



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

During the period of April to December 2005

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Executive summary	1–10	2
II. Recommendations	11–13	5
III. Introduction	14	6
IV. Overall human rights situation and political context	15–35	7
V. Investigations by the Human Rights Division	36–46	12
Monitoring carried out by Field offices	37–41	12
Investigations carried out by the Special Investigations Unit	42–46	14
VI. Activities of the Human Rights Division	47–63	15
Justice support activities	47–51	15
Protection of individuals	52–55	16
Promotion of human rights	56–63	16
VII. Annexes		18

I. Executive Summary

1. This report presents an outline of the human rights situation in the Democratic Republic of Congo (DRC) during the period April to December 2005. In this period, the transitional government's mandate was renewed, in a context of discontent and political opposition. The electoral process got underway with the registration of voters and the holding of the constitutional referendum. The MONUC Human Rights Division (HRD) monitored an increase in the number of incidents repressing civil liberties in the pre-electoral period. The integration of armed factions into a unified national army continued, albeit at a slow pace. However, insecurity continued to wreak havoc in a number of provinces as armed groups continued to hold territory in large swathes of Northern and Central Katanga. In the Kivus,



Map of DR Congo showing main towns

attempts to dislodge armed Rwandan Hutu groups were met with revenge attacks against the civilian population, particularly in the province of South Kivu. The HRD observed a decrease in the number of massive human rights violations committed in the DRC compared with the same period in 2004. However, the HRD noted an increase of systematic individual serious human rights violations, including violations of the right to life and the rights to physical integrity committed by members of the security forces, in particular the FARDC (*Forces Armées de la République Démocratique du Congo*).

2. Political tension in the DRC began to escalate, as the end of the transitional period, foreseen for June 2005, approached. The number of public demonstrations and other civil disobedience activities – such as the “dead town” protests – steadily increased as the date marking the end of the transition approached. The HRD observed the deployment of police and military to areas where the main opposition party, *Union pour la Démocratie et le Progrès* (UDPS) had the most support - namely the Kasai provinces and Kinshasa. The security forces, in particular the *Police Nationale Congolaise* (PNC), who had undergone integration and training supported by the international community, used excessive force in order to quash public political demonstrations. The deprivation of liberty also discouraged political opposition activists in these areas. In Katanga, 15 arbitrary arrests followed an alleged secession attempt in late April. These individuals were illegally detained in Katanga, before being referred to the State Security Court in Kinshasa. They were due to stand trial at the end of the year, but were provisionally released, mainly due to pressure from the international community. Over 60 members of the UDPS were arbitrarily arrested and some held without charges. Only one of those arrested was prosecuted and convicted of a criminal offence.

3. Freedom of expression came under attack in this period. The number of journalists arrested, threatened and beaten has increased and press freedom was often muffled by the authorities. In cities such as Mbuji Mayi and Kinshasa, the HRD monitored rising levels of criminal activities largely attributed to the security forces, which were deployed there in May. The effect of this insecurity has been to create a climate of fear, discouraging the population from participating in any activity outside normal working hours. In this context, the HRD investigated a number of killings that are possible extrajudicial executions: the victims include a journalist, a human rights defender and a member of the political opposition.

4. The rights of the electorate were largely respected. The voter registration process was fairly smooth, however in North and South Kivu and Maniema provinces, the HRD assisted a number of individuals and community groups who faced difficulties from local administrators in registering to vote, as their nationality was questioned. Most of these cases were resolved peacefully. A new Constitution was accepted by the majority of the population following the referendum held in December. However, there were many complaints about the procedures and in the capital a boycott of the ballot was observed by approximately 50% of registered voters.

5. The integration process of Congolese armed forces into a unified army began at the start of 2005. Integrated army units were deployed throughout Ituri, re-establishing state control in the district for the first time since 2003. However, the newly integrated FARDC units in Ituri, as elsewhere, were responsible for serious violations of human rights, including the right to life and physical integrity.



Victim of extrajudicial execution by police.
Mbandaka, June 2005.

6. The routine use of physical violence against civilians by members of the security forces is reported wherever army and police are deployed. Threats, beatings and arrests are usually motivated by attempts to obtain money, goods, livestock or mined products from civilians. High numbers of rapes and other incidents of sexual violence against women and girls continue to be reported throughout the DRC, the main perpetrators being army and police officers. Investigations by the HRD show that areas where there is mineral resource exploitation are prone to higher incidents of violence. Illegal mining activities carried out by clandestine diamond diggers in the MIBA (*Société minière de Bakwanga*) polygone during 2005, have led to dozens of deaths and gunshot injuries, many of them inflicted by mines police.

