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**UNITED NATIONS
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BACKGROUND PAPER ON

REFUGEES AND ASYLUM SEEKERS FROM THE

DEMOCRATIC REPUBLIC OF THE CONGO

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1. Background Information

The Democratic Republic of the Congo (DRC), formerly Zaire, covers an area of 2,344,885 square kilometers and is bordered by the Republic of the Congo to the North-West, the Central African Republic and Sudan to the North, Uganda, Rwanda, Burundi and Tanzania to the East, Zambia and Angola to the South. The United Nations Population Division estimates the population to be 37,405,000 in 1990, rising to 45,453,000 in 1995, 46,812,000 in 1996, and to 48,040,000 in 1997.

The DRC's population comprises numerous ethnic groups, which the external boundaries separate. The *Kongo* people are divided between the DRC, the Republic of the Congo, and Angola; the *Zande* between the DRC and Sudan; the *Chokwe* between the DRC and Angola; the *Bemba* between the DRC and Zambia; and the *Alur* between the DRC and Uganda.

French is the official language. The majority of the population speaks Bantu languages, of which there is a great diversity. Kiswahili, Kiluba, Kikongo, and Lingala are the most widespread. In the North of the DRC Sudanese dialects are spoken.¹

Institutions of the State and Government

The Alliance des Forces Démocratiques pour la Libération du Congo (AFDL)² renamed the country the Democratic Republic of the Congo (DRC) and Laurent Désiré Kabila proclaimed himself president on 17 May 1997. He then signed a constitutional decree, which is to remain in force until the adoption of a new constitution, abrogating all previous constitutional dispositions and establishing the state structure. In addition to the presidential powers, the decree accorded President Kabila legislative and executive power as well as control over the armed forces and the treasury. In March 1998, the Constitutional Commission appointed by the President presented a draft constitution, which could not be approved due to the ongoing conflict.

In March 1999, President Kabila introduced the 'Comités du Pouvoir Populaires' (CPP)³ as a new form of political structure. In April 1999, he dissolved the AFDL. Elections for CPP officials were called in late-January 2000 by the CPP's secretary-general, Raphael Ghenda. It remained unclear who was eligible to stand as a candidate or what types of structures the candidates were being elected to.

In the areas controlled by anti-government forces, the rebel movements established civil administrations, appointing provincial governors and local officials. Rebel authorities reportedly began training police forces.

¹ Europa Publications, *Africa: South of the Sahara*, 2000, pp. 349.

² Alliance of Democratic Forces for the Liberation of Congo-Zaire.

³ People's Power Committees.

2. Major Political Developments in DRC Since 1998

On 2 August 1998, a new armed movement in the East of the DRC, calling itself the Rassemblement Congolais pour la Démocratie (RCD),⁴ announced the beginning of another ‘movement of liberation’ this time against President Laurent Désiré Kabila. President Kabila and his AFDL took power only in May 1997, following a *Tutsi*-dominated uprising originating in the North-East of the country that resulted in the ousting of the late Zairian President Mobutu Sese Seko.

The activation of the armed movement was accelerated after the decision of President Kabila, in July 1998, to expel all Rwandan soldiers serving with the Congolese army since the beginning of the rebellion against Mobutu. The decision was prompted by rumors of a planned coup d’état supported by the Rwandan soldiers.⁵

On 2 August 1998, fighting erupted in the West of the capital, Kinshasa, in barracks of the Forces Armées Congolaises (FAC)⁶ between soldiers of non-*Tutsi* and those of *Tutsi* origin, known as *Banyamulenge*.⁷ Earlier in the day, fighting had broken out between *Banyamulenge* and other Congolese soldiers in the Eastern part of the country, particularly in Goma, the capital of the North Kivu province.

In the first two weeks of the conflict, the RCD rebels, assisted by Rwandan and Ugandan forces, captured a large area comprising most of the East of the country, including Goma, Bukavu and Uvira. However, their initial attempt to take Kinshasa failed after military support to President Kabila was provided by Zimbabwe, Namibia, Angola and later Chad. On 23 August 1998, the rebels announced the capture of Kisangani, the second-largest town in the DRC, capital of the Oriental province. Since then, the conflict has moved both to the North and to the South-East, towards the mineral-rich province of Katanga, with towns and airports falling to the rebels as they advanced further into the interior of the country. On 16 October 1998, Kindu fell to the rebel alliance after a week of heavy fighting.⁸

In August 1998, the RCD announced the members of its interim government and declared Ernest Wamba dia Wamba, a professor from the province of Bas-Congo, as the head of the movement. Wamba was apparently chosen to show that the RCD is an all-inclusive and non-ethnically based political movement, and to reject Kabila’s accusations that the rebellion is orchestrated by the *Tutsi*-dominated government in Rwanda, wishing to establish *Tutsi* hegemony in the Eastern part of the DRC.⁹ Since the beginning of the hostilities, President Kabila has refused to acknowledge the RCD as a belligerent, accusing Rwanda and Uganda of aggression against the DRC. The DRC has asked the United Nations Security Council to intervene in a bid to force the withdrawal of Rwandan and Ugandan troops from the country.

⁴ Congolese Rally for Democracy.

⁵ New African, *Congo in Crisis*, October 1998.

⁶ The Congolese Armed Forces replaced the Forces Armées Zairoises (FAZ), the Zairian Armed Forces of President Mobutu, after Kabila rose to power in May 1997.

⁷ Literally those from Mulenge. The designation is usually referred to the *Tutsi* of South Kivu, but it is now often extended to include the *Tutsi* of both Kivus.

⁸ International Crisis Group, *Africa’s Seven Nation War*, 21 May 1999.

⁹ Economist Intelligence Unit (EIU), *Country Report*, 4th Quarter 1998.

A second rebel movement, the Mouvement pour la Libération du Congo (MLC),¹⁰ led by a Congolese businessman, Jean-Pierre Benba, emerged in Equateur province in November 1998 and received strong support from the Ugandan government.¹¹

The original reasons for the conflict are not easily identifiable as they go back to the colonial era and to the events that devastated the region since the beginning of the 1990s. The new conflict is a result of the particular situation in the Eastern part of the DRC, the Kivu region, due to the ethnic composition of the population, the presence of several rebel forces grouped along ethnic lines, and the implication on the internal security of neighboring countries. While those armed groups had joined forces with the Kabila's AFDL, united by the rebellion against the Mobutu regime, they have been struggling to remain cohesive, after taking power, and to elaborate plans for the future of the country. The AFDL was not able to overcome ethnic tensions or to create national cohesion. This was particularly true in the Kivu region where fighting between ethnic *Tutsi*, *Banyamulenge* and *Banyarwanda*, and the local population resumed already in July 1997.¹²

Since taking power in May 1997, Laurent Désiré Kabila tried to free himself from the Rwandan and Ugandan influence that had helped him in his struggle against the government of Mobutu Sese Seko. In the process of consolidating his presidency, however, he went on to exclude some groups that were part of the AFDL alliance, in particular the *Banyamulenge*, and mainly appointed individuals to senior positions in the government from his home region of Katanga. He removed key Rwandan army officers, including James Kabarehe from the post of head of the FAC. Moreover, since the end of 1997, Kabila intensified contacts with different armed groups in the East of the DRC, in an attempt to achieve a military balance in his favor. These contacts have been mainly with the *Mai-Mai*,¹³ but also with guerrilla forces from Rwanda, the Forces Armées Rwandaises (ex-FAR) and the *Interahamwe* militias involved in the 1994 genocide, from Uganda, the Allied Democratic Forces (ADF), and from Burundi, the Forces pour la Défense de la Démocratie (FDD), all previously allied with former President Mobutu. These actions were seen by the governments in Rwanda and Uganda as a threat to their national security and economic interests.¹⁴

The rebel forces, comprising Congolese soldiers, Congolese *Banyamulenge*, Rwanda, Uganda and Burundi, all accused President Kabila of turning into a dictator and increasing regional instability by his support for the guerrilla groups opposed to the governments of his former allies. For the governments in Kampala and Kigali, the destruction of the rear bases of the armed movements opposed to them in North Kivu is a military and political priority. After the 1997 insurrection, the strategic interests

¹⁰ Movement for the Liberation of Congo.

¹¹ Africa Confidential, *The Wages of War*, 20 November 1998.

¹² For further information see the April 1998 UNHCR Background Paper on the Democratic Republic of the Congo, Chapter 2.4, pp.8-9.

¹³ The Mai-Mai (or Mayi-Mayi) comprises a significant militia group that cuts across various ethnic groups, spread from North to South Kivu. One of their objectives is to fight the dominance of the Tutsi Banyarwanda who had settled in North Kivu over more than a century. During the 1996-1997 insurrection against former President Mobutu, the Mai-Mai fought alongside the *Banyamulenge* in their attacks against the *Interahamwe* militias and ex-FAR. In the present conflict they side with Laurent Kabila's forces.

¹⁴ Rwandans Armed Forces (FAR); Forces for the Defense of Democracy (FDD); International Crisis Group, *North Kivu, Into the Quagmire?*, 13 August 1998.

for which the government of Rwanda had fought were not advanced and the ex-FAR and *Interahamwe* continued to carry out attacks from North Kivu against Rwanda, heading to a civil war in the North-Western prefectures of the country. Likewise, Uganda did not benefit from Laurent Kabila's victory, as rebels of the ADF stepped up attacks on Ugandan territory.¹⁵

The Government of Rwanda admitted its involvement in the conflict in the DRC in November 1998, stating that its intervention was in part to protect the *Banyamulenge* who were under threat from other ethnic groups. However, according to analysts, the *Banyamulenge* are more an instrument of the revolt than initiator.¹⁶ Their participation in the AFDL rebellion against former President Mobutu did not significantly improve their standing within the DRC. Their disputed nationality and strained relations with other ethnic groups has contributed to a deep feeling of insecurity. The political ambitions of their leaders remain far from satisfied, while relations with their former Rwandan allies have deteriorated significantly during the conflict. The *Banyamulenge* believe that the Rwandans only used them as a pretext for their intervention in the DRC and claim that their association with Rwanda is isolating them from other Congolese.¹⁷

In addition to security and military considerations, control over the exploitation of Kivu's considerable economic potential constitutes a recurrent objective for both Rwanda and Uganda, but also for the other players in the conflict. The DRC's vast natural resources are being used to finance both coalitions, to develop the economies of the external players in the conflict and to increase the personal wealth of many.¹⁸

The anti-*Tutsi* resentment fuelled by President Kabila and the increasing hostility of a large section of the Congolese population towards Rwanda and Uganda, favored the development of armed groups siding with President Kabila to fight Uganda and Rwanda, whom they accuse of planning the establishment of a '*Tutsi* empire' in the Great Lakes region.¹⁹ President Kabila's successful manipulation of nationalist sentiments has created a prevailing climate of xenophobia in the DRC. In Kinshasa, *Banyamulenge* were rounded up in the immediate aftermath of the fighting, in August 1998, at the military barracks. During the battle for Kinshasa, rebels were frequently killed or captured by civilians. Rebel forces repeatedly accused the Government of Laurent Kabila of massacring civilians, in the East of the country and in Kinshasa. In mid-August 1998, it was reported that government troops were dispatched to Kisangani prior to the rebels' arrival to eliminate local *Banyamulenge* and Rwandan *Tutsis*.²⁰ In addition, surviving witnesses stated that the governor of the province had urged local residents to kill *Tutsis*. There have since been increasing reports of government massacres of civilians in the East, mostly *Banyamulenge*. The rebels in turn, have also been accused of perpetrating massacres in areas under their control.²¹

¹⁵ International Institute for Strategic Studies, *Peace in the Congo*, Strategic Comments, Vol. 5, No. 7, 14 September 1999.

¹⁶ International Crisis Group, *Africa's Seven Nation War*, 21 May 1999.

¹⁷ *Ibid.*, *Congo at War: A Briefing on the Internal and External Players in the Central African Conflict*, 17 November 1998.

