



Report

27 September 2007

MONUC Human Rights Division

Office of the United Nations  
High Commissioner for Human Rights

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

During the period January to June 2007

Contents

<i>Chapter</i>	<i>Paragraphs</i>	<i>Pages</i>
I. Executive Summary.....	1-12	2
II. Recommendations .....	13-17	5
III. Methodology and Operational Structure.....	18-22	6
IV. Main Developments in the Human Rights Situation and the Political Context.....	23-25	7
A. Politically-Motivated Human Rights Violations.....	26-37	8
B. Bas Congo Events.....	38-42	10
C. Kinshasa Events.....	43-46	11
D. Targeting of Journalists and Human Rights Defenders.....	47-51	11
V. Main Categories of Alleged Perpetrators of Human Rights Violations.....	52	12
A. Human Rights and the PNC.....	53-56	13
B. Human Rights and the FARDC.....	57-61	14
C. Human Rights and Armed Groups.....	62-68	15
VI. The Administration of Justice and the Fight against Impunity.....		16
A. Overview.....	69-70	16
B. Justice for Serious Human Rights Violations.....	71-85	17
C. Sexual Violence.....	86-91	19
D. Prisons and Detention Centres.....	92-97	21
VII. Exploitation of Natural Resources and Human Rights.....	98-107	22
VIII. Promotion of Human Rights, Technical Cooperation and Protection activities...	108-116	23
IX. Conclusions .....	117-120	24
X. List of acronyms .....		25

## I. Executive Summary

1. The human rights situation in the DRC during the period covered by this report (January-June 2007) continued to be cause for grave concern. Serious human rights violations such as arbitrary executions, rape, torture and cruel, inhuman and degrading treatment continued to be steadily committed mostly by the army and police. Based on statistics obtained by the United Nations Human Rights Office in the DRC (UNHRO) for the first six months of 2007, 86 % of documented human rights violations were committed by the FARDC (the Congolese Armed Forces) and the PNC (the National Congolese Police) compared to 79 % for the period July-December 2006. The intelligence services, both civil and military (*l'Agence Nationale de Renseignements* - ANR and the ex-DEMIAP), the Special Services Branch of the PNC in Kinshasa (Kin Mazière<sup>1</sup>) and the Republican Guard (RG) were responsible for approximately 8 % of the human rights violations documented during the reporting period. These services are highly politicised and are generally used to commit politically-motivated crimes during specific periods and then revert to the daily harassment and intimidation of Congolese citizens. In addition, the armed groups operating in the country, both foreign and Congolese, although responsible for only 6 % of documented human rights abuses, have perpetrated massacres, arbitrary executions, abductions of villagers, and subjected women to systematic rape, sexual slavery and other forms of sexual violence with full impunity.
2. The successful and relatively peaceful conclusion of the Legislative and Presidential elections and the installation of a new Government were expected to be key steps toward achieving stability and progress toward Democracy and the Rule of Law. However, from January 2007, troubling trends emerged. In Bas Congo Province, violent protests by members of an opposition politico-religious movement (*Bundu Dia Kongo*) on 31 January-1 February were met with excessive use of force and in some cases summary executions by police and the armed forces (FARDC) and resulted in 105 people killed and over 100 injured. The investigation into the 22-25 March events in Kinshasa, when fighting broke out between forces loyal to former Vice President Jean Pierre Bemba and the FARDC, has documented over 300 deaths, including summary executions, mostly committed by the Republican Guard, more than 200 arbitrary arrests and scores of cases of intimidation and threats against persons perceived to be affiliated to Jean Pierre Bemba or natives of Equateur province. No member of the security forces involved in these two incidents has been investigated and brought to justice so far, despite advocacy by MONUC.
3. The period in review was also marked by the visit of UN High Commissioner for Human Rights and the UN Special Rapporteur on the Independence of Judges and Lawyers. During her meetings with President Kabila and other DRC officials, the High Commissioner stressed the need to combat the culture of impunity and reminded the authorities of their obligation to refuse to grant amnesty to persons known to have committed serious human rights violations. She also encouraged them to introduce a vetting process within the security forces to ensure that officers suspected of committing, condoning or ordering the commission of human rights violations be suspended from their posts and brought to justice. She presented and received the full support of President Kabila for the mapping exercise that is aimed at carrying out an inventory of all gross human rights and international humanitarian law violations perpetrated in the DRC between 1993 and 2003.
4. The UN Special Rapporteur recommended that the Government make the building of a strong, independent and efficient judiciary one of its main priorities and should consequently significantly increase the percentage of the national budget allocated to the justice sector. He also stated that the construction of the judiciary should be achieved through the reinforcement of the civilian justice system, which should be the only jurisdiction competent to judge civilians as well as military and police personnel accused of committing human rights violations. He added that military justice should be gradually limited to hearing cases of a purely military nature. Another of his recommendations called for the law to fix a maximum period for pre-trial detention, in particular for offences that carry a maximum penalty of less than five years.
5. The UNHRO did not observe any major signs of improvement in the administration of justice during the first semester of 2007. Both civil and military jurisdictions continued to be prone to corruption and lacked the human and material resources needed to function efficiently. The independence of the judiciary exists only in principle and interference by military and political authorities in the administration of justice is prevalent, particularly in high-profile cases. Despite declarations by the authorities to combat impunity, very little progress has been recorded on the ground. None of the perpetrators of the serious crimes committed during the first six months of 2007 (the Bas Congo and Kinshasa events and the Buramba massacre) have been arrested and brought to justice. However, some progress was achieved in Ituri, where 13 FARDC soldiers who were responsible for the arbitrary executions of some 32 villagers in Bavi as well as mass rape and systematic looting between August and November 2006, were sentenced to life imprisonment by the Bunia Military Tribunal on 19 February 2007. Despite recommendations made by the UNHRO to the Government to improve conditions in the country's prisons and detention centres, prolonged pre-trial detention periods, the dilapidated state of prisons and other detention centres, and the lack of