7. Large parts of Katanga, especially in the north and central area, remain under the control of various *Mayi Mayi* groups, who remain outside the official DDR (Disarmament, Demobilization, and Reintegration) process. Abuses of the civilian population by armed groups in Katanga, the Kivu provinces and to a lesser extent, the Ituri District, continue to be reported and often include brutal and barbaric acts. Counter insurgency operations were

launched by the FARDC during the reporting period in all of these areas. Sadly these military operations, conducted by poorly paid and undisciplined soldiers, have taken their toll on the civilian population, as human rights violations have escalated in those areas where such operations are under way. The number of abuses by armed groups monitored by the HRD dropped substantially during 2005, whereas the number of violations perpetrated by the security forces has drastically increased. For example, in the last three months twice as many cases committed by the police and army have been under investigation as for the same period in 2004.

8. The positive trend in the fight against impunity which started in March 2005 with the arrest of several Ituri warlords continued slowly as the military justice system managed to execute arrests in some areas. Several other alleged war criminals have been arrested and trials for serious human rights violations have been held. However, some warlords continue to enjoy protection and *de facto* immunity from prosecution, as political interference hampered some investigations by the military justice system. Both the military and civilian justice systems remain in a



The military justice system has collapsed.
March 2005.

state of near collapse, as no support to the justice system was forthcoming during this period. The fight against impunity continues to be hampered by the absence of justice, and the almost incapacity of the state to successfully prosecute criminals and administer sanctions which respect international standards.

9. The HRD continued its monitoring and investigations into human rights violations, putting an emphasis on the respect of civil liberties in this critical pre-electoral period. In Kinshasa two of its specialized units assisted and advised the government on the administration of justice and the protection of witnesses, victims and human rights defenders. Additional resources for the promotion of human rights targeted the PNC for human rights awareness trainings.

10. From its findings and activities, the HRD formulated ten recommendations for the transitional government for the respect of human rights, as well as a recommendation for future political leaders and one for Congolese civil society, who have a duty to ensure that the authorities effectively protect human rights.

II. Recommendations for the Protection and Promotion of Human Rights

11. For the Transitional Government

- Curb violations by the FARDC by publicly denouncing and demonstrating zero tolerance for violations by the military. Measures must be implemented to establish a clear chain of command. Soldiers should be in barracks and deployed only in operational zones.
- Ensure that there is no impunity for officers having ordered, committed or condoned human rights violations by posting high level military judges in areas prone to human rights violations perpetrated by the military. Military courts must enjoy full cooperation by military intelligence and regional military commanders. End, with immediate effect, the transfer or redeployment of military suspected of having participated in human rights violations.
- Full, independent and impartial investigations should be carried out into all allegations of large scale, systematic or widespread human rights violations. If existing bodies are unable to resource such investigations, appeals should be directed for assistance from the international community to facilitate such investigations.
- A number of important trials should be supported as fully as possible by the government in order to demonstrate its commitment to ending impunity. This commitment will also be demonstrated by full cooperation with the ICC and arresting known war criminals still at large in the DRC.
- The right to freedom of expression and association must be guaranteed by the government. There must be no threats of or actual human rights violations against those expressing their opinions freely or exercising their internationally recognized right to demonstrate. Only where these opinions or actions incite violence and hatred, is the state allowed to intervene.
- Torture, cruel, inhuman and degrading treatment including acts of rape and sexual violence must be outlawed and subjected to strict sanctions in the DRC. Comprehensive laws must be passed as soon as possible. A public information campaign should accompany the passing of these laws.
- Clearly and publicly establish separate roles for police, army and security forces. Clear status and mandates for a number of “security services” must be established and made publicly available. This could include abolishing certain services or severely reducing the powers of the *Garde Républicaine*, the *Agence Nationale du Renseignement* and the *Centre National de Sécurité*.
- Expose and sanction according to the law those officials, including all branches of the police, intelligence and other security forces responsible for having carried out arbitrary arrest, detention and/or demands for bribes from civilians. Arbitrary arrest is a crime according to article 67 of the Penal Code and should be sanctioned as such. Police and military inspectorates must function without political interferences.

- Include a follow up mechanism in the training of the police in “crowd management and control” specifically on the reasonable use of force, the respect for the right to life and physical integrity.
- In the prison sector, take measures to improve the material and legal condition of the detention centres: adequate funds must be provided to feed the prisoners; farming and agricultural production in prisons could be established; overpopulation of prisons could be addressed by limiting the practice of preventive detention (see arbitrary arrest and detention above) and working actively on release of prisoners on parole; separate cells for women and minors should also be created; ensure that high security military detention facilities have adequate protection. A military prison should be established in Kinshasa and in one other province in order to reduce the overpopulation and separate military and civilian detainees.

12. To Congolese Political Candidates

- They should demonstrate their commitment to human rights by including a clear and workable human rights program in their political manifestos, which should address the fight against impunity, intolerance and discrimination. Political parties should publicly call for the respect of non-violence in the run up to elections.

13. To Congolese Civil Society

- Congolese civil society organisations should fulfil their role as a watchdog and ensure that human rights are fully respected in the electoral period by the transitional authorities.