¹⁸ Le Monde Diplomatique, *Carve-Up in the Congo*, October 1999.

¹⁹ International Crisis Group, *North Kivu: Into the Quagmire?*, 13 August 1998.

²⁰ Amnesty International, *War Against Unarmed Civilians*, 23 November 1998.

²¹ EIU, *Country Report*, 4th Quarter 1998.

Throughout November and December 1998, RCD forces and their allies made steady gains in the Eastern and South-Eastern parts of the DRC, continuing their southward push along Lake Tanganyika. In the spring of 1999, the rebels seemed to be making some progress in their march towards Mbuji-Mayi, the diamond-rich centre in Kasai province and a major strategic focal point in the conflict. The rebels maintained that their ultimate goal was still to conquer the whole country. Confidence in their military strength was reflected in their refusal to enter into negotiations with President Kabila. Despite its apparent self-confidence, the rebels also suffered some political setbacks. The rebel alliance showed increasing signs of internal discord, with increased irritation within the RCD and between the RCD and the MLC.²²

At the end of January 1999, discontent among non-*Tutsi* Congolese members in the RCD grew in response to a number of posts attributed in the movement to *Banyamulenge* members. In May 1999, General Emile Ilunga, a former head of military intelligence under Mobutu Sese Seko, from Kasai province, was appointed the new president of the RCD. Ernest Wamba dia Wamba was ousted as head of the group but refused to step down and established his headquarters in Kisangani with backing from Uganda. The RCD leadership split over the same point that also divides Uganda and Rwanda: Uganda wants a negotiated settlement and is ready to accept Laurent Kabila as a transitional president; Rwanda believes in a military solution. On 5 October 1999, RCD-Kisangani leader Ernest Wamba dia Wamba moved his base to Bunia and renamed his group the RCD Mouvement de Liberation (RCD-ML).²³

Ugandan President Yoweri Museveni seemed to distance himself from the rebel movements in April 1999 when he joined President Kabila for talks on a cease-fire in the Libyan town of Sirte. President Kabila said he and his Ugandan counterpart signed a peace agreement in the absence of rebel representatives. President Museveni's move seemed to indicate deteriorating relations between Uganda and Rwanda.²⁴

President Kabila continued to put efforts in strengthening his ties with the foreign powers he relies on for the survival of his government. In April 1999, he signed a collective defense pact with the presidents of Angola, Namibia, and Zimbabwe in Luanda, committing the signatories to a joint response if any one of their countries was to be attacked. The DRC President sought to strengthen his position domestically by dissolving his AFDL party, which he accused of corruption and opportunism, and by installing the so-called *Comités du Pouvoir Populaire* (CPP).²⁵

In April 1999, United Nations Secretary-General, Kofi Annan, appointed the former Senegalese foreign minister, Moustapha Niassé, as his Special Envoy for the DRC peace process. The United Nations' efforts were sustained by a Security Council resolution adopted in early 1999 calling for peace talks, free elections, and deploring the presence of foreign troops in the DRC.²⁶ The United Nations Special Rapporteur

²² EIU, *Country Report*, 1st Quarter 1999; and, European Platform for Conflict Prevention and Transformation, *DRC: Africa's Most Unsettling Battlefield*, 7 May 1999.

²³ Integrated Regional Information Network (IRIN), *DRC: Chronology of Significant Events*, 28 February 2000.

²⁴ BBC Monitoring Service, *Warring Parties in Great Lakes Reportedly Sign Peace Agreement in Libya*, 20 April 1999.

²⁵ People's Power Committee, see below Chapter 3.2; European Platform for Conflict Prevention and Transformation, *DRC: Africa's Most Unsettling Battlefield*, 7 May 1999.

²⁶ United Nation, *Security Council Resolution 1234* (1999), S/RES/1234, 9 April 1999.

on the human rights situation in the DRC categorized the conflict as an internal conflict with the participation of foreign armed forces.²⁷

On 7 June 1999, President Kabila's hometown of Manono, in Katanga province, was captured by the rebel movement. Rebel commanders stated that the town would serve as a base for the capture of Mbuji-Mayi and Lubumbashi. The claim was promptly rejected by the government.²⁸

On 23 June 1999, the DRC filed a case against Rwanda, Uganda and Burundi at the International Court of Justice for their "invasion of Congolese territory" and asked the Court to order the three countries to leave and pay compensation for looted property.²⁹

The continued fighting in the DRC has resulted in thousands of civilians killed or wounded and caused large-scale displacement of the population. Forces on both sides of the conflict have deliberately targeted civilians in violation of human rights and international humanitarian law. At the end of December 1998, RCD forces reportedly massacred an estimated 500 civilians in the Eastern town of Makobola, in an apparent reprisal against the population's alleged support for the Mai-Mai militia. Government and allied forces have also been implicated in the massacre of civilians during their counter-offensive.³⁰

In an effort to break the cycle of violence, more than a dozen summits and many ministerial consultations have dealt with the DRC since the outbreak of the hostilities. These initiatives have all failed because both sides of the conflict appear to have felt that they could win militarily. In addition, President Kabila has refused to establish a direct dialogue with the rebels insisting that the conflict was an invasion from Rwanda and Uganda, and that a withdrawal of foreign forces opposed to his government should take place prior to any negotiations. After a year of failed attempts by the Southern African Development Community (SADC), the Organization for African Unity (OAU), South Africa and other regional powers, the six countries involved in the conflict in the DRC signed the Agreement for a Cease-fire in Lusaka on 10 July 1999. The greatest challenge with respect to the conflict and its resolution is that the internal conflict in the DRC is inseparably linked with the internal problems facing the other countries involved.³¹

The main provisions of this agreement include the immediate cessation of hostilities, the establishment of a Joint Military Commission (JMC), composed of the belligerent parties to investigate cease-fire violations, to work out mechanisms to disarm the identified militias, and to monitor the withdrawal of foreign troops according to an established calendar, the deployment of a United Nations Chapter 7 peacekeeping force tasked with disarming the armed groups, collecting weapons from civilians and providing humanitarian assistance and protection to the displaced persons and

²⁷ United Nations Commission on Human Rights, *Report on the Situation of Human Rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón*, E/CN.4/1999/31, 8 February 1999.

²⁸ EIU, *Country Report*, 4th Quarter 1999.

²⁹ IRIN, *DRC: Chronology of Significant Events*, 28 February 2000.

³⁰ Current History, *The Fire in the Great Lakes*, Vol. 98, No. 628, May 1999, pp. 200.

³¹ International Crisis Group, *Africa's Seven Nation War*, 21 May 1999.

refugees, and the initiation of a Congolese National Dialogue intended to lead to a “new political dispensation in the DRC”.³²

On 1 August 1999, MLC leader, Jean-Pierre Bemba, signed the Lusaka Cease-fire Agreement. Four days later, he reported that over 500 people were killed when government-allied Sudanese planes bombed the Equateur towns of Bogbonga and Makanza.³³ The Governments of the DRC and the Sudan denied all charge.³⁴

On 31 August 1999, all 51 founding members of the RCD, covering both factions, signed the peace agreement under a compromise formula brokered by Zambia and South Africa to secure the divided rebel movement’s endorsement of the accord.³⁵

Following the signing of the cease-fire by all parties, the United Nations passed a resolution to send up to 90 military observers to the countries involved in the conflict. Military observers, who began deploying in mid-September 1999, had a three-month mandate to assess the situation on the ground and make recommendations to the United Nations Secretary-General on how to proceed with the possible deployment of a United Nations peacekeeping force. By late October 1999, the DRC was the only country that had not yet agreed to guarantee the security of the United Nations personnel, thereby blocking the deployment of a team.³⁶ The crucial point of the contention was the government’s insistence that liaison officers be deployed in the front-line, rather than in government-controlled areas, where cease-fire violations had been frequently reported. In late November 1999, the United Nations Security Council renewed a three-month mandate for the United Nations military liaison officers who were initially deployed in Boende, Lisala, Kabinda and Goma, together with several officers of the OAU.

Relations between Rwanda and Uganda, already strained since the RCD split in May 1999, continue to deteriorate. Tensions between the two countries reflect differences over the continuation of the conflict and access to Congolese resources. In Kisangani, headquarters of the Ugandan-backed RCD faction, soldiers from both countries control separate parts of the city. On 8 August 1999, the tension degenerated into open urban warfare between the two armies. The former allies fought for the control of several installations as well as of the city’s international airport, employing heavy artillery. On 17 August, Rwanda and Uganda agreed on a cease-fire.³⁷

The fighting between Uganda and Rwanda in Kisangani raised doubts that the security interests of those countries, which their intervention in the DRC was supposed to protect, are not the only motive for their involvement in the conflict. There are neither Rwandan nor Ugandan rebel groups in Kisangani that could justify the presence of the armies from these two countries. Instead, the conflict seems to be a battle for commercial influence to control diamond, gold and coffee concessions, and for political influence in the region once the hostilities are over. The fighting between

³² International Crisis Group, *The Agreement on a Cease-fire in the Democratic Republic of the Congo: An Analysis of the Agreement and Prospects for Peace*, 20 August 1999.

³³ Reuters News Service, *Congo Rebels Say Bombing Dims Peace Hopes*, 5 August 1999.

³⁴ *Ibid.*, *Sudan Denies Congo Bombing Allegation*, 6 August 1999.

³⁵ IRIN, *DRC: Chronology of Significant Events*, 28 February 2000.

³⁶ EIU, *Country Report*, 4th Quarter 1999.

³⁷ Le Monde Diplomatique, *Carve-Up in the Congo*, October 1999.

Ugandan and Rwandan forces in Kisangani also lends credibility to President Kabila's claim that those countries are aggressors, an argument the Congolese leader seized upon when he called on the United Nations Security Council to strongly condemn the violations of the cease-fire and to demand the "immediate departure" from the DRC of forces from Uganda and Rwanda.³⁸

After the clashes in Kisangani, the Governments of Rwanda and Uganda moved to improve their relation in an apparent effort to strengthen their strategic position in the DRC. The two countries worked to promote a united front among the fractious rebel movements for the upcoming national dialogue. Representatives of the two RCD factions, led by Emile Ilunga and Ernest Wamba dia Wamba, as well as the MLC, led by Jean-Pierre Bemba, met in Kabale, Uganda, from 17 to 21 December 1999, and announced that while they would not be merging as the Governments of Uganda and Rwanda had hoped, they would establish a presidential forum and joint political and military commissions.³⁹

In parallel to the DRC conflict, ethnic tensions have escalated significantly in the Eastern rebel-controlled town of Bunia since June 1999, and fighting has taken place between the *Hema* and *Lendu* communities. Tension between the two groups, which uneasily co-existed in the past, were exacerbated by alleged favoritism by Ugandan and rebel troops towards the *Hema*, particularly in regard to land distribution and competition over resources and local government. The Uganda Peoples' Defense Force (UPDF) is also reported to have supplied weapons to the *Hema*.⁴⁰ The creation by the rebels of the new Kabale-Ituri province and the appointment of a *Hema* as its governor reinforced this view, and escalating violence from the *Lendu* followed. Subsequently, Wamba dia Wamba, the leader of the RCD-ML rebel faction, replaced the governor and vice-governor with non-*Hema* or *Lendu* appointees. United Nations agencies found a catastrophic humanitarian situation in Ituri, where the *Hema-Lendu* ethnic conflict displaced over 150,000 people and resulted in an estimated 5,000-7,000 deaths since June 1999.⁴¹

On 25 January 2000, a debate on the DRC began at the United Nations Security Council in New York with the participation of leaders of the six countries involved in the conflict. The leaders reconfirmed their commitment to the Lusaka Cease-fire Agreement and called for the rapid deployment of a United Nations peacekeeping force. On 25 February 2000, the Security Council approved the United Nations Secretary-General's recommendation to increase the size of the United Nations Observer Mission in the DRC (MONUC) to 500 military observers supported by some 5,000 United Nations troops, with the provision not to deploy the force before all parties to the conflict have provided guarantees on co-operation. The Security Council resolution provided the expanded MONUC with enforcement powers under Chapter 7 of the United Nations Charter.⁴²

³⁸ International Crisis Group, *The Agreement on a Cease-fire in the Democratic Republic of the Congo: An Analysis of the Agreement and Prospects for Peace*, 20 August 1999.

