sup> Colonel Biyoyo escaped from Bukavu prison during a breakout in June 2006 and remains at large.

alleged crimes committed by Banza, were ignored by the military judicial authorities. On 15 May, Kyungu Mutanga, alias “Gédéon”, a *Mayi-Mayi* commander notorious for allegedly committing abuses on the civilian population in Katanga province, surrendered to MONUC and was airlifted from Mitwaba to Lubumbashi along with his wife, a child, two domestic servants and five of his “bodyguards.” However, despite several substantiated complaints for serious crimes filed before military judicial authorities, no judicial action was taken against “Gédéon”, or any of the men under his command. Their legal situation remains unclear.

50. A number of important Ituri warlords remain at large and continue to enjoy impunity for their crimes. Jerome Kakwawu, formerly head of the FAPC and Floribert Kisembo, former military commander of the UPC, are suspected of involvement in international crimes. However, they were both promoted to the rank of General in the FARDC and live freely in Kinshasa. Eight other former Ituri militia members have been in custody for over a year and have not yet been brought to trial. In May, the eight appeared before the *Haute Cour Militaire* in a pre-trial detention hearing. However, the judges were unable to proceed after the prosecutor pointed out that the military grades of the sitting judges were inferior to those of the accused, in violation of military law.<sup>12</sup> Despite MONUC’s intervention with the highest authorities, the matter was not resolved. John Tinanzabo, the former Secretary General of the UPC, was suspiciously acquitted of forgery by an appeal court in Kisangani on 16 March, when the charges against him of theft and extortion were changed to the lesser charge of “receiving stolen goods.” His 15-year sentence was consequently reduced to a 12-month prison term. Tinanzabo, who had already served 12 months, was released.

51. In Uvira, the Commander of the 109th FARDC Military Brigade, Lt. Col. Mutupeke, showed himself to be completely uncooperative with judicial authorities, and interfered in the due process of cases falling under their jurisdiction. The legal rights of soldiers detained by the 109<sup>th</sup> brigade were completely ignored by Lt. Col. Mutupeke and the officers under his command. In many cases, soldiers were detained for over a period of several weeks in the military holding cells of the 109th Brigade (*Bureau II*). The military prosecutor in Uvira (*Auditeur Militaire de Garnison d’Uvira*) appeared incapable of exercising any control over this situation. Civilians, often of Banyamulenge origin, continued to be arrested by *Bureau II* agents without any justifiable legal cause, and without the approval or even knowledge of the Civilian Prosecutor’s Office (*Parquet*). In several cases in which the HRD argued for the release or transfer to the *Parquet* of detainees in this situation, Lt. Modeste Kitunda (second-in-command at *Bureau II*), stated that only Lt. Col. Mutupeke had the power to authorise the release or transfer of detainees. Lt. Col. Kitunda, on several occasions, refused the HRD access to the military holding cells of *Bureau II*. Many illegally detained civilians were beaten and then demanded to pay money for their release, often on the direct orders of Lt. Kitunda. Finally, Lt. Col. Mutupeke interfered systematically with the administration of civil and military justice in all cases in which his family or clan members were implicated, or where his personal interests may have been affected.

52. In all the above-mentioned cases, the reluctance of the judicial authorities to progress in their investigations can be attributed mainly to undue external interference, but also to the lack of will, resources and capacity. The HRD noted with concern the increase of open interference in judicial matters by political and military actors. Such behaviour is the result of a worrying superciliousness on the part of these actors, who know that they can openly disregard the law in absolute impunity. The trial of Colonel Bindu and 30 of his troops for the murder of three soldiers and four children in Goma in June 2005 has been suspended since July 2005, following the interference by the highest military authorities in the region. The Colonel continues to carry out his military duties in Goma. In South Kivu, Colonel Nyakabaka, Commander of the ex-111<sup>th</sup> Military Brigade based in Kiliba, interfered in an investigation carried out by the military prosecutor in Uvira, against soldiers under his command who had allegedly carried out human rights violations. The Colonel also threatened MONUC staff collecting information on these cases. The Commander of the 10<sup>th</sup> MR General Agolowa failed to hand over a number of serving officers, accused of serious human rights violations, including rape, to the military prosecutor, despite having received the arrest warrants issued by the latter.

53. MONUC is also concerned with the extent of jurisdiction enjoyed by military courts under Congolese law. Not only all crimes, including crimes under international law, committed by army and police members, but also crimes committed by civilians with “weapons of war” (*armes de guerre*) fall under the jurisdiction of

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<sup>12</sup> MONUC has urged President Kabila to promote one of the Magistrates currently sitting on the bench of the *Haute Cour* to the rank of General, so as to the Court may hear this case in accordance with the rules of Congolese military procedure.



military courts. Given the prevalence of violent crime in the DRC, military courts became the “ordinary” courts of law, while civilian courts have marginal jurisdiction. Since the abolition of the State Security Court, these provisions are increasingly used to try high-profile cases involving civilians, including crimes with a political motive, before military courts, contravening the United Nations principles to combat impunity (E/CN.4/2005/102/Add.1)<sup>13</sup> and the draft principles on the administration of justice by military tribunals (E/CN.4/Sub.2/2005/9).<sup>14</sup> A reform to bring Congolese legislation in line with international principles should be one of the priorities of the future Parliament. This could be achieved through the prompt adoption of the law implementing the ICC Statute.