---

<sup>1</sup> Named after the building occupied by this service in Kinshasa.

food and medical supplies, continue to be main features of the correctional system in the DRC during the period in review.

6. In spite of the reinforcement of the laws punishing sexual violence, cases of rape and other forms of sexual violence are still prevalent. Very few rape cases ever reach the justice system and when they do, most of the alleged perpetrators are granted bail and never appear in court. The UNHRO has documented several cases in which perpetrators of rape have been allowed to escape from military holding cells or have received very light prison sentences. All six FARDC soldiers who were sentenced for their participation in mass rape perpetrated in Songo Mboyo, Equateur Province in December 2003, have escaped from prison, thus representing a major setback to the fight against impunity. In addition, police and military commanders as well as local authorities continue to encourage families of rape victims to engage in out-of court settlements or simply refuse to cooperate with the Office of the Military Prosecutor when elements of their units are implicated in cases of rape or other forms of sexual violence.
7. The Government's policy of "mixage" that started early this year in North Kivu and resulted in the formation of five brigades composed of former elements of the ex-ANC 81<sup>st</sup> and 83<sup>rd</sup> Brigades, loyal to renegade General Laurent Nkunda<sup>2</sup> and Government forces formerly based in South Kivu, has led North Kivu on the verge of a military confrontation, against a background of exacerbation of ethnic tensions in the province, increased insecurity, massive displacement and an upsurge of politically and ethnically motivated human rights violations committed by mixed brigades and FDLR forces. Mixage has allowed the *de facto* incorporation of several well known alleged war criminals into the FARDC. The "mixage" process in North Kivu has also affected South Kivu where insurgents and dissident FARDC (Moramvia, Group of 47 and Mayi Mayi) who have refused to join the "brassage" process have become more active and have demanded that the principle of "mixage" be also applied to them. This situation provoked a high level of ethnic tension in the area and later resulted in military operations mounted by the FARDC against the insurgents based in the *Moyens* and *Hauts Plateaux*.
8. The Republican Guard, the Special Services Branch of the Police in Kinshasa commonly referred to as *Kin Mazière*, the *Agence Nationale de Renseignements* (ANR) and the former DEMIAP, continued to act outside of their mandate and were mostly responsible for politically-motivated human rights violations committed in a climate of total impunity. Access to their detention places continued to be frequently denied to judicial authorities and civil society organizations as well as human rights officers, despite MONUC's mandate and several protests, including at presidential level. The impunity enjoyed by members of these forces has allowed them at times to demonstrate very threatening and hostile attitudes towards MONUC officials. On 9 July 2007, personnel of the UNHRO Uvira office in South Kivu Province were manhandled and threatened with death by ANR officials while carrying out a visit of the ANR holding cells with the Public Prosecutor. During a visit to Camp Tshatshi following the 22-25 March events, UNHRO personnel were treated in a very aggressive and threatening manner by the RG soldiers.
9. Intimidation and harassment of journalists and human rights defenders intensified over the past six months and peaked in Kinshasa in the aftermath of the armed confrontation of 22-25 March when dozens of journalists and media were targeted in particular for their perceived affiliation to Vice-President Jean Pierre Bemba. Journalists from other media outlets in Kinshasa were also threatened as well as those working in the provinces. The UNHRO documented cases of harassment and intimidation of journalists by the ANR and the PNC in South Kivu, Bas Congo, Kasai Occidental and as well as Kasai Oriental provinces. The killing by unknown gunmen of a Radio Okapi journalist in Bukavu, South Province on the night of 13 June, provoked widespread fear among journalists and human rights defenders who have often been subjected to harassment, threats, intimidations and arbitrary arrests committed by members of the security forces.<sup>3</sup>
10. The UNHRO has continued to receive reports of human rights violations directly linked to the exploitation of natural resources. Members of the security forces as well as irregular armed forces continued to subject artisanal miners and other civilians living in areas close to mines, to forced labour, illegal taxes, extortion and ill-treatment. The widespread culture of impunity, the poor management of natural resources coupled with the poor salaries paid to members of the security forces have all contributed to the creation of an environment in which the rights of artisanal miners are constantly trampled upon. In addition, the implication of PNC/FARDC elements known as