³⁹ EIU, *Country Report*, 1st Quarter 2000.

⁴⁰ Ibid.

⁴¹ IRIN, *Special Report on the Ituri Clashes*, 3 March 2000.

⁴² United Nations, *Security Council Resolution 1291* (2000), 25 February 2000.

Since the signing of the Lusaka Cease-fire Agreement, pessimism has been fuelled by continued high levels of distrust on both sides of the conflict. There have been continuous claims and counter-claims of violations of the agreement, including military attacks, territorial advances and troop deployments, making the commitment to a resolution of the conflict by both parties more and more questionable. A further complicating problem is the position of the various armed groups, which are not signatories to the accord but which are to be disarmed, including the *Interahamwe* militia and remnants of the former Rwandan army, involved in the Rwandan genocide in 1994. These groups are closely allied with President Kabila's army and it is doubtful that either he or his allies are willing or capable of disarming them.

In the first quarter of the year, cease-fire violations by all parties continued to be reported with particularly heavy fighting concentrated in Equateur province, where Congolese troops and their allies were involved in frequent confrontations with the MLC and Ugandan troops. In November 1999, the MLC made steady gains in the province, capturing Boende and later Basankusu, while government troops were reportedly advancing north from Ikela towards Kisangani.⁴³ Clashes continued also around Mbuji-Mayi, between Rwandan-backed RCD and Zimbabwean troops. At the end of March 2000, fighting between RCD rebels and Mai-Mai militia were reported in South Kivu, displacing thousands more people.⁴⁴

The Government of the DRC, despite its claims that it abides by the cease-fire and only acted defensively, would appear to bear much of the responsibility for the recent fighting, having launched a large offensive against rebel positions in Equateur province. Serious fighting was also reported in Kasai province. However, rebel forces too have been active in seeking opportunities to acquire new territory.⁴⁵

On 8 April 2000, the Joint Military Commission (JMC) charged with implementing the Lusaka peace agreement and the Political Committee overseeing it announced, in Kampala, Uganda, a plan for the total cessation of hostilities, the disengagement of belligerent forces from their current confrontation line to establish a security corridor, and the redeployment of forces. The new cease-fire has come into force on 14 April 2000 and according to MONUC's assessment it is generally observed. However, Acting JMC Chairman, Brigadier-General Timothy Kazembe of Zambia, said foreign troops would not be withdrawn before full deployment of the MONUC forces.⁴⁶

On 12 April 2000, the United Nations Security Council agreed to send a special mission to the DRC to discuss with the signatories of the Lusaka Cease-fire Agreement ways of bringing peace to the region. Under-Secretary-General for Peacekeeping Operations, Bernard Miyet, told the Council that the Kampala disengagement plan made the full phase-two deployment by the United Nations more urgent.

⁴³ EIU, *Country Report*, 1st Quarter 2000.

⁴⁴ Oxford Analytica, *Cease-fire Setbacks*, 22 March 2000.

⁴⁵ EIU, *Country Report*, 1st Quarter 2000.

⁴⁶ IRIN, *Great Lakes Update*, 10 April 2000; and, *Ibid.*, *Great Lakes Update*, 19 April 2000.

Preparations for the Congolese National Dialogue, provided for in the Lusaka Cease-fire Agreement, are also being made. In the provision of the Lusaka Agreement, the DRC government, the RCD, the MLC, unarmed opposition groups and Congolese civil society are to begin open political negotiations that should result in a new political dispensation in the DRC. The negotiations will be held under the authority of a neutral facilitator, former President of Botswana, Sir Ketumile Masire. Issues to be agreed upon range from the holding of democratic elections, the formation of the national army and the re-establishment of state administration throughout the DRC.

Persistent differences between Rwandan and Ugandan forces in the Eastern DRC town of Kisangani have led to an increased militarisation of the town with both sides and the rebel factions they support strengthening their zones of control, in the event of potential armed confrontation.

3. Review of the General Human Rights Situation

3.1 The International Legal Framework

The United Nations Commission on Human Rights decided, on 18 April 2000, to extend the mandate of the Special Rapporteur on the situation of human rights in the DRC for another year. It also recalled the decision taken during the last year Commission on Human Rights to request the Special Rapporteurs on the DRC and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to carry out a joint mission, and regretted that the security situation did not allow such a mission.⁴⁷ The Commission on Human Rights also expressed its concern at the preoccupying situation of human rights and at the continuing violations of human rights and international humanitarian law throughout the territory of the DRC, and urged all parties to the conflict to implement the Lusaka Cease-fire Agreement, to protect human rights and to respect international humanitarian law.⁴⁸

⁴⁷ United Nations Commission on Human Rights, *Situation of Human Rights in the Democratic Republic of the Congo*, E/CN.4/2000/L.15, 10 April 2000.

⁴⁸ *Ibid.*

The Democratic Republic of the Congo is a state party to the following international instruments:

Convention	Date of Ratification (R), Succession (S) or Accession (A)
Convention on the Prevention and Punishment of the Crime of Genocide (1948)	31 May 1962 (S)
Convention Relating to the Status of Refugee (1951)	19 July 1965 (A)
Protocol to the Convention Relating to the Status of Refugees (1967)	13 Jan 1975 (A)
Convention on the Political Rights of Women (1952)	15 Oct 1962 (R)
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956)	28 Feb 1975 (A)
International Convention on the Elimination of All Forms of Racial Discrimination (1965)	11 Jul 1988 (A)
International Covenant on Civil and Political Rights (1966)	05 Oct 1983 (A)
Protocol to the International Covenant on Civil and Optional Political Rights (1966)	05 Oct 1983 (A)
International Covenant on Economic, Social and Cultural Rights (1966)	05 Oct 1983 (A)
International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)	05 Oct 1983 (A)
Convention on the Elimination of All Forms of Discrimination Against Women (1979)	26 Jul 1982 (R)
Convention on the Rights of the Child (1989)	14 Oct 1993 (A)
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	18 Mar 1996 (A)

Source: UNHCR REF WORLD, July 1999

The Democratic Republic of the Congo is not a state party to the following international instruments:

- Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (1968)
- Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty (1989)

The Democratic Republic of the Congo is also a state party to the following regional instruments:

- Charter of the Organization of African Unity (1963), ratified on 13 September 1963
- Convention Governing the Specific Aspects of Refugee Problems in Africa (1969), ratified on 14 February 1973
- African Charter on Human and People's Rights (1981), ratified on 20 July 1987

3.2 The National Legislative Context

Upon assuming power, President Kabila promulgated a constitutional decree, which abrogated all previous constitutional dispositions and is to remain in force until the adoption of a new constitution. Prior to the outbreak of the present conflict in August 1998, the government had been in the process of selecting members of the Constituent Legislative Assembly, whose initial mandate was to examine the draft constitution, which was drawn up by a Constitutional Commission appointed in October 1997. However, the Assembly was unable to convene due to the conflict. In its place, President Kabila appointed an Institutional Reform Commission consisting of 12 members and a chairman and operating under his authority.⁴⁹

The draft constitution, presented by the Constitutional Commission, provides for a once-renewable, five-year presidency. The president is to be answerable to a bi-cameral parliament with a Senate and a Chamber of Representatives. It also provides for the president having wider powers, a vice-president and no prime minister. The draft also contains restrictions on who can be a candidate for president.

In accordance with the draft constitution, President Kabila announced presidential and legislative elections to be held in April 1999. In mid-September 1998, after the outbreak of the hostilities, the Government announced its intention to proceed with a national census in preparation for the national elections. However, President Kabila stated that the holding of elections would be conditional upon the cessation of all hostilities.

In March 1999, President Kabila introduced the *Comités du Pouvoir Populaires* (CPP) a grass-roots political structure purportedly intended to transfer power to the people. Elections of CPP officials were called in late-January 2000 and they now exist in the capital and in the provinces under government control.

In January 1999, President Kabila had lifted the ban on political party⁵⁰ activity, replacing it with an obstructive law regulating political activity, which dissolves all existing parties and requires a large number of requisites in order to receive official authorization.

The Lusaka Cease-fire Agreement, signed in July 1999, provides for a national dialogue between the country's armed and unarmed political opposition and the government, giving an opportunity to resume the democratization process.

⁴⁹ EIU, *Country Report*, 4th Quarter 1998.

⁵⁰ For an overview of political parties in the DRC see April 1998 UNHCR Background Paper on the Democratic Republic of the Congo, Chapter 2.5, pp.10-13.

The Judicial System

The judicial system remains incapable of protecting the citizens from the actions of the security agencies and to guarantee the exercise of basic freedoms protected under Congolese law and international human rights conventions to which the DRC has subscribed.⁵¹ The judiciary remains subject to executive influence and continues to suffer from a lack of resources, inefficiency, and corruption. It is largely ineffective as either a deterrent to human rights abuses or as a corrective force.⁵²

The Transitional Act of the Mobutu Government and President Kabila's Decree Law No. 3 provide for the independence of the judiciary. In practice, however, the judiciary has never been independent of the executive branch. The President can appoint and dismiss magistrates, judges and the public prosecutor. The Kabila administration to date has not established mechanisms to ensure the independence of the judiciary; a judicial reform decree, reportedly awaiting presidential approval since 1997, still has not been promulgated.⁵³

The judiciary, including lower courts, appeal courts, the Supreme Court, and the Court of State Security, is largely dysfunctional. The Court of Military Order (COM), established in 1997 originally to improve discipline within the army, increasingly sentences civilians on questionable political and security convictions. In its two years of existence, the Court has ordered the execution of 250 persons, without any possibility of appeal.⁵⁴

3.3 Respect for Human Rights

The United Nations Commission on Human Rights maintained its efforts to positively influence human rights developments on the ground. Roberto Garretón, the United Nations Special Rapporteur for the DRC, returned to the country in February and again in August 1999 at the invitation of President Kabila. He had been barred from doing so since March 1997, after implicating forces of then rebel leader Laurent Kabila and his allies of the Rwandan Patriotic Army in the massacre of thousands of *Hutu* refugees during the insurrection against former President Mobutu. The report led to the establishment of the United Nations Secretary-General Investigative Team (SGIT) to look into the massacres, but the team was withdrawn prematurely in April 1998 after government obstacles made it impossible to complete the investigation. The team recommended further investigation by an independent body to identify those responsible. The United Nations Security Council subsequently requested the Government of the DRC and Rwanda to investigate the crimes and bring the perpetrators to justice. Both governments to date have failed to do so.⁵⁵

⁵¹ Human Rights Watch, *World Report*, 2000.

⁵² USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000.

⁵³ *Ibid.*, Section 1.e.

⁵⁴ Human Rights Watch, *World Report*, 2000.

⁵⁵ Human Rights Watch, *HRW Condemns Security Council's Inaction in Face of Evidence of Crimes Against Humanity in the DRC*, 14 July 1998; and, Amnesty International, *UN Security Council Shamefully Abandons Victims in Democratic Republic of the Congo*, 15 July 1998.

During his second visit the Special Rapporteur met President Kabila who agreed that the investigation could proceed when the security situation allowed, and promised his country's cooperation. The president also promised to investigate reports of rampant arbitrary detention and abuse of detainees that the Special Rapporteur raised. Despite concrete steps that the government took during the year to resume its cooperation with the United Nations and to engage leading international human rights organizations in dialogue, this failed to be translated into tangible human rights improvements.