### Prisons and other Detention Centres

54. Even when convictions mark important steps towards ending impunity, the state of the penitentiary system does not suggest that those convicted will fully serve their sentences. Both serving prisoners and pre-trial detainees are subjected to appalling conditions of detention. In some cases, the desperate state of such facilities led to prison breakouts, during which important convicts managed to escape. An example is Colonel Biyoyo, who escaped from Bukavu prison along with 191 other prisoners and detainees on 4 June. During an incident at Kasapa Prison in Lubumbashi, five detainees sustained gunshot wounds on 11 April after police guarding the facility opened fire when inmates revolted against the refusal of prison authorities to let relatives deliver food. Two of these detainees are missing since then. In Beni, two detainees were shot dead and four others sustained gunshot injuries by soldiers guarding the holding cells of the Military Prosecutor’s Office on 7 June 2006. The incident came in the wake of an escape by six detainees in the evening of 7 June.



*Death in detention due to the absence of medical care is not uncommon in the DRC*

55. The past six months were marked by an increased number of prison break-outs throughout the DRC. In Katanga, 14 detainees escaped from the prison of Kongolo on 30 March and 14 others from Kasapa prison in Lubumbashi in the night of 21-22 May 2006. Between 29 March and 31 May, 18 detainees escaped from Osio prison in Kisangani and a total of 57 detainees escaped from the Central Prison of Kisangani on 2 and 4 April 2006. On 30 May, five detainees in Punia Prison in Maniema revolted against detention conditions and set the prison ablaze, while in Kindu 19 military detainees destroyed a prison wall and escaped on 31 May. A mass escape of 82 detainees was registered in Mwene Ditu prison in Mbuji Mayi on 25 June 2006 when the detainees made a hole in the wall and forced their way out. However, the largest prison break out was registered in South Kivu when 192 detainees escaped from the Central Prison of Bukavu on 4 June 2006.

56. Reports of the ill-treatment and torture of detainees in police custody increased in this reporting period. One of the worst offenders is the IPK, Kinshasa’s main police station, where torture to obtain confessions is systematic. Also, in the District of Ituri, the PNC in Mahagi territory and Aru resort systematically to the use of torture and ill-treatment.

<sup>13</sup> Principle 29: “The jurisdiction of military tribunals must be restricted solely to specifically military offences committed by military personnel, to the exclusion of human rights violations, which shall come under the jurisdiction of the ordinary domestic courts or, where appropriate, in the case of serious crimes under international law, of an international or internationalised criminal court”.

<sup>14</sup> Principle 4: “Military courts should, in principle, have no jurisdiction to try civilians. In all circumstances, the State shall ensure that civilians accused of a criminal offence of any nature are tried by civilian courts”.



57. Many of the country’s prisons remain in a dilapidated state and require immediate renovation. Many prisons lack electricity and drinking water. At the central prison of Tshikapa, detainees drink water straight from the Kasai River. Detainees lack food and medical care and many of them are in the advanced stages of malnutrition, so much so that the Director is forced to send inmates to beg for food on the road outside. A similar situation was registered in the Osio prison in Kisangani.