III. Introduction

14. The purpose of this report is to present the human rights situation and how it has been influenced by the main political developments during the covered period of nine months. The HRD currently holds a mandate in accordance with UN Security Council Resolutions 1635 (2005) and 1565 (2004). In order to fulfil its obligations under the current mandate, the Division is organised into field offices - present in 17 different locations - and three specialised units. There is also a human rights promotion officer. The report starts with an overview of the human rights situation and the political context in which violations occur. This section is followed by the findings of Human Rights Field Officers and Special Investigation Unit (SIU) during this period. The final part of this report outlines activities carried out by specialised units to protect and promote human rights in the DRC.



FARDC military operations in Ituri have included the burning of civilian homesteads to “flush out” militia.
October 2005.

IV. Overall Human Rights situation and Political Context

15. There have been several significant political developments in the DRC since April 2005. In May 2005, the transitional government announced the prolongation of the transitional period a further six months to 30 December 2005. That period was subsequently extended for another six months, until 30 June 2006, the maximum period permitted by the Global and Inclusive Agreement signed by the parties to the Congolese conflict on 17 December 2002. The decision was marked by political protests in opposition strongholds, including Mbuji Mayi, Tshikapa and Kinshasa.

16. Despite the creation of an integrated police force and the provision of training by the international community, the PNC committed serious human rights violations in the last nine months of 2005 and were implicated in serious crimes, including the multiple rape of a minor held in police custody in Kananga in November 2005. The excessive use of force and firearms by law enforcement officials policing opposition demonstrations led to at least 20 arbitrary killings and dozens of injuries by firearms. The security forces shot dead and wounded demonstrators during protests that took place in Mbuji-Mayi over a two-day period in May. Further suppression of demonstrations and other opposition manifestations by police and military was in some cases violent, and serious human rights violations were committed over several weeks and culminating on 30 June 2005.



Clandestine diamond digger shot in back
by members of the security forces.
Mbuji Mayi, 2005

17. At least 30 political prisoners were detained under inadequate charges during the year. These included 15 Katangese and several UDPS members who were held for “threatening state security”. The federal president of the UDPS in Oriental province was arrested by the PNC in May and accused of inciting the population to civil disobedience and violence. In October he was tried by a military court and sentenced to two years for the illegal possession of a firearm. UDPS party officials in Kananga, Tshikapa, Mbuji Mayi and Kinshasa alleged during this period that they were at risk of human rights violations. At least 67 members of the UDPS were arbitrarily arrested and detained by police officers in different locations throughout the DRC. In early November the body of a member of the UDPS National Committee was found locked in the boot of an abandoned car in Kinshasa. His body bore traces of torture; however no inquiry has been carried out to establish responsibility for his killing.

18. The freedom of expression and association was also threatened by arbitrary interference from the authorities. In Katanga, the Provincial Governor ordered that radio and television stop airing political debates during the month of June. The *Haute Autorité des Médias* (HAM) prohibited two private media stations from broadcasting in Kinshasa in July for a ten-day period. These disruptions came in the aftermath of independent media coverage of the 30 June demonstrations. In September, the HAM suspended three

Kinshasa-based newspapers for the period of three months for publishing articles criticizing the government or individuals in power. A number of journalists were arrested and detained for periods ranging from 24 hours to several weeks for exercising their professional activities. In Kinshasa, nine journalists were held in detention for exercising their right to collect and transmit information. At least eight journalists received death threats from security forces, demonstrating the lack of tolerance of political authorities to public criticism. Journalists continue to be arrested for defamation, which remains a criminal offence in the DRC, after having published a number of articles on corruption and fraud. In November, a well known newspaper columnist and his wife were shot dead in their beds in Kinshasa. Although a group of policemen were arrested in connection with their murder, they had not been brought to trial by the end of the year.

19. A number of human rights violations have been recorded when groups and associations have attempted to demonstrate or organize industrial action. In Kinshasa, four trade union leaders were arrested for having advocated direct action against the government. Seven human rights defenders were detained and subjected to cruel, inhuman and degrading treatment by the *Agence Nationale des Renseignements* (ANR) in Katanga in early June, when they protested for the mass arrests carried out in connection with the alleged secession attempt. Several local civil society leaders were arrested in Kisangani and in Kinshasa for having exercised their right to freedom of expression and association. In Kinshasa, the PIR (*Police d'Intervention Rapide*) used tear-gas and fire arms and conducted a number of arbitrary arrests during a demonstration in August to commemorate a human rights activist murdered in Bukavu in July. No one has yet been brought to justice for this murder.