In Kinshasa the Special Rapporteur visited several prisons as well as camps holding Congolese *Tutsi* detainees and met with members of the government, the opposition and civil society groups. At the end of his visit, the Special Rapporteur confirmed that he had been able to work independently and noted that prison conditions had improved substantially since he last visited the country in 1997. Mr. Garretón traveled on both occasions to areas controlled by the main rebel faction. In February 1999, he described as a situation of fear under which the population lived in Eastern DRC due to wide-scale violations of humanitarian law by the rebels and their allies and by irregular militia opposed to them. The Special Rapporteur secured the rebels' agreement to allow a delegation of the Office of the United Nations High Commissioner for Human Rights to operate in Goma.⁵⁶

After the overthrow of the Mobutu Government, hope among the Congolese population and the international community that a democratic and well functioning government would be installed in DRC was widespread. Instead, President Kabila restricted political rights, banned all political activities, except for those of the AFDL, and failed to install efficient administrative institutions.⁵⁷ According to Human Rights Watch "the government's attempts to intimidate the political opposition, the free press and the country's dynamic civil society and human rights movements led to severe restrictions on the freedoms of expression and association."⁵⁸

The country's main human rights organization, the African Association for the Defense of Human Rights in Congo/Kinshasa (ASADHO), described the human rights situation in 1999 as 'deplorable', stating that both the rebels and Kabila were responsible for the situation. The Special Rapporteur for the DRC, said a 'climate of hatred' persisted in the DRC during 1999, where most victims of the conflict are civilians and denounced severe human rights abuses against the civilian population by both government and rebel forces.⁵⁹ The New York Times observed recently that the Government of President Kabila, after promising reforms, openness and elections, has turned into a repressive rule that has tolerated little or no political opposition, jailed journalists and failed to respect basic human rights.⁶⁰

⁵⁶ United Nations Commission on Human Rights, *Report on the Situation of Human Rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón*, E/CN.4/2000/42, 18 January 2000.

⁵⁷ European Platform for Conflict Prevention and Transformation, *DRC: Africa's Most Unsettling Battlefield*, 7 May 1999.

⁵⁸ Human Rights Watch, *World Report*, 2000.

⁵⁹ United Nations Commission on Human Rights, *Report on the Situation of Human Rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón*, E/CN.4/2000/42, 18 January 2000.

⁶⁰ The New York Times, *Chaos in Congo*, 6 February 2000.

Amnesty International criticizes both the rebels and the government. Reported abuses include extrajudicial executions and other deliberate and arbitrary killings, mutilations, disappearances, arbitrary arrests, detention of prisoners of conscience, torture, including rape, and other forms of cruel, inhuman or degrading treatment or punishment. Condemning the government as repressive, the organization states that the human rights situation deteriorated since Laurent Kabila came to power. Political activists, journalists, human rights defenders and trade unionists all work under the threat of intimidation, harassment, arrest or torture. Concerns have been raised about various state security institutions which have sweeping powers of arrest and detention, in particular the Agence Nationale de Renseignement (ANR), the national intelligence agency, and the Detection Militaire des Activités Anti-Patrie (Demiap), the security service which is part of the armed forces. Both the ANR and Demiap fall directly under presidential jurisdiction and detainees have little recourse to the law.⁶¹ Amnesty International notes widespread human rights abuses in rebel-held territories too, and condemned both factions of the RCD and their supporters, as well as the Mai-Mai militias who are fighting alongside government forces, for systematic abuses against civilians.⁶²

The U.S. Department of State in its 1999 Country Report on Human Rights Practices states that “the DRC human rights record remained poor during 1999. Citizens do not have the right to change their government peacefully. Security forces were responsible, in general with impunity, for numerous extrajudicial killings, disappearances, torture, beatings, rape, and other abuses. Prison conditions remained harsh and life threatening. Security forces increasingly used arbitrary arrest and detention throughout the year. Security forces violated citizens’ rights to privacy. Forcible conscription of adults and children continued.” With reference to rebel-controlled areas, the report continues stating “anti-government forces, in particular Rwandan army and RCD-Goma units, committed serious abuses against civilians living in territories under their control, including deliberate large-scale killings, disappearances, torture, rape, extortion, robbery, arbitrary arrests and detention, harassment of human rights workers and journalists, and forcible recruitment of child soldiers. Rebel organizations severely restricted freedom of speech, assembly and association in areas they held. There were also many deaths due to interethnic mob violence in areas held by antigovernment forces.”⁶³

Forcible conscription has been carried out by the RCD, the FAC and the RPA, with many of the persons forced to enlist being children. Rwandans *Hutu* refugees have reportedly also been recruited from several camps in the region to join the FAC exacerbating ethnic tensions in the region. Throughout August and September 1998, the RPA recruitment drive increased. Numerous trucks of RPA soldiers were seen crossing daily into the DRC. Many Rwandans have volunteered to join the RPA and fight in the DRC; however, others have been forced to do so. In various regions, including in the Rwandan capital Kigali, there have been large-scale round-ups in the streets, during which men and youth have been picked up and forced to undergo military training.⁶⁴

⁶¹ Amnesty International, *Government Terrorises Critics*, 10 January 2000

⁶² *Ibid.*, *Massacres of Civilians Continue Unabated in the East*, 17 January 2000.

⁶³ USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000.

⁶⁴ Amnesty International, *War Against Unarmed Civilians*, 23 November 1998.

Political Dissidents

At the end of January 1999, the government nominally lifted the total ban on political party activity, strictly enforced since May 1997, by promulgating a new law. The new law essentially dissolves all existing political parties, which were estimated to number around 400 and requires anyone wishing to form a political party to follow a copious registration process. Among the many requirements, parties must prove that they have 150 founding members, and that each of the 11 provinces is represented by between ten and 15 members resident in those areas. In addition, each founding member must provide proof that he is not guilty of having committed any political or economic crimes since the country became independent in 1960. Finally, groups wishing to become a political party must pay a non-refundable fee of FC30,000 (\$10,000) to the government. Until a group's application has been approved, engaging in political activity is prohibited.⁶⁵

Opposition parties rejected the law on the grounds of its failure to recognize pre-existing parties and the restrictive conditions set to establish new ones. They also object to the fact that the law was formulated unilaterally by the government, without consulting the political and non-governmental groups already in existence. Many have wondered how any political party could prove that it has founding members from all of the country's 11 provinces given that a large part of the country is under rebel occupation.

In March 1999, President Kabila introduced the *Comités du Pouvoir Populaires* (CPP) as a new form of political structure. According to the president, the CPPs, elected by local residents, will allow all Congolese to participate in politics and are a natural transfer of power from the ruling AFDL to the people.⁶⁶

Elections of CPP officials were abruptly called in late-January 2000 by the CPP's secretary-general, the former minister of information, Raphael Ghenda. Few people understood the purpose of the elections and voter turn-out was extremely low. It remains unclear who was eligible to stand as a candidate or what types of structures the candidates were being elected to, and there have been several public protests that the so-called elections were not conducted in a transparent manner. According to Mr. Ghenda, however, the representatives of the CPPs will eventually form a new national parliament and rejected suggestions that they were intended to form of one-party state.⁶⁷ According to the U.S. Department of State, the CPPs during the year engaged in monitoring public expressions, as well as association and movement, in residential areas, workplaces, and schools, and reported critical comments on the government to security forces.⁶⁸

During 1998 and 1999, opposition politicians, human rights activists and journalists continue to be harassed by the government and are frequently subject to arbitrary arrest and detention.

⁶⁵ EIU, *Country Report*, 1st Quarter 1999.

⁶⁶ Ibid.

⁶⁷ Ibid., 1st Quarter 2000.

⁶⁸ USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000, Section 2.a.

Etienne Tshisekedi, leader of the main opposition party, Union pour la Démocratie et le Progrès Social (UDPS), was arrested in Kinshasa in February 1998 and banished without charge to Kabeya-Kamwanga village, Kasai-Oriental province, where soldiers were deployed to prevent him from leaving. The restriction was lifted in June 1998. Many UDPS members were arrested during the same year and some of them were severely beaten in custody.⁶⁹ In the wake of the promulgation of the new law on political activity, several leaders of the UDPS were arrested and detained for several days, including the party's secretary-general, Marcel Phongo. The UDPS spokesperson, Joseph Kapika, was arrested in early February 1999, following his criticism of the law on political parties and his case was later referred to the Military Order Court on unspecified charges. In May 1999, fifteen UDPS members arrested during a gathering of their party were made to undress at the police station and were whipped.⁷⁰

Activists of the opposition Parti Lumumbiste Unifié (PALU), headed by the veteran opposition leader Antoine Gizenga, have been particularly vulnerable to arbitrary arrests, and since the start of 1999, a total of 95 members have been arrested and still remain in detention. In October 1999, Sangu Mutembi, a member of PALU, died in prison after two months of detention. Mutembi was never officially charged with any crime and was denied the right to a trial.⁷¹

Human Rights Watch maintains that activists from PALU and UDPS continue to be detained; others who were freed, reported that they were subjected to daily whippings and other forms of cruel, inhuman or degrading treatment and torture.⁷²

In rebel-controlled areas, dissenting voices were silenced by seeking to intimidate leaders through detention, harsh and degrading treatment, and travel restrictions.⁷³

Arbitrary Arrests and Detention

Only a law enforcement officer with 'judicial police officer status' is empowered to authorize arrest.⁷⁴ This status also is vested in senior officers of the security services. Under the law, serious offenses (those punishable by more than six months' imprisonment) do not require a warrant for a suspect's arrest. The law instructs security forces to hand over detainees to the police within 24 hours. The law also provides that detainees must be charged within 24 hours and be brought within 48 hours before a magistrate, who may authorize provisional detention for varying periods. In practice these provisions are violated systematically. Security forces, especially the ANR, the national intelligence agency, and the Demiap, the security service, use arbitrary arrest to intimidate outspoken opponents and journalists.⁷⁵

⁶⁹ Amnesty International, *Annual Report*, 1999.

⁷⁰ Human Rights Watch, *World Report*, 2000.

⁷¹ EIU, *Country Report*, 4th Quarter 1999.

⁷² Human Rights Watch, *World Report*, 2000.

⁷³ Ibid.

⁷⁴ USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000, Section 1.d.

⁷⁵ Ibid.

Arbitrary arrests of cabinet ministers, opposition politicians, human rights activists, journalists and people of Rwandan and *Tutsi* origin became increasingly common during 1998 and 1999. Most of those detained are held without charge or trial, while some are tried and sentenced by the special military court, the Military Order Court, to long prison terms for their non-violent opposition to the government.⁷⁶

The Minister of Health, Jean-Baptiste Nsondji, a member of the opposition Front Patriotique (FP), was arrested in late October 1998 for criticizing the government's handling of the political liberalization process. Although he was released from detention, he remains under house arrest. The Governor of the Central Bank, Jean-Claude Masangu, was arrested on 14 January 1999. Although he was never officially charged and was reinstated in his position several days later, his arrest seemed to have been an attempt to put the blame on him for the mayhem that followed the government's decision to ban the use of dollars in economic transactions, in September 1999.

A number of journalists from opposition newspapers have also been arrested and detained. Although no official charges have been brought against any of the detainees, they were reportedly arrested for their criticism of the new law regulating political party activity and of the government's latest involvement in negotiation efforts with the rebels.⁷⁷

From August 1998 onwards, hundreds of *Tutsi* civilians, persons of Rwandan origin, DRC nationals married to Rwandans, and persons suspected of sympathizing with the rebellion were arrested without warrant by the security forces. The authorities claimed that *Tutsi* civilians were being held in 'preventive' detention to protect them from lynch mobs. It was feared that many others had been killed by government forces soon after their arrest.⁷⁸ According to the U.S. Department of State, in the course of 1999, government detention of at least some *Tutsis* became increasingly protective rather than punitive, however, serious governmental and society violence and discrimination against *Tutsis* continued.⁷⁹ The government released 2,337 *Tutsis* from detention only on condition that they leave the country through internationally-sponsored relocation programmes.⁸⁰ It is not clear whether those who have rightful claims to Congolese nationality would be allowed to return in the future.⁸¹ Government officials and state media continued to publish and broadcast anti-*Tutsi* propaganda, while security forces, citizens and CPP members were urged to uncover *Tutsis* in hiding, according to the U.S. Department of State Country Report on Human Rights Practices.⁸²

⁷⁶ Amnesty International, *Government Terrorises Critics*, 10 January 2000.