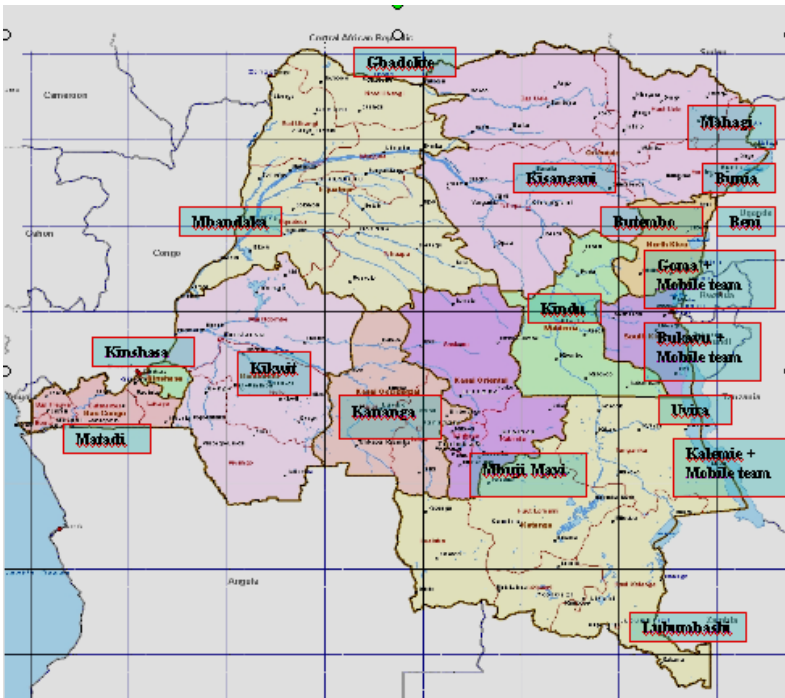


*A detainee in an advanced stage of malnutrition*

## V. Investigations and Methodology of the Human Rights Division

58. The MONUC Human Rights Division comprises 62 human rights officers, of which 35 are international professional staff, 27 are UNVs and four are national professional officers. The human rights officers are supported by ten international administration staff and 34 national human rights assistants. Four UNPOL officers are seconded to the Division by MONUC Police to help with investigations. The HRD currently has a presence in all provinces. Human rights officers are based in MONUC offices, with the exception of those based at HQ and Mobile teams (see Map 1.) All human rights officers gather information, mainly on violations of civil and political rights, and prepare reports and enter cases into the Division’s database on a daily basis.

**Map 1**

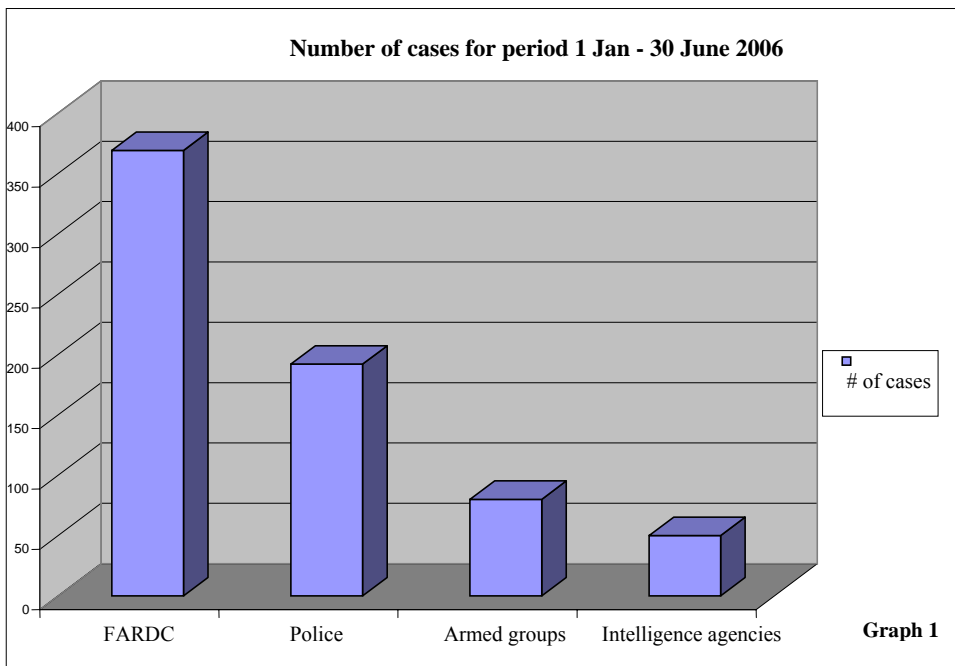


59. Human rights officers in 18 field offices of the HRD gather information on human rights violations or abuses by militia groups, verify, as far as possible, allegations and reports of human rights violations by corroborating testimony and carrying out site visits. Most cases are then followed up by engaging with the relevant national authorities in order to obtain a resolution. They also monitor the legal and humanitarian conditions in detention facilities, including prisons, police cells, security service offices, military camps. Human rights field officers work in close collaboration with other substantive sections, in particular with Rule of Law and Child Protection as well as with MONUC military observers and UN Police.

60. Investigations of serious violations and abuses of human rights come under the terms of reference of the mobile teams and the Special Investigations Unit.

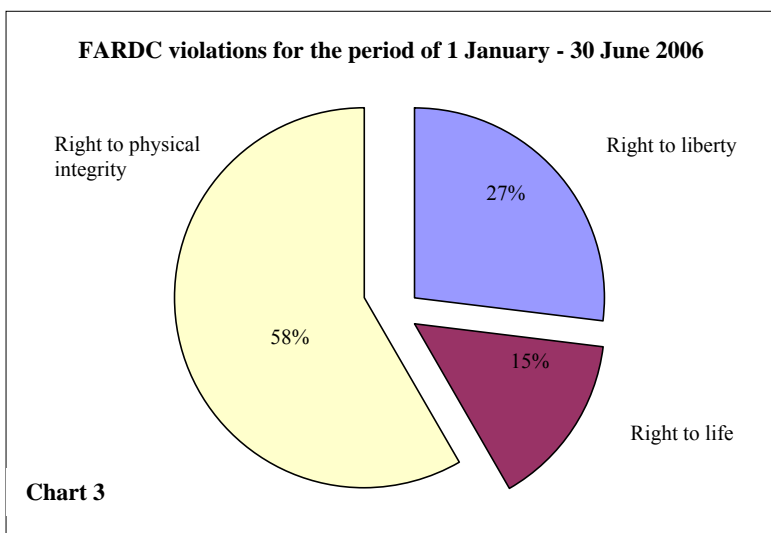
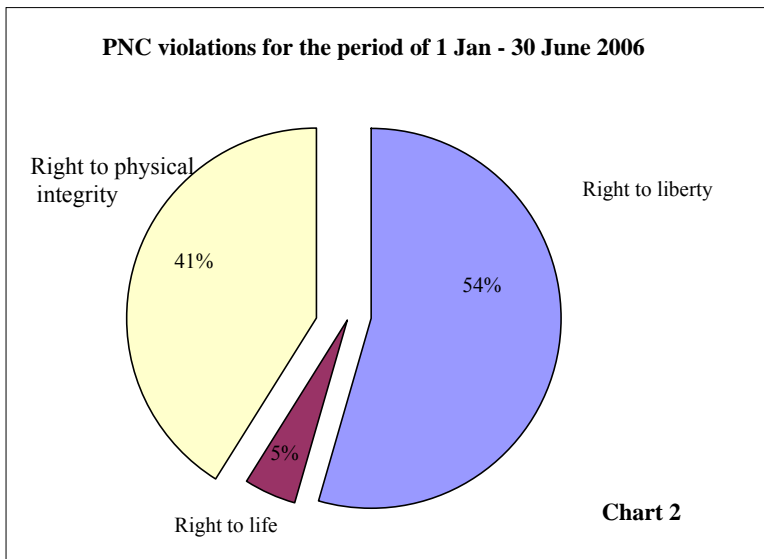
### Human Rights Division Monitoring Data Analysis