20. The registration of voters started on 20 June 2005 in Kinshasa and continued throughout the country until December, two months past the initially planned deadline due to logistical and security problems. The HRD intervened to assist a number of individuals who had difficulty to register for voting when officials blocked the process on the grounds of their nationality. These individuals were usually members of the Tutsi ethnic group living in North Kivu, South Kivu and Maniema and in most cases were able to demonstrate their right to Congolese nationality according to the provisions of the Transitional Constitution. More than twenty-four million voters were registered and received voter registration cards. The Constitutional Referendum was conducted on 18-19 December 2005 without major incidents, although several civil society groups complained that the process was flawed and did not respect a number of articles in the Transitional Constitution. Over half of the electorate in Kinshasa boycotted the poll. However, this was the first free poll to be conducted in the country since 1965.

21. The process of army integration, known as *brassage*, was slow to start at the beginning of the year and was still ongoing by the end of this reporting period. The government planned to have eighteen integrated brigades to provide security before elections, however the number of brigades was later revised to twelve, only six of which were formed by early December 2005. Out of 51,000 soldiers expected to go through the integration process, only 20,000 came to the integration centres. Soldiers spend an average of 40-50 days in these centres, most of which are in poor conditions and cannot support the military and their families. Soldiers receive little or no training or preparation for the transition from armed group to professional soldier whilst in these camps. Integrated brigades have been deployed to conduct counter-insurgency operations or to police politically volatile areas, such as Mbuji Mayi, with disastrous effects. The fact that soldiers receive a small and irregular pay has served to further compound existing difficulties. It is therefore

unsurprising that the vast majority of serious human rights violations, including violations of the right to life and physical integrity are committed by the FARDC preying on the civilian population.

22. The most serious of these violations are committed in the context of military operations; for example, four civilians were killed by FARDC soldiers at Awere near Mahagi in the District of Ituri on 16 December 2005, after they were accused of being members of a militia group. The victims were amongst a larger group of six displaced civilians who were arrested by soldiers of the 1st battalion of the 94th Brigade as they came seeking food for their families in the area. Those arrested were tied by their shirts and taken in the direction of a local farmstead. According to the investigations carried out by the HRD four of them were killed shortly after, two others managed to escape.

23. Military operations in North and South Kivu –against foreign armed groups- and in north and central Katanga –against a variety of *Mayi Mayi* groups- have been the context for violations including arbitrary killings, forced disappearances, rape, torture and other forms of cruel, inhuman and degrading treatment. Accounts of rape and sexual violence by FARDC deployed in the Ruzizi plain in South Kivu, Lubero territory in North Kivu and the Ituri District have been steadily increasing since early 2005 as military operations in these areas continue.

24. Even when the FARDC are not engaged in counter-insurgency or other operations, the high number of criminal acts perpetrated by “armed men in military uniform” committed in the absence of the rule of law has led to dozens of arbitrary killings. The larger towns, in particular Kinshasa, Mbuji Mayi and Goma, have been particularly affected, with dozens of killings committed by gangs of armed men who typically break into private civilian residences. Areas of natural resource exploitation, for example diamond mining areas in the Kasais, also see large concentrations of military surviving off the backs of the population. Many women and girls have been raped or sexually attacked in their homes; the systematic use of sexual violence effectively terrorizes and intimidates the civilian population.

25. In many areas, soldiers usurp the local police and carry out illegal law enforcement functions. In Ituri, soldiers regularly arbitrarily arrest and detain civilians in military camps, where the victims have been subjected to torture or beaten in order to pay a ransom for their release. In North Kivu, the local population in Katale, Rubare, Vitchumbi and Binza reported in September that arbitrary arrests and detention occur on a daily basis. FARDC arrest civilians and detain them in military camps, including underground pits at Vitchumbi, on the pretext of ongoing “counter-insurgency” operations. However, it appears that the main motive is financial, as the victims will secure their release with the payment of a ransom. Four civilians arrested in connection with a major theft in Goma in



Camp Saio in Bukavu. This cell regularly holds civilian detainees. November 2005.

November were handed over to the 8th Military Region, where they were reportedly tortured in order to confess the robbery and return the money.

26. In Katanga, Mayi Mayi militia groups continue to control central and northern parts of the province and to abuse the local population. Government forces apparently face difficulty in disarming these groups, who often operate in collaboration with local chiefs and officials.

27. Rwandan Hutu rebel groups, including the FDLR and Rasta, have continued to commit atrocities against the civilian population in South Kivu province. A series of attacks, namely in the territories of Walungu, Kabare and Bunyakiri, came under investigation by the HRD. The investigations revealed that these armed groups were responsible for killing, wounding, and abducting hundreds of civilians. Female hostages, who escaped from captivity, described being used as domestic servants and forced into sexual slavery as “wives” of the militiamen. Continued abductions, widespread looting and instability have had a devastating effect on local communities. Thousands of civilians have been displaced.