⁷⁷ EIU, *Country Report*, 1st Quarter 1999.

⁷⁸ Amnesty International, *Annual Report*, 1999.

⁷⁹ USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000.

⁸⁰ IRIN, *Great Lakes Update*, 19 April 2000.

⁸¹ Human Rights Watch, *World Report* 2000.

⁸² USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000.

In early December 1999, the Human Rights Minister, Léonard She Okitundu, announced the release, by presidential decree, of 136 political prisoners. Most of them had been detained without charge for periods ranging from several months to several years. Among those released was a senior member of the UDPS, as well as several dozen members of the PALU.

After an amnesty announced by the government on 19 February 2000, more than 200 political prisoners, accused, convicted or detained for crimes against the internal or external security of the State, were released.⁸³ The move has been seen by analysts as an attempt by President Kabila to keep his promise to the United Nations Special Rapporteur for the DRC.⁸⁴

The gesture has by no means put an end to the arrest of government opponents, and numerous political prisoners remain in jail. Cleophas Kamitatu of the opposition Parti pour la Démocratie Sociale Chrétienne (PDSC), who was ambassador to Japan in the Mobutu era and was arrested in October 1999, remains in prison on the charge that he sold the Congolese embassy in Tokyo without government authorization. The government maintains that Mr. Kamitatu is not a political prisoner and that his arrest is unconnected with the fact that his son, Olivier Kamitatu, is an advisor to the MLC rebel leader, Mr. Bemba.⁸⁵

In rebel-held territories, particularly in Goma and Bukavu, there have been widespread arbitrary arrests and detention of anyone suspected of opposing the RCD, including journalists and human rights defenders. Many detainees have apparently been tortured, whipped or beaten and female detainees raped. Some have reportedly been transferred to Rwanda, where several prisoners have ‘disappeared’.⁸⁶

Disappearances

The U.S. Department of State reports many cases of disappearance, most as a result of the ongoing conflict. Government and anti-government forces reportedly were responsible for the disappearance of these persons. Throughout 1999, government security forces regularly held alleged suspects in detention for varying periods of time before acknowledging that they were in custody. Typical accounts described unidentified assailants who abducted, threatened, and often beat their victims before releasing them.⁸⁷

The RCD has also been responsible for a series of abductions and disappearances in Eastern DRC. Many of the victims are reported to be *Hutu* civilians. Persons whom rebel, Rwandan, or Ugandan forces allegedly detained in 1998 reportedly have been transferred to Rwanda or Uganda and their whereabouts remain unclear.⁸⁸

⁸³ United Nations Commission on Human Rights, *Situation of Human Rights in the Democratic Republic of the Congo*, E/CN.4/2000/L.15, 10 April 2000.

⁸⁴ *Ibid.*, *Report on the Situation of Human Rights in the Democratic Republic of the Congo*, submitted by the Special Rapporteur, Mr. Roberto Garretón, E/CN.4/2000/42, 18 January 2000.

⁸⁵ EIU, *Country Report*, 1st Quarter 2000, pp. 36.

⁸⁶ Amnesty International, *Massacres of Civilians Continues Unabated in the East*, 17 January 2000.

⁸⁷ USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000, Section 1.b.

⁸⁸ United Nations Commission on Human Rights, *Report on the Situation of Human Rights in the Democratic Republic of the Congo*, submitted by the Special Rapporteur, Mr. Roberto Garretón, E/CN.4/2000/42, 18 January 2000; and, Amnesty International, *War Against Unarmed Civilians*, 23 November 1998.

Torture, Inhuman or Degrading Treatment or Punishment

Civilians accused of political offences or suspected to be RCD supporters are routinely subjected to beatings at the time of their arrest and in custody. Amnesty International reports cases of torture, including rape, and deaths in custody.⁸⁹

Numerous reports during 1999 confirmed that armed groups fighting on the side of the government tortured, raped and otherwise physically abused persons held in custody. Mai-Mai guerillas reportedly killed scores of persons after torture, including by mutilation and crucifixion. There were also reports of *Interahamwe* militia in South Kivu province engaging in the rape of women.⁹⁰

Reports of killings and torture of prisoners by some antigovernment forces also continued to surface. A number of prisoners reportedly died of suffocation after guards detained them in overcrowded shipping containers. This treatment reportedly was reserved for suspected *Interahamwe* or Mai-Mai collaborators.⁹¹

Conditions in prisons and other places of detention remained harsh and life threatening. Overcrowding and corruption in the prisons are widespread. Prisoners reportedly were beaten to death, tortured, deprived of food and water, or died of starvation.⁹²

Extrajudicial Executions

Amnesty International reports that thousands of people were extrajudicially executed by government troops and rebel forces during 1998. Most of the reported killings occurred in the East, particularly in North and South Kivu provinces.⁹³

When the hostility started in August 1998, FAC forces loyal to President Kabila executed fellow soldiers and unarmed civilians accused of supporting the RCD, many of them solely on the basis of their *Tutsi* origin. FAC soldiers executed at least 150 civilians in Kisangani before the town was captured by the RCD. During August and September 1998, as DRC officials and the media incited violence against *Tutsi* and people of Rwandan origin, hundreds of civilians and captured combatants were reportedly killed by civilians supporting the FAC in Kinshasa and in other parts of the country.⁹⁴

Members of the security forces also committed extrajudicial killings, and they abused the judicial system to sentence and execute numerous persons after trials without due process. Pro-government Mai-Mai guerilla units reportedly killed many civilians, sometimes after torturing them, in areas where they operated.⁹⁵ Human Rights Watch in its annual report denounced the RCD for massacring scores of civilians on several occasions during 1999. All killings reportedly followed losses the rebels sustained in fighting with the Mai-Mai in the vicinity of the targeted villages.⁹⁶

⁸⁹ Amnesty International, *Government Terrorises Critics*, 10 January 2000.

⁹⁰ USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000, Section 1.c.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Amnesty International, *Annual Report*, 1999.

⁹⁴ Ibid.

⁹⁵ USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000. Section 1.a.

⁹⁶ Human Rights Watch, *World Report 2000*.

The United Nations Special Rapporteur for the DRC in his latest report on the human rights situation accuses both the government and the rebel forces of gross human rights violations.⁹⁷

Death Penalty

The United Nations Special Rapporteur also stated that the use of the death penalty has resumed in government areas of the DRC, while rebel forces continue to commit civilian massacres in the East.⁹⁸

According to domestic human rights NGOs, between 23 August and 23 November 1999, military tribunals sentenced 278 persons to death, of whom 142 were executed by late November. Government military tribunals repeatedly sentenced civilians to death for non-violent offenses, including mismanagement of public funds and violations of government restrictions on private economic activity, such as private distribution of state-monopolized and state-rationed gasoline. Military tribunals also convicted and ordered the execution of persons charged with armed robbery, murder, inciting mutiny, espionage, and looting while in a state of mutiny.⁹⁹

In December 1999, the government announced a moratorium on carrying out death sentences on civilians. The announcement did not completely stop the judicial use of the death sentence, including for economic crimes. Meanwhile, the pace of military executions continued unabated with 20 soldiers executed in the last week of January 2000 in what appeared to be a growing indication of desertions from the government army.¹⁰⁰

Freedom of Religion

Many of the country's inhabitants follow traditional beliefs, which are mostly animistic. A large proportion of the population is Christian, predominately Roman Catholic. In 1971, new national laws officially recognized the Roman Catholic Church, the Protestant Church and the Kimbanguist Church. The Muslim and Jewish faiths and the Greek Orthodox Church were granted official recognition in 1972.¹⁰¹

Freedom of religion is recognized, and the government generally respects this right in practice, with the reservation that the expression of this right neither disturb public order nor contradict commonly held morals. The establishment and operation of religious institutions is provided for and regulated through a statutory order on Regulation of Non-profit Associations and Public Utility Institutions. During 1999, President Kabila promulgated a decree that restricted the activities of NGOs, including religious organizations, by establishing requirements for them; however, existing religious organizations were exempt from the new decree, which was not enforced during the year. There is no legally established or favored church or religion.¹⁰²

⁹⁷ United Nations Commission on Human Rights, *Report on the Situation of Human Rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón*, E/CN.4/2000/42, 18 January 2000.

⁹⁸ *Ibid.*

⁹⁹ USDOS, *1999 Country Report on Human Rights Practices, DRC*, 25 February 2000, Section 1.e.

¹⁰⁰ Amnesty International, *61 People Face Imminent Execution*, 10 February 2000.

¹⁰¹ Europa Publications, *Africa: South of the Sahara*, 2000.

¹⁰² USDOS, *1999 Country Report on Human Rights Practices, DRC*, 25 February 2000, Section 2.c.

Although the government required that foreign religious groups obtain the approval of the President, through the Minister of Justice, foreign religious groups generally operate without restriction once they receive approval from the government.

Freedom of Expression and Media

The right to freedom of expression is severely curtailed in the DRC. According to Amnesty International “dozens of journalists have been arrested, interrogated, intimidated and harassed, often because articles they write or newspapers they publish have been critical of the government or its policies. In some cases, journalists have been forced to flee the country fearing for their safety. The repression against them has drastically increased since August 1998. Political activists, journalists, human rights defenders and trade unionists all work under the threat of intimidation, harassment, arrest or torture.”¹⁰³

The government reportedly used accusations of endangering the national security of the country to sentence journalists. On 15 March 1999, Modest Mutinga, editor of the independent newspaper *Le Potentiel*, was arrested and detained for fifteen days upon his return from attending a conference abroad. Thierry Kyalumba, editor of *The Vision*, was arrested in mid-January 1999, for an article published on weapon supplies to the rebels. He was repeatedly beaten by security forces during interrogations. He was then sentenced to four years in prison by the Court of Military Order (COM) for ‘divulging state secrets’.¹⁰⁴ Government officials criticized or implicated in fraudulent practices by the press at times encouraged police to arrest the journalists responsible for such articles. In June 1999, the governor of Katanga province brought before the COM a case against editor Ngoy Kikungula and publications director Bella Mako of the Lubumbashi-based *Le Lushois* newspaper. *Le Lushois* had published an article critical of the regional authorities. On 18 June 1999, the COM sentenced the two journalists to eight months’ imprisonment. In both cases, it appeared that the journalists were targeted solely because they caused embarrassment to the authorities.¹⁰⁵

Since August 1998, foreign journalists and photographers, including those from World Television Network (WTN), Associated Press and Reuters, have been detained and some of them beaten by members of the security forces. They have since been released.

Freedom of Assembly and Association

There is no legal protection for freedom of assembly, and the government continued to restrict this right severely. The government considers the rights to assemble and associate subordinate to the maintenance of ‘public order’. The government requires all organizers to apply for permits, which are granted or rejected at the government’s discretion. On 2 August 1999, the government of President Kabila took over the agenda of a peace rally planned by Kinshasa-based NGO’s that it had previously approved. Government military and police personnel as well as elements of the CPPs mingled among the crowd and refused to let NGO officials or opposition politicians

¹⁰³ Amnesty International, *Government Terrorises Critics*, 10 January 2000.

¹⁰⁴ Human Rights Watch, *World Report*, 2000.