61. For the period from 1 January to 30 June 2006, the total number of human rights violation cases registered by the HRD amounted to 905. The majority of violations and abuses (369 cases, or 53%) were committed by the FARDC, 192 incidents (28%) involved the PNC and its branches. The remaining incidents involved armed groups/militias or intelligence services. (Graph 1.)

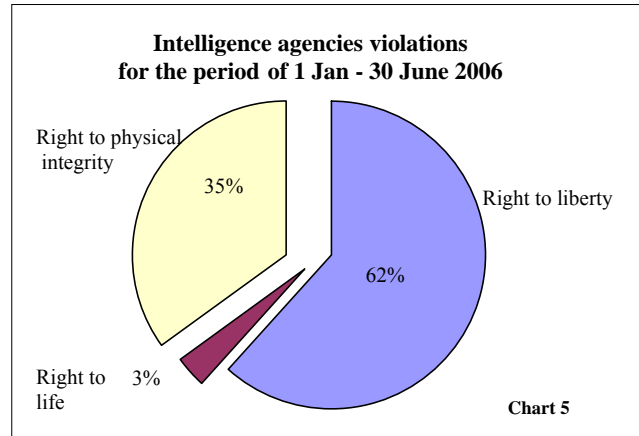
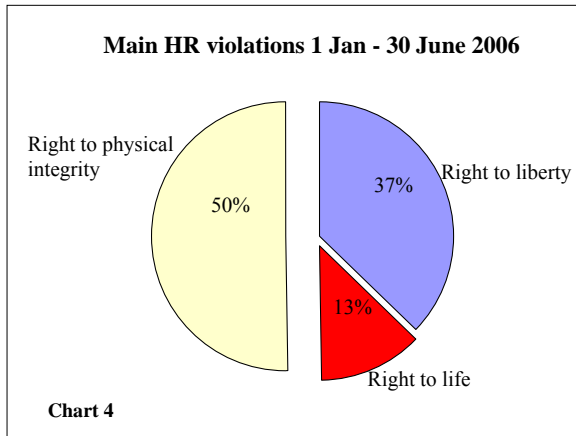


62. Fifteen percent of incidents involving FARDC and 13% of incidents implicating PNC officers involved violation of the right to life. Human rights officers investigated 71 cases of arbitrary executions committed by the police and military.

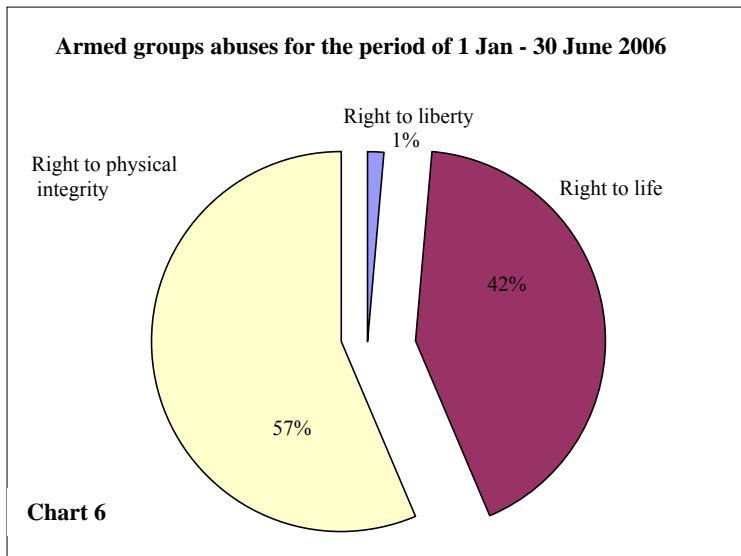
63. Violations of the right to physical integrity remain the most common violations perpetrated by FARDC soldiers and police officers. Fifty-eight percent of cases implicating the military, and 41% of incidents involving the PNC were violations of this right. Of these incidents, at least 25% were acts of sexual violence. (See charts 2 and 3.) MONUC staff members were occasionally subjected to cruel, inhuman and degrading treatment by members of the security forces. In Kindu, a MONUC employee was subjected to blows by rifle butts by four members of the Republican Guard on 19 January 2006 near Kindu station, after having walked in the vicinity of the Presidential tents. Two human rights officers on a special investigation mission were intimidated and prevented from carrying out their investigation by armed FARDC soldiers guarding holding cells of the FARDC *Etat-Major* in Bunia in March 2006.