28. MONUC South Kivu Brigade increased its presence in the affected areas and carried out parallel and joint operations with the FARDC, including area-domination and cordon-and-search missions, to dislodge the rebel groups. From 6 to 9 September, MONUC South Kivu Brigade and FARDC troops conducted operation “Destiny Within” in the northern portion of Kahuzi-Biega Park, in which some 1000 troops took part. Further military operations were also carried out in order to force the militia groups out of their camps and to limit their ability to prey on the local population. Despite these military efforts, Rwandan Hutu groups have remained active and have continued to destabilise the security situation in the province.



Prisoners of war, ex-mayi mayi combatants captured by the 9th military region in Katanga. Many of those arrested are clearly minors. November 2005.

29. In the Ituri District, despite the deployment of FARDC troops in late March, several militia groups- FNI (*Front des Nationalistes Intégrationnistes*), FRPI (*Front de Résistance Patriotique de l'Ituri*), UPC (*Union des Patriotes Congolais*)- operating in the area remained a key source of instability. The FNI was responsible for widespread human rights abuses during the reporting period. Several attacks by FNI militia on villages in Ituri resulted in numerous civilian casualties. For instance, twenty-two civilians were reportedly killed by FNI militia in the Hema and Bira villages of Walu in early April. The FRPI continue to subject fishermen in the area of Lake Albert to abuses. At least thirty cases of abduction of fishermen by this militia group were reported from April to June. Some of the victims are feared to have been killed. UPC militia under the control of Bosco Ntaganda and his deputy, John Linganga, was said to be responsible for as many as 30 killings of civilians since mid-May, when they took control of the Berunda groupement in Mahagi from the FARDC.

30. Small steps were made in the fight against impunity, but it must be noted that the military justice system, although operational, was seriously challenged by the enormous need for justice. At the end of June, the FARDC Brigade Commander allegedly responsible for the massacre of over 30 civilians at Kilwa, Katanga in October 2004 was arrested. Although he was initially arrested for unrelated events, the military prosecutor of Katanga decided to investigate also his responsibilities for the Kilwa massacre. The infamous *Mayi Mayi* warlord, Jean Pierre Mulume Ngwena, better known by his *nom de guerre*, Tshinja Tshinja, was arrested in Kinshasa in April and is currently held awaiting charges at the *Centre Pénitentiare et de Rééducation de Kinshasa* (CPRK).

31. In Ituri, the former head of the militia group PUSIC (*Parti pour l'Unité et la Sauvegarde de l'Intégrité du Congo*), Yves Kawa Mandro, was convicted by the Bunia Tribunal in December of a series of serious crimes, including murder. John Tinanzabo, the ex Secretary-General of UPC (*l'Union des Patriotes Congolais*), was also sentenced to a 15 year prison term by this court. In Kindu, eight former GSSP (*Garde Républicaine*) soldiers were sentenced to life imprisonment in November for the arbitrary killing of a civilian. The military prosecutor in Bunia completed an investigation against Jerome Kakwavu, the former leader of FAPC (*Force Armée Populaire du Congo*) and currently a General in the FARDC and sent the complete dossier to Kinshasa, but no action has been taken yet to issue an arrest warrant. The legal status of nine alleged war criminals arrested in early 2005 is of concern, as charges are yet to be made against them. In many cases, investigations are not advancing, for lack of capacity, resources and political will to effectively prosecute those currently held in detention



Prisoners in the Central Prison of Goma.
North-Kivu, 2005.

32. In North Kivu, investigations by the military prosecutor for several serious crimes committed in December 2004 and January 2005, have barely advanced, mainly for lack of resources and for the total lack of cooperation by the provincial administrative and military authorities. The discovery of mass graves in Rutshuru, allegedly containing the remains of Congolese Hutus massacred in 1996, has also highlighted the importance of the creation of effective, competent and independent transitional justice institutions, as it cannot be expected that the Congolese (military) judicial system or the current Truth and Reconciliation Commission (TRC) could deal with such complex cases effectively and impartially.

33. The Amnesty Law, which came into force on 19 December provides amnesty for crimes committed between August 1996 and July 2003, but it excludes genocide, crimes against humanity and war crimes. Legislation providing for the cooperation between the DRC and the ICC had not been brought before Parliament before the end of the year, although the passing of this legislation would be a positive move in the fight for justice.

34. For the vast majority of Congolese, justice remained beyond reach throughout this reporting period. The State continued to struggle to establish its authority and the rule of law throughout the territory, with little support from the international community. Outside of major towns and cities, there is no access to justice for the population. Where it exists, the judicial system remains incapable of trying civil cases and petty crimes, leaving citizens no possibility of adequate legal protection. In spite of the training given by MONUC police and the HRD to nearly half the existing police force, arbitrary arrest, torture and the excessive use of force are regularly reported. Corruption in the police force is endemic, and many arrests and detentions are motivated by the ability of the victim to pay a bribe.