¹⁰⁵ Amnesty International, *Government Terrorises Critics*, 10 January 2000.

speak. The government agents turned the event into a Kabila rally, as ministers spoke praising the virtues of the President.¹⁰⁶

Freedom of Movement

Although the law allows for freedom of movement, the Government, and in particular the security forces acting independently, continues to restrict this right. The government increased its restrictions after the conflict began in August 1998. The conflict also brought new restrictions on internal travel within the government-controlled and rebel-controlled zones and made movement between the two zones difficult and dangerous.¹⁰⁷

Since the conflict started, the government has required exit visas for all foreign travel. There were several known cases in which a political leader was denied an exit visa during the year. Security forces occasionally hindered foreign travel by citizens, including journalists.¹⁰⁸

4. Groups at Risk

4.1 Ethnicity Problem

Ethnicity remains an important factor in the Congolese society and politics.¹⁰⁹ However, intermarriage across major ethnic and regional divides is common in large cities.

The citizenship claims of longtime residents, whose ancestors immigrated to the country, including the *Banyamulenge*, are not recognized. Resentment of their non-citizen status contributed to the participation of many *Tutsi* residents of the country first in Laurent Kabila's rebellion against former President Mobutu and then in the RCD rebellion against President Kabila.

Since the start of the renewed conflict in August 1998, ethnic *Tutsis* have been subjected to serious abuses by government security forces and by citizens for perceived or potential disloyalty to the regime.¹¹⁰ In Kinshasa and in Katanga Province, *Tutsis* continue to be held in prolonged detention, from which the government was willing to release them only on condition that they leave the country. The government also materially supported Mai-Mai and *Hutu* armed groups, which, according to credible reports, repeatedly killed unarmed as well as armed *Tutsis* in areas militarily dominated by anti-government forces.¹¹¹

¹⁰⁶ USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000, Section 2.b.

¹⁰⁷ *Ibid.*, Section 2.c.

¹⁰⁸ *Ibid.*

¹⁰⁹ For an analysis on this issue see the April 1998 UNHCR Background Paper on the Democratic Republic of the Congo, Chapter 3.4, pp.23-26.

¹¹⁰ See above Arbitrary Arrests and Detention.

¹¹¹ USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000, Section 5.

The longstanding violent conflict between *Tutsi* and *Hutu* ethnic groups continues inside the country. Congolese *Hutu* militias increased their recruitment from populations of *Hutu* refugees from Rwanda and Burundi in neighboring countries, including the Republic of Congo and Zambia. According to reports, these recruitments occurred with the knowledge and consent of the government, which welcomed the support of these *Hutu* groups in its fight against the *Tutsi*-dominated RCD and the *Tutsi*-dominated Government of Rwanda.¹¹²

Since June 1999, in the Kabale-Ituri district in Oriental province, an area dominated by Ugandan and Ugandan-supported forces, fighting between members of the Lendu and Hema tribes broke out displacing over 150,000 people and resulting in an estimated 5,000-7,000 deaths. The Hema-Lendu conflict is only one of the many ethnic problems, which the Congolese civil conflict has fuelled. The root of the conflict is competition over acquisition and access to land, mineral and natural resources, and local government.

Neither communities originated in the area. The Bantu-Lendu, mainly farmers, settled before the 19th century arrival of the Nilotic-Hema, who are mainly cattle-herders. The minority Hema benefited disproportionately from the Belgian colonial era, when they inherited plantations, farms and fertile lands, whereas the Lendu were employed to work on the land. The comparative wealth of the Hema gave them more access to education and greater representation in the local government.

But the conflict found its roots also in the political context in the divided DRC where the state has tended to give 'authenticity' to Bantu groups. On the contrary, Nilotic groups like the Hema have been associated with the occupying armies of Rwanda and Uganda.

In the past, there has been tension between the two communities but never violence on the scale reported over the past year. According to analysts, there were elements of planning and execution in the absence of any real authority, where extremists Lendu initiated mass killings, which escalated with attacks and counter-attacks from both sides.¹¹³

4.2 Other Groups

Human Rights Activists

Both the Government of President Kabila and the rebels intensified harassment of Congolese human rights activists during 1998 and 1999 in attempts to intimidate and silence independent witnesses to their abuses. Human rights defenders who were forced to flee the DRC encountered increasing risks in neighboring countries.¹¹⁴

¹¹² USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000, Section 5.

¹¹³ IRIN, *Special Report on the Ituri Clashes*, 3 March 2000.

¹¹⁴ Human Rights Watch, *World Report*, 2000; and, Amnesty International, *Government Terrorises Critics*, 10 January 2000.

Civil society presented a challenge to the regime urging rapid moves towards elections and democratization and declaring its concern for the protection of fundamental liberties, the absence of political dialogue, the indiscipline in the army, the absence of a clear-cut division between the state and the AFDL, and the absence of a constitutional framework.

The Government of President Kabila meanwhile attempted to gain control over civil society and the NGO community. It seeks to direct financial and other aid, benefiting these organizations from abroad, through government channels. Some NGO leaders who criticized government policies, especially in the area of human rights and democratization, were arrested in 1998 and 1999. A presidential decree was promulgated in 1999, restricting NGO activity by establishing registration requirements with the Ministry of Justice. Finally, there was the creation of government-sponsored NGOs, such as the Solidarité Entre Nous and the Union Congolaise pour la Défense des Droits de l'Homme, which was given the task of identifying human rights violations but also of informing the government of 'foreign manipulations'. Despite these pressures many leaders of civil society organizations continued to criticize the government and to feed international NGOs and the media of ongoing human rights violations.¹¹⁵

In April 1998, the Government of the DRC outlawed the Association Zaïroise pour la Défense des Droits de l'Homme (AZADHO) for 'indulging in political campaigns rather than objective reports' and seized its annual report critical of the government's human rights record. AZADHO was replaced by the Association Africaine pour la Défense des Droits de l'Homme (ASADHO), which is not legally registered by the authorities and most of its members live in exile after threats made against them and their families. The government denied legal registration to many other human rights organizations over the year.¹¹⁶

In early 1999, the leader of the national umbrella of all NGOs in the DRC, the Conseil National des Organisations Non-Gouvernemental de Développement (CNOGD), Badouin Hamuli Kabarhuza, was arrested and held for a few days by the security forces under charges of collaborating with the rebels in Eastern DRC.

On 29 May 1999, the Kinshasa police arrested Laurent Kantu Lumpungu, chairman of the independent Association of Prison Officials, who has been critical of poor prison conditions and ill-treatment, while he was visiting the capital's central prison and took him to the police station where he was subjected to ill-treatment. On 25 June 1999, Government agents ransacked the office of the Voix des Sans voix, a leading national monitoring group, following reports by the organization on government abuses.¹¹⁷

On 15 June 1999, rebel soldiers broke into and ransacked the office of Groupe Jérémie, an independent monitoring and civic education organization based in Bukavu. Raphael Wakenge, of the leading human rights organization Héritiers de la Justice, Kizito Mushizi and Omba Kamengele, journalists of Radio Maendeleo, owned and operated by NGOs, were detained in late August 1999 in Bukavu, on charges of "eavesdropping on military communications," and "intelligence with the

¹¹⁵ International Crisis Group, *How Kabila Lost His Way*, 21 May 1999.

¹¹⁶ Amnesty International, *A Long Standing Crisis Spinning Out of Control*, 3 September 1998.

¹¹⁷ *Ibid.*, *Government Terrorises Critics*, 10 January 2000.

enemy." The two groups have been independently reporting on human rights and political developments in the region. In Kisangani, the rebels in late August 1999 briefly detained Claude Olenka, chairman of Commission Justice et Libération, and another member of the group for their suspected opposition to the rebel cause.¹¹⁸

Women and Children

Government spending on children's programmes is nearly non-existent. Primary school education is not compulsory, free, or universal. There are no documented cases in which security agents or others targeted children for specific abuse, although children suffer from the same conditions of generalized social disorder and widespread disregard for human rights that affect the society as a whole.

Human Rights Watch reported in its annual report for 1999 that attempts by both the government and rebel alliances to build dependable armies led to extensive recruitment of child soldiers throughout the country.¹¹⁹ The Government has not taken comprehensive measures to remove child soldiers from its armed forces, although it has stated its intention of demobilizing child soldiers once the conflict is over. The Government increasingly encouraged the enlistment of children in paramilitary organizations.¹²⁰

Abuses against women by all parties were rampant and women were frequently the target of sexual violence including rape. Local activists confirmed the exposure of some of the victims to the HIV virus; other rape victims suffered rejection from their husbands and communities.¹²¹

Women are relegated to a secondary role in society. They constitute the majority of agricultural laborers and small-scale traders and are almost exclusively responsible for child rearing. In the non-traditional sector, women commonly receive less pay for comparable work. Only rarely do they occupy positions of authority or high responsibility. Women also tend to receive less education than men. Women are required by law to obtain their spouse's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or applying for a passport.¹²²

Female genital mutilation is not widespread, but it is practiced on young girls among isolated groups in the North. The government has not addressed the problem.

¹¹⁸ Human Rights Watch, *World Report*, 2000.

¹¹⁹ Ibid.

¹²⁰ USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000, Section 5.

¹²¹ Human Rights Watch, *World Report*, 2000.

¹²² USDOS, *1999 Country Report on Human Rights Practices*, DRC, 25 February 2000, Section 5.

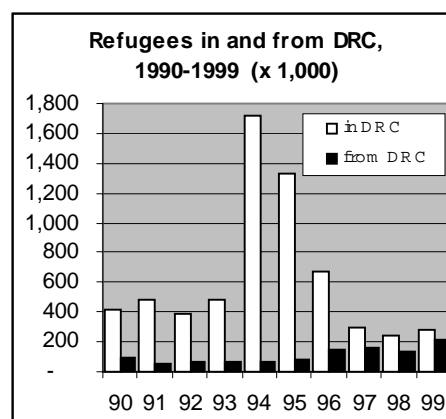
5. Refugees and Asylum Seekers in and from the DRC - Global Trends

Refugees and Asylum Seekers in the DRC

At the end of 1999, the DRC hosted some 285,000 refugees, principally from Angola (150,000), Sudan (68,000), Rwanda (33,000), Burundi (19,000) and Congo-Brazzaville (12,000). During 1999, the refugee population increased by 19 per cent, mainly due to new arrivals from Congo-Brazzaville (49,000) and Angola (16,000). More than 100,000 refugees were estimated to have returned from COD during 1999, particularly Congolese (52,000), Rwandans (36,000) and Angolans (19,000). The increase in the refugee population in the DRC, despite the fact that repatriations exceeded new arrivals during 1999, is largely due to UNHCR's lack of access to Rwandan refugees.

During the past decade, the refugee population in the DRC reached a peak in the 1994 and 1995 when more than a million Rwandans found asylum in the country. In 1997-1999, the refugee population in the DRC was the lowest of the past decade (see Table 1 and chart).

During 1999, UNHCR Kinshasa received some 245 individual asylum requests, mostly from persons originating from Congo-Brazzaville (80), Rwanda (73), Angola (34) and Burundi (25). Some 100 persons were granted refugee status under UNHCR's mandate and some 16 cases were rejected resulting in a recognition rate of 86 per cent. In addition, 38 cases were closed (rejected) on non-substantive grounds. The number of asylum-seekers awaiting a decision ("pending cases") decreased from 176 at 1 January to 168 at 31 December 1999.



Refugees and Asylum Seekers from the DRC

a. Prima facie refugees

During 1999, the number of refugees from the DRC in the region increased by 64 per cent, from 141,000 at the beginning of the year to 232,000 at the end of 1999. Tanzania hosted the largest number of refugees from the DRC (99,000), followed by Zambia (36,000) Rwanda (33,000) and Burundi (21,000). During 1999, some 136,000 refugees fled the DRC, mostly to Tanzania (76,000), Zambia (25,000), Central African Republic (CAR) (18,000) and Congo-Brazzaville (12,000), whereas only 17,000 returned, principally from Rwanda (12,000) and Burundi (3,600).

The number of refugees from the DRC in countries in the region has shown a steady increase over the past decade, from less than 100,000 during 1990-1995 to some 150,000 during 1996-1998 and to some 220,000 by the end of 1999 (see Table 2 and above chart).