64. Violations of the right to liberty constituted 37% of all cases under investigation by the HRD. Most of these violations were committed by the intelligence agencies (62% of violations committed by the ANR) and the police (54% of their violations) and are often directly linked to the up-coming national elections. Freedom of expression and association was repeatedly denied in most of the provinces and in Kinshasa. Arbitrary arrests were often carried out in violation of the Congolese law and international standards. (See Charts 2, 4 and 5.)



65. Abuses by armed groups continued to be committed regularly in Ituri District and three provinces: North and South Kivu and Katanga. They represented 12% of all violations monitored by the HRD field offices. Of these abuses, 42% were arbitrary killings and 57% violated the right to physical integrity (29% of which were directly related to sexual violence against women and girls). (See chart 6.)



### Mobile Teams and Special Investigations

66. The Special Investigations Unit (SIU) dispatched two teams in February and April to the so-called “death triangle” in Mitwaba territory in order to investigate allegations of serious human rights violations by the *Mayi-Mayi* led by Gédéon and the FARDC 63<sup>rd</sup> Brigade. SIU found that both *Mayi-Mayi* and the FARDC were responsible for summary executions, (31 and 33 cases respectively between early 2005 and February 2006) and for other abuses such as rape, cruel, inhuman and degrading treatment, looting and destruction of property, abductions and recruitment of children. The SIU also confirmed the forced disappearance and likely summary execution of 15 *Mayi-Mayi* suspects who had been captured and detained at Mitwaba prison by the 63<sup>rd</sup> Brigade in March 2005. Most of the summary executions by the FARDC were committed during and after attacks on villages against civilians accused of being *Mayi-Mayi* combatants. Many sources also confirmed to the SIU the illegal exploitation of tin ore by the 63<sup>rd</sup> Brigade in mines near Mitwaba. Though the

SIU brought its findings to the attention of civil and judicial authorities and gave them the names of the officers with the greatest responsibility for human rights violations, only one of them, Major Ekembe, was arrested by the *Auditorat Militaire*. Gédéon, who surrendered to MONUC on 12 May, was handed over to the Congolese authorities, but no charge was brought against him.



*Human Rights Officers on a special investigation mission to Central Katanga*

67. Investigations by the North Kivu human rights mobile team, which was set up in early 2005 to strengthen the HRD investigative capacity in this province, especially in Masisi and Rutshuru territories, documented serious human rights violations committed by the soldiers of the 83<sup>rd</sup> Brigade FARDC (ex-ANC) hostile to *brassage* and allegedly under the command of renegade Laurent Nkunda. In Kitshanga – 81 km north-west of Goma – and other areas controlled by three battalions of the 83<sup>rd</sup> Brigade (831<sup>st</sup>, 834<sup>th</sup> and 804<sup>th</sup>) the team observed a pattern of soldiers arbitrarily arresting demobilised soldiers, including children, to force them to join their ranks as well as the use of underground detention pits. An ANR officer suspected of passing information on Nkunda's troops was allegedly summarily executed in Kitshanga on 12 April. In Kibirizi, at least 40 rapes were reportedly committed by 83<sup>rd</sup> Brigade troops loyal to Nkunda between 22 January and 6 February 2006. Widespread looting also took place at Kibirizi and two houses were burned by these dissident troops. In Ruthuru territory, the team continued to document human rights abuses by FDLR forces and newly integrated FARDC. In one of the most serious incidents, on 1 May, after Nyamilima was attacked by the FDLR, the 23<sup>rd</sup> battalion of the 2<sup>nd</sup> Brigade stormed the town in reprisal as it suspected the population of supporting the FDLR. Soldiers summarily executed six persons, deliberately injured five others, set 26 houses alight and carried out extensive looting.

68. In May 2006, the HRD created three new investigative mobile teams, under the supervision of the SIU, in South Kivu, Ituri and Katanga, equipped to react rapidly in case of serious incidents of human rights violations and tasked with in-depth investigations into remote areas with high levels of human rights violations.

## VI. Activities of the Human Rights Division

### Justice Support Activities

69. In January 2006, MONUC provided technical and logistical support and accompanied, for on-site hearings, the Military Tribunal of the Garrison of Mbandaka, the Military Prosecutor and the lawyers for the soldiers accused of having committed mass rapes in the village of Songo Mboyo in December 2003. In April 2006, MONUC again facilitated the travel of the Military Tribunal from Mbandaka to Songo Mboyo for the delivering of the sentence. The HRD continues to monitor the situation and to ensure the execution of the sentence pronounced.