35. Prisons and detention centres are in a critical state and the constant lack of food, medicine and poor hygiene put the life of inmates at risk. Many of those held in such facilities have been subjected to arbitrary arrest and detention. To be sentenced for several months or years in prison for a petty crime is equivalent to the death sentence due to the fact that the risk of death for starvation remains high. The majority of detainees is in poor health and suffers from malnutrition which leads to more serious, even lethal, diseases. The limited capacity in some prisons, many of which are in ruins, also has serious implications on the hygiene and the state of health of detainees. Most of the measures envisaged by the law in order to monitor conditions of detention are not implemented. Judges do not regularly control the legality of arrests and detention and many detention centres are populated by victims of arbitrary arrest and detention.

V. Investigations by the Human Rights Division (HRD)

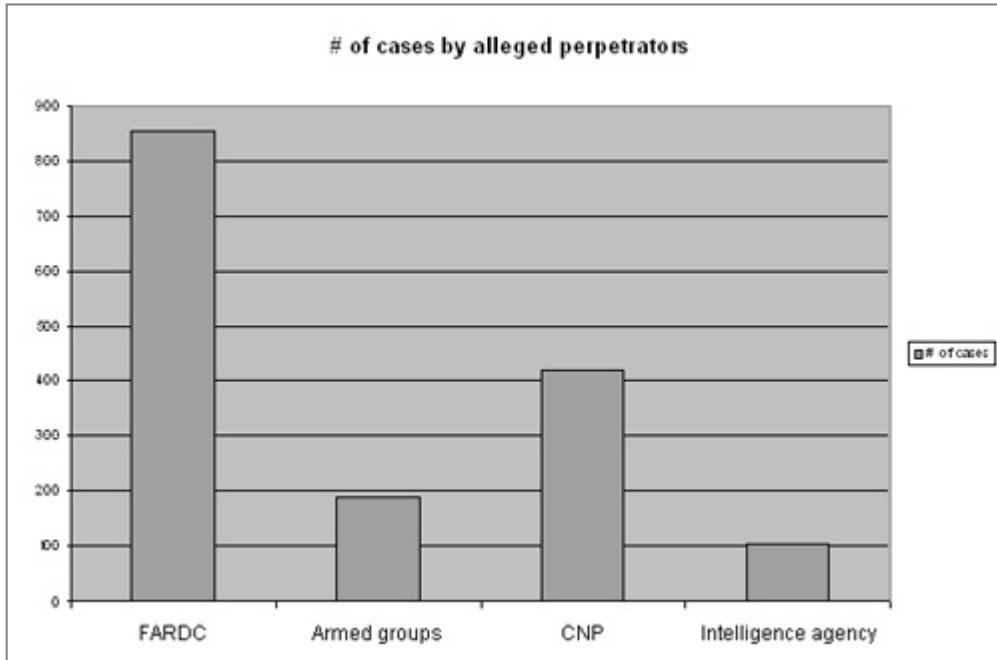
36. Human rights officers in 17 field offices in the DRC monitor incoming information on human rights and open cases which they choose to investigate. In addition, the SIU carries out investigations into massive, widespread or systematic violations. In the reporting period the Unit carried out five investigations.

Monitoring carried out by Field offices

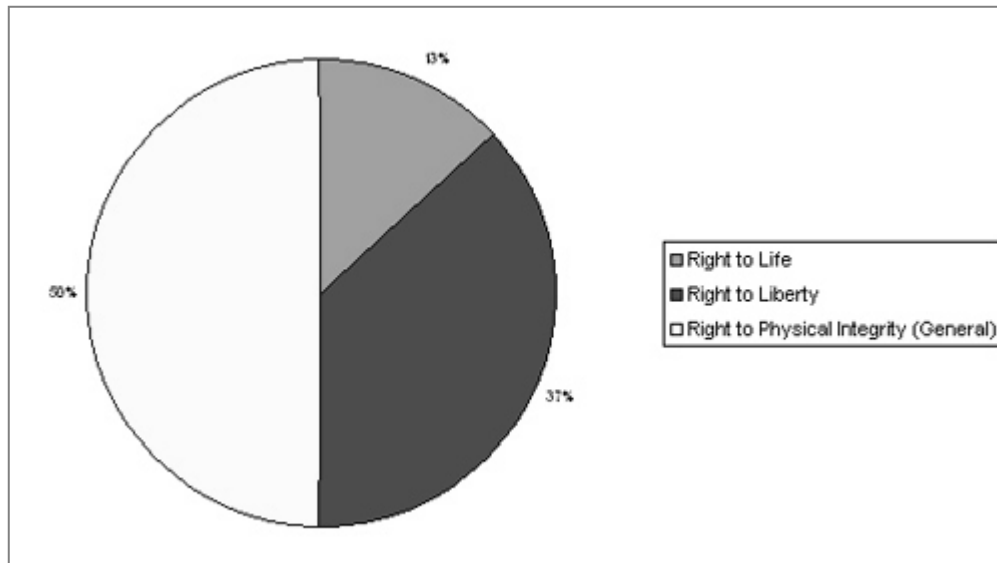
37. The total number of human rights violation cases registered by the Human Rights Division was 1866 for the period 1 April to 31 December 2005. Of these, 854 incidents involved the FARDC and 421 the PNC. The remaining incidents involved armed groups/militias or other members of the security forces.