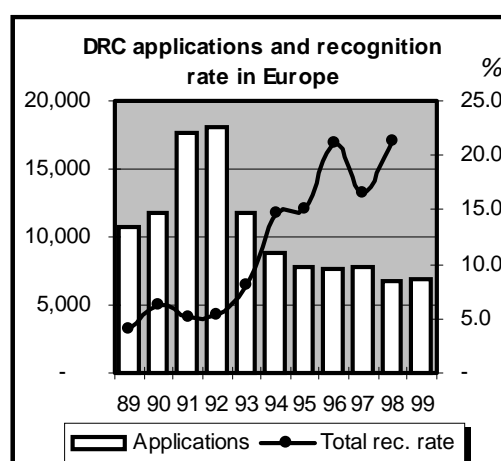
b. Asylum seekers

During 1999, some 15,350 asylum applications lodged by citizens from the DRC were recorded in 78 asylum countries worldwide. In total, some 7,140 asylum-seekers were granted refugee status and 3,870 applications were rejected resulting in a total recognition rate of 66 per cent (see Table 3).

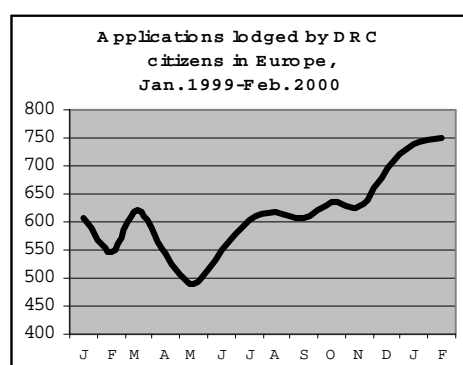
UNHCR Offices received some 2,770 asylum applications lodged by citizens from the DRC. Some 920 applications were accepted under the UNHCR mandate, whereas 330 were rejected, resulting in an overall recognition rate of 74 per cent. The global recognition rate of asylum-seekers from the DRC by Governments was slightly lower (63 per cent).

In Africa, 92 per cent of all substantive adjudication decisions pertaining to asylum-seekers from the DRC during 1999 (6,240) were positive. This high rate was mostly due to the 100 per cent recognition rate in South Africa. When South Africa is excluded, the recognition rate for asylum-seekers from the DRC in Africa was 78 per cent (2,230 substantive decisions). In Europe, only 19 per cent of all substantive decisions taken (3,500) were positive, whereas in North America the 1999 recognition rate for asylum-seekers from the DRC was 71 per cent.

As opposed to prima facie refugee arrivals in the region, the number of asylum applicants from the DRC in Europe has shown a steady decline during the past decade. In 1991 and 1992, almost 20,000 citizens from the DRC applied for asylum, whereas in 1998 and 1999 this was less than 7,000 (see chart).



During the period 1989-1998, France received most asylum-seekers from the DRC (27 per cent of those who applied in Europe), followed by Germany (26 per cent), Belgium (17 per cent) and the United Kingdom (14 per cent, cases only). During 1999, the share of France in receiving asylum-seekers from the DRC had increased to 32 per cent; Germany's share had fallen to 11 per cent, whereas the share of Belgium (20 per cent) and the United Kingdom (17 per cent) remained relatively stable.



Whereas the number of new applications lodged in Europe has shown a steady increase since May 1999, the current level (750) is still considerably lower than in 1989-1993, when 900-1,500 DRC citizens applied for asylum each month (see chart). Table 6 illustrates that the share of France in receiving applicants from the DRC continued to rise during 1999 to reach 38 per cent in December.

Origin	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Angola	308,000	279,000	198,000	207,000	161,000	130,000	108,000	88,000	137,000	150,000
Burundi	13,000	41,000	90,000	91,000	180,000	118,000	30,000	47,000	20,000	19,000
Congo-B.	-	-	-	-	-	-	-	20,000	15,000	12,000
Rwanda	13,000	51,000	51,000	53,000	1,253,000	1,101,000	424,000	37,000	35,000	33,000
Sudan	71,000	91,000	109,000	111,000	112,000	94,000	97,000	61,000	31,000	68,000
Uganda	10,000	20,000	21,000	22,000	19,000	13,000	17,000	44,000	2,000	3,000
Total	415,000	482,000	469,000	484,000	1,725,000	1,456,000	676,000	297,000	240,000	285,000

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Angola	9,000	11,000	11,000	11,000	11,000	11,000	10,000	9,000	10,000	13,000
Burundi	60,000	26,000	26,000	26,000	22,000	20,000	20,000	20,000	23,000	21,000
Congo-B.	2,000	500	500	500	500	-	-	-	500	12,000
Rwanda	-	-	-	-	-	5,000	15,000	27,000	32,000	33,000
Tanzania	16,000	16,000	16,000	16,000	16,000	16,000	55,000	74,000	58,000	98,000
Uganda	1,000	1,000	16,000	5,000	5,000	12,000	29,000	14,000	5,000	8,000
Zambia	-	-	-	14,000	14,000	14,000	14,000	13,000	12,000	36,000
Total	88,000	54,500	69,500	72,500	68,500	78,000	143,000	157,000	140,500	221,000

Table 3 (first part)

Individual asylum applications, refugee status determination and pending cases by country/territory of asylum, 1999																
Country of origin: COD																
Country/ territory of asylum	Type (1)		Pending cases begin year	Applied during year (2)	Decisions during year					Pending cases end of year	Rec. rates (%) (4)					
	T	L			Recognized		Rejected	Otherw. closed (3)	Total		(incl. O/w. cl.)		(excl. O/w. cl.)		Rec./Appl.)	
					Ref. status	Other					Ref. status	Total	Ref. status	Total	Ref. status	Total
Algeria	V	V	17	30	-	-	39	-	39	-	-	-	-	-	-	
Angola	V	FI	39	715	41	-	65	-	106	648	38.7	38.7	38.7	38.7	5.7	5.7
Argentina	V	V	5	*	-	-	-	-	-	8	..	..	..	..	-	-
Austria	G	V	-	132	-	-	-	-	-	-	..	..	..	..	-	-
Belarus	G	FI	-	*	-	-	-	-	-	*	..	..	..	..	-	-
Belarus	U	V	*	-	-	-	-	-	-	*	..	..	..	..	..	..
Belgium	G	A	-	-	61	-	331	23	415	-	14.7	14.7	15.6	15.6	..	..
Belgium	G	FI	-	1,402	147	-	284	8	439	-	33.5	33.5	34.1	34.1	10.5	10.5
Benin	G	V	88	111	55	-	16	-	71	128	77.5	77.5	77.5	77.5	49.5	49.5
Botswana	V	V	6	*	*	-	*	-	7	-	57.1	57.1	57.1	57.1	400.0	400.0
Brazil	G	V	12	7	8	-	-	-	8	11	100.0	100.0	100.0	100.0	114.3	114.3
Burkina Faso	G	FA	9	15	5	-	*	-	6	15	83.3	83.3	83.3	83.3	33.3	33.3
Burundi	U	V	246	247	16	-	-	-	16	477	100.0	100.0	100.0	100.0	6.5	6.5
Cameroon	U	V	-	986	612	-	22	-	634	352	96.5	96.5	96.5	96.5	62.1	62.1
Canada	G	FI	-	880	655	-	323	82	1,060	718	61.8	61.8	67.0	67.0	74.4	74.4
Central African Rep.	G	FI	48	854	-	-	-	-	-	902	..	..	..	..	-	-
Chad	U	V	41	123	54	-	*	-	57	107	94.7	94.7	94.7	94.7	43.9	43.9
Chile	G	V	*	-	-	-	-	*	*	*	-	-	-	..	..	..
China	U	V	-	*	-	-	*	-	*	-	-	-	-	-	-	-
Colombia	U	V	-	*	-	-	-	*	*	-	-	-	..	..	-	-
Congo	U	V	150	180	70	-	58	22	150	180	46.7	46.7	54.7	54.7	38.9	38.9
Côte d'Ivoire	U	V	75	60	19	-	-	-	19	70	100.0	100.0	100.0	100.0	31.7	31.7
Cyprus	U	V	*	*	-	-	*	*	*	*	-	-	-	-	-	-
Czech Rep.	G	A	8	39	5	-	22	13	40	7	12.5	12.5	18.5	18.5	12.8	12.8
Denmark	G	FA	-	14	6	8	*	-	16	-	37.5	87.5	37.5	87.5	42.9	100.0
Djibouti	U	V	*	-	-	-	-	-	-	*	..	..	..	..	..	..
Ecuador	U	V	-	*	-	-	*	-	*	-	-	-	-	-	-	-
Ethiopia	G	V	21	12	8	-	9	*	18	15	44.4	44.4	47.1	47.1	66.7	66.7
Finland	G	FI	-	5	-	*	*	*	6	-	-	16.7	-	20.0	-	20.0
France	G	FI	-	2,269	-	-	-	-	-	-	..	..	..	..	-	-
Gabon	U	V	15	534	-	-	-	-	-	549	..	..	..	..	-	-
Germany	G	FI	352	801	82	13	859	605	1,559	446	5.3	6.1	8.6	10.0	10.2	11.9
Ghana	G	FA	7	13	6	-	10	-	16	*	37.5	37.5	37.5	37.5	46.2	46.2
Ghana	U	V	*	7	6	-	*	*	8	-	75.0	75.0	85.7	85.7	85.7	85.7
Greece	G	V	-	16	*	-	*	-	8	-	50.0	50.0	50.0	50.0	25.0	25.0
Guinea	U	V	-	*	*	-	-	-	*	-	100.0	100.0	100.0	100.0	100.0	100.0
Hong Kong, China (SAR)	U	V	*	*	-	-	*	*	*	-	-	-	-	-	-	-
Hungary	G	FI	10	27	7	*	11	6	26	11	26.9	34.6	35.0	45.0	25.9	33.3
Iceland	G	FI	-	*	-	-	-	-	-	*	..	..	..	..	-	-
Ireland	G	FI	-	272	69	*	311	194	-	-	..	..	18.1	18.4	25.4	25.7
Israel	U	V	6	7	-	-	-	*	*	12	-	-	..	..	-	-
Italy	G	FA	-	25	33	*	*	*	39	-	84.6	87.2	86.8	89.5	132.0	136.0
Jordan	U	V	*	7	*	-	*	*	5	5	40.0	40.0	66.7	66.7	28.6	28.6
Kenya	U	FA	317	439	135	-	233	260	628	128	21.5	21.5	36.7	36.7	30.8	30.8
Latvia	G	JR	-	*	-	-	-	-	-	*	..	..	..	..	-	-
Lebanon	U	V	9	-	*	-	-	-	*	-	100.0	100.0	100.0	100.0	..	..
Liberia	U	V	*	-	-	-	-	-	-	*	..	..	..	..	..	..
Libyan Arab Jamahiriya	U	V	-	66	-	-	-	-	-	66	..	..	..	..	-	-
Luxembourg	G	V	-	*	-	-	-	-	-	-	..	..	..	..	-	-
Malawi	V	V	314	82	15	-	-	-	15	381	100.0	100.0	100.0	100.0	18.3	18.3
Mali	G	V	19	41	19	-	*	-	20	40	95.0	95.0	95.0	95.0	46.3	46.3

Table 3 (second part)