*Human Rights Officers at the Songo Mboyo trial*



70. The Justice Support Unit (JSU) facilitated the arrests of several alleged perpetrators of serious human rights violations and encouraged further investigations of *Mayi-Mayi* leaders “Tshinja Tshinja” and “Gédéon” of Katanga Province and Ituri militiamen currently detained in the CPRK prison in Kinshasa.

71. The JSU worked throughout the period on the proposal to create a team to map the most serious human rights violations committed in the DRC in 1993-2003. The mapping exercise was made public by the Secretary-General in his report to the Security Council, of 13 June 2006, on the situation in the DRC (S/2006/390).

72. The JSU held discussions with the Justice Rapid Response Initiative (JRRRI), a judicial cooperation mechanism being set up by like-minded states to assist other states in investigating and prosecuting international crimes, and attended a seminar on the subject in Italy in June. Discussions on a possible assistance mission are ongoing with some Member States.

73. The JSU held discussions with international specialists and military justice officials on the opportunity to conduct a specialised training session for Congolese investigators on investigating and prosecuting international crimes. Discussions are ongoing.

74. In cooperation with the Truth and Reconciliation Commission (TRC), a seminar was held in Kinshasa in June 2006 by the JSU to assess the Commission activities over the last three years and to look into the possibility of creating a new TRC after the elections in better conformity with international standards and principles. A committee consisting of members of civil society, international organisations (MONUC, UNDP and ICTJ) and the members of the current TRC was created in order to follow-up on the recommendations of the seminar.

75. A report on "Legality of Arrests and Detention in the DRC", published in March, noted the high number of illegal arrests by police, military and security services. The report also established that judicial authorities resort to pre-trial detention far too often and that detainees remain in custody for unjustifiably long periods, compromising their right to be judged in reasonable time and leading to overcrowding of prisons and poor conditions of detention. In this context, the *Procureur Général de la République* launched a very important circular requiring the use of new models of *Mandat d'arrêt provisoire* and *procès-verbal (PV) de saisie de prévenu* which include a list of the constitutional rights of the person arrested. In Kinshasa and in the provinces, the JSU organised a campaign on the rights of detainees and, in April and May, held workshops on the issue for judges, judicial police officers and the general public. In the same framework, a thousand copies of the new versions of arrest warrants and PVs were printed and distributed in Kinshasa and the provinces between April and June 2006.

76. At several workshops on the fight against torture organised by the *Observatoire Congolais des Droits Humains* in March and April 2006, the JSU delivered training sessions to more than 100 magistrates, judiciary police officers, lawyers and NGO activists from different districts of Kinshasa.

77. In collaboration with the *l'Observatoire National des Droits de l'Homme* (ONDH) and local Human Rights NGOs, the JSU launched a National Network for the monitoring of public demonstrations in Kinshasa and in the provinces. The main focus of this monitoring is to ensure the right to freedom of demonstrations is being respected and to guard against the manipulation of minors by political parties and incitement of violence and hatred.

## **Protection of Victims, Witnesses and Human Rights Defenders**

78. The HRD field offices – in coordination with the Victims, Witnesses and Human Rights Defenders Unit – intervened in dozens of cases of victims, witnesses and human rights defenders under imminent threat of violence. The strategy of the HRD was to raise cases with the authorities at the local and national level, give them publicity and, in certain cases, facilitate the transport of individuals to safe places.

79. As July 2006 elections approached, human rights defenders and journalists came increasingly under attack because of their investigative work and sometimes because of their activities to defend and promote economic

and social rights. A human rights defender in Katanga, Hubert Tshiswaka, received numerous death threats in March-April 2006, following a press release published on 11 March 2006 by his NGO. The press release recommended not voting for politicians and alleged criminals reportedly involved in the illegal exploitation of natural resources. A journalist with *Radio Communautaire du Katanga (RCK)* was allegedly threatened by the Authorities of Likasi – 100 km north-west of Lubumbashi – for airing a programme in which he criticised local authorities for ignoring the illegal exploitation of natural resources in the area.

80. Given the high incidence of death threats and intimidation against human rights activists and journalists in Katanga, the Division contacted local authorities in Lubumbashi so as to they take necessary measures to guarantee freedom of expression and security of the victims of these threats. The HRD received assurances by the Prosecutor of Lubumbashi and the Ministry of Justice that an investigation into these incidents would be opened and that those responsible for issuing the threats would be identified and sentenced.

81. Similar steps were undertaken in relation to the case of a MIBA Trade Union representative in Mbuji Mayi. On 5 May 2006, the victim co-signed a letter denouncing working conditions at MIBA and demanding the change of the administration of the mine. After this he was abducted, and subjected to cruel, inhuman and degrading treatment by unidentified people, which required him to be hospitalised. On 13 May, after having filed a complaint to the Prosecutor's Office, the victim was intimidated and ill-treated by ANR agents who wanted him to confess that his abduction was a set-up. The HRD raised the case with the local ANR office and the Administrator General of the ANR. The letter, to date, has not provoked any reaction.