38. More than 13 percent of all incidents involving FARDC and police officers included the violation of the right to life. Human rights field officers have investigated 120 killings perpetrated by the military and police.

39. More than 50% of all incidents involving FARDC and police officers were violations of the right to physical integrity. Of the incidents involving physical integrity, 23% were acts of sexual violence. Twenty-one cases of torture were under investigation by the HRD in this reporting period, some committed by members of the intelligence services, such as the ANR.



40. Violation of the right to liberty constituted 37% of all cases investigated by the Human Rights Division; these included 356 cases of arbitrary arrest and unlawful detention. The police, military, administrative authorities, and intelligence agencies all carry out arbitrary arrests in flagrant abuse of their power, and in violation of Congolese law and international standards. Of the violations allegedly committed by the PNC, over half were violations of the right to liberty.



41. Abuses by militia and armed groups were recorded in four provinces: North and South Kivu, Province Orientale (including Ituri District) and Katanga. Abuses by armed groups represented 25% of all incidents monitored by the HRD; of these abuses, 96% involved killings or attacks on physical integrity.

Investigations by the Special Investigations Unit (SIU)

42. The SIU, a specialised team within the HRD, was responsible for in-dept investigations in five provinces, including Kinshasa. A mobile unit known as SONK (Special Operation North Kivu) established by the team in late 2004, continued to follow closely developments in North Kivu, where serious human rights violations committed by members of the FARDC continued to systematically occur, particularly in the territory of Rutshuru.

43. In April, a MONUC multidisciplinary team, which included members of the SIU, was deployed to Walungu territory in South Kivu to investigate allegations of an increase in violence against the local population. The team was able to document numerous cases of killings, rapes, beatings and abduction of civilians by armed Rwandan Hutu groups in the territory. The investigations, which covered the period from early June 2004 to late April 2005, indicated that, in instances of abduction, the victims were forced to pay ransoms as high as USD 200. The abductions were systematic and served as an



Starving prisoners in Tshikapa.
Kasai Occidental, December 2005.

instrument to terrorise civilians and as principal source of financing the armed groups. In mid-June, a second team was able to confirm that civilians were killed in attacks on Izege and the village of Bugala, in Walungu territory, by armed men presumed to be members of the Rasta armed group. In mid-July, a multidisciplinary team from MONUC observed that Kabingu village in the *localité* of Mamba had been burnt down on 9 July 2005 and discovered two freshly-dug mass graves. The team was able to confirm that over 50 civilians, mostly women and children, were killed in this attack. The victims were either burned alive in their huts or stabbed to death while trying to escape. Eleven women were raped. The village was looted and several local residents, including children, were abducted to carry the loot. One of the hostages, aged 13, escaped from her captors in early August and recounted that, during her captivity, she and other minors were repeatedly raped and compelled to serve as “wives” of the militiamen. Local witnesses suggested that the attack on Kabingu constituted a reprisal against the population for having collaborated with the FARDC and MONUC in their actions against rebel groups. MONUC was, however, unable to establish the exact identity of the perpetrators or whether they were in any way linked with the FDLR or with the Rasta groups operating in the province. These rebel groups continued to commit abuses on the civilian population by the end of 2005.

44. The SIU assisted field offices in Mbuji Mayi and Kinshasa to investigate the violation of civil liberties during the political unrest towards the end of the transitional period. The unit issued a number of press releases in relation to its findings. In Mbuji Mayi, 97 human rights violations were documented, including 15 summary or arbitrary executions, 26 cases of attempted execution, the majority of which by gunshot, 21 cases of cruel, inhuman and degrading treatment including two rapes, 29 arbitrary arrests and four cases of forced

“disappearance”. In Tshikapa at least ten civilians were allegedly gunned down by the PIR and the FARDC; in Kinshasa, two civilians died after protests on 30 June. Despite repeated requests by the HRD, no one has been brought to justice for human rights violations committed in this period.

45. The SIU returned to Mbuji Mayi in late October, in order to investigate the allegations of human rights violations committed by the security forces assuring security for the MIBA (*Société minière de Bagwanga*) diamond concession (*polygone*) in the town. The unit concluded that excessive force is used by military and mines police operating within the *polygone* and that many of them are involved in illicit mining activities. As many as 70 clandestine diamond diggers have been killed or injured during 2005 by gunshot injuries sustained during incidents involving mines police and military.