Individual asylum applications, refugee status determination and pending cases by country/territory of asylum, 1999																
Country of origin: COD																
Country/ territory of asylum	Type (1)		Pending cases begin year	Applied during year (2)	Decisions during year					Pending cases end of year	Rec. rates (%) (4)					
	T	L			Recognized		Rejected	Otherw. closed (3)	Total		(incl. O/w. cl.)		(excl. O/w. cl.)		Rec./Appl.)	
					Ref. status	Other					Ref. status	Total	Ref. status	Total	Ref. status	Total
Mexico	U	V	-	-	-	-	-	-	-	-	..	..	..	..	..	..
Mozambique	G	V	157	410	33	-	*	-	34	533	97.1	97.1	97.1	97.1	8.0	8.0
Namibia	G	V	19	118	*	-	-	-	*	133	100.0	100.0	100.0	100.0	3.4	3.4
Netherlands	G	V	-	252	16	100	489	-	605	-	2.6	19.2	2.6	19.2	6.3	46.0
Niger	U	V	*	-	-	*	-	-	*	-	-	100.0	-	100.0	..	..
Norway	G	FA	-	5	-	*	*	-	5	-	-	20.0	-	20.0	-	20.0
Philippines	G	FA	-	5	5	-	-	-	5	-	100.0	100.0	100.0	100.0	100.0	100.0
Poland	G	FA	-	*	-	-	-	-	-	-	..	..	..	..	-	-
Portugal	G	V	-	9	*	*	11	*	18	-	11.1	16.7	14.3	21.4	22.2	33.3
Rep. of Korea	U	V	*	*	-	-	*	-	*	-	-	-	-	-	-	-
Romania	G	JR	11	9	6	-	13	*	20	-	30.0	30.0	31.6	31.6	66.7	66.7
Russian Federation	G	V	-	47	-	-	-	47	47	-	-	-	..	..	-	-
Russian Federation	U	V	118	95	-	-	-	-	-	213	..	..	..	..	-	-
Rwanda	G	V	306	569	20	-	-	-	20	855	100.0	100.0	100.0	100.0	3.5	3.5
Senegal	G	V	14	34	-	-	*	-	*	46	-	-	-	-	-	-
Slovakia	G	FI	7	-	*	-	6	-	7	-	14.3	14.3	14.3	14.3	..	..
Slovenia	G	FI	*	*	-	-	-	*	*	-	-	-	..	..	-	-
South Africa	G	V	4,496	483	4,004	-	*	240	4,245	734	94.3	94.3	100.0	100.0	829.0	829.0
Spain	G	FA	-	161	14	13	211	*	240	-	5.8	11.3	5.9	11.3	8.7	16.8
Swaziland	v	V	*	*	-	*	-	-	*	-	-	100.0	-	100.0	-	200.0
Sweden	G	FI	-	48	-	*	18	*	25	-	-	16.0	-	18.2	-	8.3
Switzerland	G	FI	408	523	46	57	405	144	595	368	7.7	17.3	9.1	20.3	8.8	19.7
Turkey	U	V	*	*	-	-	-	-	*	-	..	..	..	..	-	-
Uganda	V	V	39	383	415	-	-	-	415	7	100.0	100.0	100.0	100.0	108.4	108.4
Ukraine	G	V	-	26	9	-	14	-	23	-	39.1	39.1	39.1	39.1	34.6	34.6
United Kingdom	G	FI	-	1,240	-	-	-	-	-	-	..	..	..	..	-	-
United States	G	A	124	70	58	-	32	36	126	67	46.0	46.0	64.4	64.4	82.9	82.9
United States	G	FI	193	181	157	-	6	10	173	100	90.8	90.8	96.3	96.3	86.7	86.7
Yemen	U	V	-	*	-	-	*	-	*	-	-	-	-	-	-	-
Yugoslavia, FR	U	V	-	*	-	-	-	*	*	-	-	-	..	..	*	*
Zambia	G	FA	395	-	-	-	-	395	395	-	-	-	..	..	..	..
Zimbabwe	G	V	12	228	200	-	28	*	231	9	86.6	86.6	87.7	87.7	87.7	87.7
Total			8,133	15,346	7,137	208	3,869	2,112	12,694	8,358	56.2	57.9	63.6	65.5	46.5	47.9

Notes

A "dash" (-) indicates that the value is zero, rounded to zero, not available or not applicable. Figures below 5 have been replaced by an asterisk (*).

(1) Type of procedure:
T(ype): G = Government; U = UNHCR; V = Various/unknown.

L(evel): FI = First instance only; A = Appeal only; FA = Including appeal; JR = Including judicial review.

(2) Applications generally refer to new applications. However, in appeal/review, applications are generally re-opened.

(3) Otherwise closed refers to rejections on non-substantive grounds. E.g. the applicant has "disappeared", died, etc.

(4) Recognition rates can be calculated on the basis of all decisions (including those which are otherwise closed), on the basis of substantive decisions only (excluding otherwise closed) or on the basis of applications lodged.

Ref. Status: concerns grants of (Convention) refugee status.

Total: grants of (Convention) refugee status plus other positive decisions ("humanitarian status", "de facto status", "B-status", etc.).

Table 4. Number of asylum applications submitted											
Democratic Republic of Congo											
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
Austria	11	42	56	38	43	48	62	92	150	132	674
Belgium	1,073	1,960	3,749	4,016	1,963	972	860	1,230	1,714	1,402	18,939
Czech Rep.	-	8	18	15	18	8	15	14	18	39	153
Denmark	10	-	8	11	22	13	16	11	16	14	121
Finland	23	40	78	67	41	34	13	10	18	5	329
France	5,652	4,260	2,991	2,197	1,765	1,241	1,064	1,348	1,778	2,269	24,565
Germany	1,389	2,134	8,305	2,896	1,579	3,277	3,722	2,907	948	801	27,958
Greece	*	*	-	7	*	-	6	11	18	16	64
Hungary	-	-	-	-	-	5	-	*	8	27	42
Italy	13	35	22	30	24	35	46	59	149	25	438
Netherlands	196	297	477	1,305	2,180	771	435	592	411	252	6,916
Norway	7	24	32	6	16	11	7	7	5	5	120
Poland	-	-	-	-	-	*	5	8	*	*	22
Portugal	-	61	275	98	-	6	28	32	23	9	532
Spain	-	163	294	68	87	30	71	114	207	161	1,195
Sweden	106	170	196	69	37	33	19	36	35	48	749
Switzerland	758	1,426	677	357	276	320	695	605	536	523	6,173
UK (cases)	2,590	7,010	880	630	775	935	650	690	660	1,240	16,060
Canada	156	398	596	322	417	592	1,127	767	744	880	5,999
USA (cases)	30	41	106	-	-	-	273	359	299	181	1,289
Total	12,015	18,070	18,760	12,132	9,247	8,335	9,114	8,894	7,740	8,031	115,071
Total EUR	11,829	17,631	18,058	11,810	8,830	7,743	7,714	7,768	6,697	6,970	108,844
- EU-13	11,064	16,173	17,331	11,432	8,520	7,395	6,992	7,132	6,127	6,374	98,540

Table 5. Convention and humanitarian status granted											
Democratic Republic of Congo											
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
Austria	*	7	14	*	9	22	16	24	16	-	114
Belgium	128	70	109	199	224	194	265	262	273	208	1,757
Czech Rep.	-	7	5	-	-	6	*	*	9	5	31
Denmark	-	-	*	-	-	-	-	-	*	14	*
Finland	*	-	-	-	-	-	-	-	-	-	*
France	526	738	658	479	351	276	302	284	251	-	4,123
Germany	7	6	*	84	439	367	300	120	100	95	1,430
Greece	-	-	-	-	*	-	*	-	7	-	12
Hungary	-	-	-	-	-	*	-	-	*	7	5
Italy	*	8	13	*	10	*	9	34	54	33	135
Netherlands	-	-	24	11	12	16	92	47	15	116	218
Norway	-	-	*	-	-	-	-	-	-	-	*
Poland	-	-	-	-	-	-	*	-	*	-	5
Portugal	-	-	-	*	-	-	*	-	-	-	7
Spain	-	-	-	21	18	17	13	5	9	27	83
Sweden	10	8	-	-	-	-	*	-	-	-	19
Switzerland	*	*	12	7	16	11	8	13	23	103	94
UK (cases)	10	10	10	5	10	15	15	20	10	-	235
Canada	34	207	362	285	322	210	309	435	688	655	2,852
USA (cases)	5	7	17	-	-	-	128	103	181	157	441
Total	726	1,070	1,229	1,102	1,414	1,137	1,465	1,349	1,647	1,420	11,569
Total EUR	687	856	850	817	1,092	927	1,028	811	778	608	8,276
EU-13	685	847	830	810	1,076	909	1,017	796	738	493	8,138

6. Bibliography

Africa Confidential: The Wages of War, 20 November 1998

Amnesty International: Annual Report, 1999

_____ : Massacres of Civilians Continue Unabated in the East, 17 January 2000

_____ : 61 People Face Imminent Execution, 10 February 2000

_____ : Government Terrorises Critics, 10 January 2000

_____ : War Against Unarmed Civilians, 23 November 1998

_____ : A Long Standing Crisis Spinning Out of Control, 3 September 1998

_____ : UN Security Council Shamefully Abandons Victims in the Democratic Republic of the Congo, 15 July 1998

BBC Monitoring Service: Warring Parties in Great Lakes Reportedly Sign Peace Agreement in Libya, 20 April 1999

Current History: The Fire in the Great Lakes, Vol. 98, No. 628, May 1999

Economist Intelligence Unit: Country Profile, 1999-2000

_____ : Country Report, 1st Quarter 2000

_____ : Country Report, 4th Quarter 1999

_____ : Country Report, 3rd Quarter 1999

_____ : Country Report, 2nd Quarter 1999

_____ : Country Report, 1st Quarter 1999

_____ : Country Report, 4th Quarter 1998

Europa Publication: Africa: South of the Sahara 2000, 29th Ed.

European Platform for Conflict Prevention and Transformation: DRC: Africa's Most Unsettling Battlefield, 7 May 1999

Human Rights Watch: World Report 2000

_____ : HRW Condemns Security Council's Inaction in Face of Evidence of Crimes Against Humanity in the DRC, 14 July 1998

Integrated Regional Information Network (IRIN): Great Lakes Update, 19 April 2000

_____ : Great Lakes Update, 10 April 2000

_____ : Special Report on the Ituri Clashes, 3 March 2000

_____ : DRC: Chronology of Significant Events, 28 February, 2000

_____ : No Democratization Progress, 9 September 1999

International Crisis Group: The Agreement on a Cease-Fire in the Democratic Republic of Congo, 20 August 1999

_____ : Africa's Seven Nations War, 21 May 1999

_____ : How Kabila Lost His Way, 21 May 1999

_____ : Congo at War: A Briefing on the Internal and External Players in the Central African Conflict, 17 November 1998

_____ : North Kivu, Into the Quagmire?, 13 August 1998

International Institute for Strategic Studies: Peace in the Congo, Strategic Comments, Vol. 5, No. 7, 14 September 1999

Le Monde Diplomatique: Carve-Up in the Congo, October 1999

New African: Congo in Crisis, October 1998

The New York Times: Chaos in Congo: A Primer, Section 1, Page 1, 6 February 2000

Oxford Analitica: Cease-fire Setbacks, 22 March 2000

Reuters News Service: Congo Rebels Say Bombing Dims Peace Hopes, 5 August 1999

_____ : Sudan Denies Congo Bombing Allegation, 6 August 1999

United Nation: Security Council Resolution 1234 (1999), S/RES/1234, 9 April 1999

_____ : Security Council Resolution 1291 (2000), S/RES/1291, 25 February 2000

United Nations Commission on Human Rights: Fifty-sixth Session, Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Situation of Human Rights in the Democratic Republic of the Congo, E/CN.4/2000/L.15, 10 April 2000

_____ : Fifty-sixth Session, Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Report on the Situation of Human Rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón, in accordance with Commission on Human Rights resolution 1999/56, E/CN.4/2000/42, 18 January 2000

_____ : Fifty-sixth Session, Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Report on the Situation of Human Rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón, in accordance with Commission on Human Rights resolution 1998/61, E/CN.4/1999/31, 8 February 1999

United Nations High Commissioner for Refugees: Refworld, Centre for Documentation and Research, July 1999

_____ : Background Paper on Refugees and Asylum Seekers, April 1998

U.S. Department of State: 1999 Country Reports on Human Rights Practices, DRC, 25 February 2000