82. In certain cases, MONUC facilitated transport of individuals to safe places. A member of the family of a murder victim, possibly victim of a summary execution in November 2005, was cited in a report of a Kinshasa-based NGO as a witness to the killing. Following the publication of this report, the individual received a number of threats from known and unknown sources and sought protection by MONUC. The victim was accorded physical protection for such time that it was deemed secure for him to return to normal life. In March 2006, MONUC gave temporary shelter to a witness of the International Criminal Court (ICC) after the witness in a case currently under investigation by the ICC had received credible threats against his life. Such assistance is provided according to Article 17(8) of the Memorandum of Understanding between the United Nations and the ICC.

## Promotion of Human Rights

83. During the period under review, the HRD intensified its efforts in capacity building and promotion of human rights among civil society activists, journalists, political actors, judicial authorities, and PNC and FARDC officers. A total of 1,000 PNC officers benefited from several training sessions on the role of the police in providing security during elections organised by UNPOL in March 2006. Discussions focused on the use of firearms during demonstrations, arbitrary arrests and torture. About 50 Judicial Police Officers (OPJ) participated in the training session on procedures of arrest and detention and the prohibition of torture. Other topics covered in this training sessions included the principle of proportionality in using firearms, and the usage of tear-gas, water cannons and batons when dispersing crowds.

84. HRD field offices organised and participated in trainings, presentations and seminars on human rights covering a large number of issues, including sexual violence, civil liberties, protection of civilians, international human rights instruments, arbitrary arrests and illegal detention, unjustified use of force and firearms, the role of women in the electoral process and methods of investigation. The beneficiaries of these activities included representatives of human rights NGOs and political parties, journalists, police and military officers, local leaders and civilian and military administrative authorities.



*An awareness campaign on sexual violence is one of the priorities of the HRD*

85. Field offices in Kindu, Kalemie, Kananga, Goma, Bukavu and Beni organised seminars on sexual violence, the psychological, physical and social consequences of these acts of violence and methods of interviewing victims. In Bukavu, a special seminar was organised on social issues of sexual violence, namely the rejection and discrimination against children born as a result of rape, and the reintegration of victims of rape.

86. A number of round table discussions on public freedoms were organised by human rights offices in Gbadolite, Mbuji Mayi, Bunia, Mahagi, Lubumbashi and Kananga. Major attention was paid to the rights and obligations of citizens and political parties, civil liberties, use of firearms by security forces during demonstrations and the role of women in the electoral process. In Bukavu, a special seminar for young people on their role in the electoral process was conducted.

87. In Uvira and Mbuji Mayi, human rights offices held special awareness-raising sessions for the police to prevent the use of torture during interrogations, its psychosocial and physical consequences for victims, and national and international legal instruments in this field.

88. Judicial Police Officers from Bunia, Kalemie, Mbandaka, Beni, Bukavu, Kindu and Mbuji Mayi benefited from seminars and presentations on arbitrary arrest and illegal detention, criminal investigations and methods of interrogation organised by the HRD.

89. Civilian and military lawyers and magistrates participated in training sessions, conducted by the HRD field offices in Kisangani, Goma, Kalemie and Kindu, on the fight against impunity and on national and international instruments for the protection of human rights.

90. On International Women's Day, 8 March 2006, several field offices made presentations on the role of women in decision-making and in the electoral process. For example, in Kananga, Kinshasa and Mbandaka, human rights officers participated in peaceful demonstrations, sports activities and dances in order to commemorate the day.