46. Some of the worst reports of sexual violence during 2005 occurred in the province of Equateur. The SIU sent teams to investigate two incidents involving military carrying out massive rapes in and around Mbandaka and concluded that FARDC military were responsible for these crimes. During the first incident, a military rebellion that took place in Mbandaka in early July, MONUC was able to confirm the killing of five civilians and at least 22 cases of rape. Dozens of other civilians were injured by gunshot. A second SIU mission to Mbandaka, in early December 2005 established that at least 12 women and two girls were raped by a group of soldiers awaiting demobilisation from a CONADER (*Commission Nationale de la Demobilization et Reinsertion*) military centre in the village of Bokala, just outside Mbandaka in November 2005. The trial of military implicated in the first incident began in Mbandaka in December.

VI. Activities of the Human Rights Division

Justice support activities

47. A workshop was held in Kinshasa in June 2005 by the Justice Support Unit (JSU) in collaboration with the *Coalition Congolaise pour la Justice Transitionnelle* and the International Centre for Transitional Justice to examine the possibility of establishing mixed chambers in the DRC in order to successfully prosecute those responsible for the most serious human rights violations. The workshop was attended by members of the judiciary, parliamentarians and members of civil society, a declaration proclaimed support for the initiative.

48. MONUC supported the travel and accompanied a team from the *Auditorat Militaire* to Kilwa in October 2005 for the investigation into a massacre committed there one year earlier. The HRD will continue to monitor and support the investigation and the ensuing trial.

49. The trial of 12 FARDC soldiers accused of mass rape and looting in Songo Mboyo in December 2003 finally opened in Mbandaka in December and was ongoing at the end of 2005. HRD conducted the initial investigation and facilitated efforts by the authorities to ensure that this trial took place.

50. MONUC HRD has assisted the government to execute arrest warrants issued for some of the most wanted criminals in the DRC. The successful arrest of the ex-FNI leader Justin

Ngole Koliba for his alleged involvement in the massacre of nine Bangladeshi peacekeepers in January 2005 and other crimes against humanity in Ituri, took place in November with full MONUC support.

51. A report on "Conditions of Detention in Prisons and Holding Cells in the DRC", published in November, established that the conditions of detention in prisons remain unacceptable and do not correspond to the minimal criteria of treatment of detainees. The report made recommendations for an urgent program of recovery.

Protection of individuals

52. The HRD is involved in the protection of certain individuals at risk of human rights violations. The strategy of the HRD is to monitor certain situations, follow up cases with the authorities, and make it known to potential perpetrators that the security of certain individuals is under surveillance.



Training on human rights by MONUC's Human Rights Division for civil society in South Kivu, one of many in the province during 2005.

53. Where feasible, these activities are complemented by static protection ensured by the PNC under the monitoring of MONUC Police, and, in areas where there is no adequate police presence, by the FARDC. MONUC can also facilitate transport of individuals in UN vehicles from the place of residence to the place of Court hearings and, in support of the local judiciary, facilitate protection measures in the courtroom.

Promotion of Human Rights

56. In this reporting period, the HRD continued its efforts to increase human rights awareness, protection and promotion among political actors, civil society activists, police and judicial authorities. A total of 89 judicial police officers and 4,722 policemen and women, took part in training sessions organised by MONUC police between April and November 2005 and benefited from a briefing on human rights from the HRD. These discussions focussed on arbitrary arrests, illegal detention, torture, cruel, inhuman and degrading treatment, sexual violence and the excessive use of force and fire arms. Follow-up visits to police stations where the trainees work were also carried out. In October, the HRD and Gender Section jointly organised a training session for judges and defence lawyers in Kinshasa.

57. Human rights field offices also organised and participated in a number of activities on human rights education and awareness raising on the activities of the division. The beneficiaries included security officials, as well as members of the judiciary and non-governmental human rights organisations.

58. Field offices in Mbandaka, Lubumbashi, Kindu, Uvira, Bukavu, Kananga and Butembo all took part in training human rights organisations in a variety of themes including “investigation and information gathering”, “sexual violence against women and girls” and “human rights and elections.” Round table discussions on public freedoms were also held for journalists and members of civil society.

59. On the administration of justice, field offices in Kinshasa, Kisangani, Lubumbashi and Bukavu made presentations in seminars held for military and civilian justice officials on international standards, including those in conventions ratified by the DRC.

60. In Kindu, the HRD participated in several programs broadcast by the national television station, the RTNC (*Radio Télévision National du Congo*), on the theme of sexual violence against women and girls.

61. In Bukavu, the HRD organised the training of FARDC military in a number of sessions on military justice and the human rights of men and women.

62. On the International Day of Peace, 21 September 2005, several field offices made presentations on “Peace and the respect of human rights” and “Peace and elections.” In Goma, Kalemie and Lubumbashi, human rights officers participated in sports activities, dances and film screenings in order to commemorate the day.

63. On the World Day against the Death Penalty, HRD Kindu gave a presentation on the death penalty and human rights for the benefit of local organisations. In Kinshasa, the Division worked with the Congolese Coalition against the Death Penalty in lobbying the government to abolish the death penalty in the DRC.

Photo material MONUC

VII. Annexes