## VII. List of acronyms

|                  |   |
|------------------|---|
| <b>ACR</b>       | Congolese Information Agency ( <i>Agence Congolaise de Renseignements</i> )   |
| <b>ADF-NALU</b>  | Allied Democratic Force- National Army of Liberation of Uganda ( <i>Forces alliées démocratiques- Armée nationale de libération d'Ouganda</i> ) |
| <b>AFDL</b>      | Alliance of democratic liberation forces ( <i>Alliance des forces démocratique pour la libération</i> )   |
| <b>ANC</b>       | National Congolese Army ( <i>Armée nationale du Congo</i> )   |
| <b>ANR</b>       | National Intelligence Agency ( <i>Agence National de Renseignements</i> )   |
| <b>APC</b>       | Congolese Popular Army ( <i>Armée Populaire Congolaise</i> )  |
| <b>BCRS</b>      | Police station ( <i>Bureau central des renseignements spéciaux</i> )  |
| <b>BSI</b>       | Special intelligence Bureau ( <i>Bureau d'intelligence spécial</i> )  |
| <b>CAAG</b>      | Children Formerly Associated with Armed Groups  |
| <b>CEI</b>       | Independent Electoral Commission ( <i>Commission Electorale Indépendante</i> )  |
| <b>CIVPOL</b>    | MONUC Civilian Police   |
| <b>CONADER</b>   | National Commission for Demobilisation and Reinsertion ( <i>Commission nationale pour la démobilisation et la réinsertion</i> )                 |
| <b>CPRK</b>      | Kinshasa's main prison ( <i>Centre pénitentiaire et de rééducation de Kinshasa</i> )  |
| <b>DDR</b>       | Disarmament, demobilization and reintegration   |
| <b>DDRRR</b>     | Disarmament, demobilization, repatriation, reintegration, reinsertion   |
| <b>DEMIAP</b>    | Office of Military Detection of Antipatriotic Activities ( <i>Détection Militaire Anti-patrie</i> )   |
| <b>DGM</b>       | General migration division ( <i>Direction Générale de Migration</i> )   |
| <b>DRC</b>       | Democratic Republic of Congo  |
| <b>DSR</b>       | Intelligence and Security Service ( <i>Département de Sécurité et Renseignements</i> )  |
| <b>FAC</b>       | Congolese Armed Forces ( <i>Forces Armées Congolaise</i> )  |
| <b>FAZ</b>       | Zairian Armed Forces ( <i>Forces Armées Zaïrois</i> )   |
| <b>FAPC</b>      | Congolese People's Armed Forces ( <i>Forces Armée du Peuple Congolais</i> )   |
| <b>FARDC</b>     | Armed Forces of the DRC( <i>Forces Armées de la RDC</i> )   |
| <b>FDD</b>       | Forces for the Defense of Democracy ( <i>Forces pour la Défense de la Démocratie</i> )  |
| <b>FDLR</b>      | Democratic Liberation Forces of Rwanda ( <i>Force Démocratique de Libération du Rwanda</i> )  |
| <b>FDLR/FOCA</b> | Liberation Forces of Rwanda/ Abacunguzi Armed Forces ( <i>Force de Libération du Rwanda/ Forces combattantes Abacunguzi</i> )                   |
| <b>FDP</b>       | Democratic Front for Progress (Front Démocrate pour le Progrès)   |
| <b>FNI</b>       | Integrational Nationalistic Front ( <i>Front Nationaliste Integrationaliste</i> )   |
| <b>FNL</b>       | National Liberation Front ( <i>Front national de libération</i> )   |
| <b>FRPI</b>      | Ituri Patriotic Resistance Front ( <i>Front de Résistance Partiotique de l'Ituri</i> )  |
| <b>GR</b>        | <i>Garde républicaine (ex-GSSP)</i> Special Presidential Security Guard   |
| <b>GSSP</b>      | Special Presidential Security Guard ( <i>Garde Spéciale pour la Sécurité Présidentielle</i> )   |
| <b>HRD</b>       | MONUC Human Rights Division   |
| <b>ICC</b>       | International Criminal Court  |
| <b>IDP</b>       | Internally displaced persons  |
| <b>IPK</b>       | Inspection de la Police a Kinshasa  |
| <b>MIBA</b>      | <i>Societe Minière de Bakwanga</i>  |
| <b>MILOBS</b>    | Military Observers  |
| <b>MLC</b>       | Congolese Liberation Movement ( <i>Mouvement de Libération du Congo</i> )   |
| <b>MPC</b>       | Congolese Patriotic Movement ( <i>Mouvement Patriotique Congolais</i> )   |
| <b>MR</b>        | Military Region   |
| <b>MRC</b>       | Movement Révolutionnaire Congolaise   |
| <b>NGO</b>       | Non Governmental Organization   |
| <b>OCHA</b>      | Office for the Coordination of Humanitarian Affairs   |
| <b>OHCHR</b>     | Office of the High Commissioner for Human Rights  |
| <b>OPJ</b>       | Judiciary Police Officer ( <i>Officier de Police Judiciaire</i> )   |
| <b>PALU</b>      | <i>Parti Lumumbiste</i>   |
| <b>PIR</b>       | Rapid Intervention Police ( <i>Police d'Intervention Rapide</i> )   |
| <b>PNC</b>       | Congolese National Police ( <i>Police National Congolaise</i> )   |

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|--------------|--|
| <b>PPRD</b>  | People's Party for Reconstruction and Democracy ( <i>Parti du Peuple pour le Reconstruction et la Démocratie</i> ) |
| <b>PUSIC</b> | Party for Unity and Safeguarding of the Integrity of Congo   |
| <b>QUIPS</b> | Quick Impact Projects  |
| <b>RCD/G</b> | Congolese Rally for Democracy /Goma ( <i>Rassemblement congolais pour la Démocratie/Goma</i> )                     |
| <b>RVA</b>   | <i>Régie des voies aériennes</i>   |
| <b>SIU</b>   | Special Investigations Unit  |
| <b>SRSG</b>  | Special Representative of the Secretary-General  |
| <b>SONK</b>  | Special Operation in North Kivu (A MONUC investigation team)   |
| <b>TRC</b>   | Truth and Reconciliation Commission  |
| <b>UDPS</b>  | Union for Democracy and Social Progress ( <i>Union pour la démocratie et le progrès social</i> )                   |
| <b>UNDP</b>  | United Nations Development Programme   |
| <b>UPC</b>   | Union of Congolese Patriots ( <i>Union des Patriotes congolais</i> )   |
| <b>UPC/L</b> | Union of Congolese Patriots ( <i>Union des Patriotes congolais</i> )/ Lubanga                                      |