---

<sup>2</sup> Laurent Nkundabatware is one of the most well-known perpetrators of human rights violations in the DRC. Several investigations point to his responsibility for the Kisangani massacre in May 2002 while serving with the ex-ANC of RCD-G and for the widespread summary executions, rapes and looting that followed the Bukavu invasion of May-June 2004 among other incidents. Nkunda is named in three UN public reports in which an explicit demand that he be brought to justice was made by the UN High Commissioner for Human Rights. He was promoted to General and appointed Commander of the 8<sup>th</sup> Military Region (North Kivu) at the beginning of the Transitional Government in 2003, but refused to travel to Kinshasa to officially take up his assignment.

<sup>3</sup> At the time of the drafting of this report, judicial proceedings are ongoing in this case. See para. 49 of the present report for further details.

*suicidaires*<sup>4</sup> in criminal activities linked to the exploitation of diamonds in Mbuji Mayi significantly contributed to the deterioration of the human rights and security situation in that town during the period in review.

11. The UNHRO conducted a wide range of capacity-building and human rights promotion activities during the reporting period. At least 2000 FARDC and PNC officers, more than 1000 representatives of NGOs active in human rights, 100 parliamentarians both provincial and national, were trained during the reporting period on general and specific human rights issues and instruments with focus on women's rights, the rights of persons under arrest, torture, cruel, inhuman or degrading treatment or punishment, sexual violence, human rights in maintaining public order, impunity, children's rights as well as those of vulnerable and marginalized groups including people living with HIV/AIDS. The UNHRO also established Legal Aid Clinics in Equateur and Orientale Provinces to provide assistance to victims of sexual violence. During the period in review, the UNHRO continued its work in the area of protection of victims, witnesses and human rights defenders. Thanks to a project funded by the European Commission, the UNHRO was able to recruit 11 National Protection Officers in 11 field offices, whose main task is to carry out capacity building activities with local NGOs working in the protection field. These officers were trained in June 2007 in Kinshasa with the support of the Protection Trust Fund.<sup>5</sup>
12. The UNHRO calls upon the new government to translate its commitment to combat impunity into concrete actions. In this sense, it has taken note of some of the recent changes that President Kabila made in the command structure of the FARDC, PNC and ANR and encourages the Government to undertake a serious vetting process within the security forces, in particular, the FARDC and the PNC to ensure that persons suspected of committing, condoning or ordering serious human rights violations are not allowed to serve in these forces. The judicial authorities should also immediately conduct investigations into the Bas Congo and Kinshasa events as well as take legal action against those responsible for the Buramba massacre of 9-10 March 2007. The Parliament should pass the necessary law for the implementation of the Rome Statute of the ICC as well as the law creating the Supreme Council of the Judiciary, la *Cour de Cassation* and the Constitutional Court.

## II. Recommendations

13. The United Nations Human Rights Office (UNHRO) formulates the following set of recommendations addressed to the Government, the Parliament and judicial authorities, as well as to the International Community.

### 14. To the Government

- Demonstrate a zero tolerance policy for all human rights violations and effectively fight against impunity by severely sanctioning cases of interference in the administration of justice by political, military and police authorities as well as by providing the justice system with adequate financial and material means to enable it to be fully efficient and independent.
- Clarify the mandate of the ANR, Special Services of the PNC (Kin Mazière) and the Republican Guard in order to ensure that members of these services who are responsible for serious human rights violations become more accountable and are effectively brought to justice in accordance with international norms.
- Implement a vetting process in the security forces to ensure that high-ranking officers accused of committing human rights violations are suspended and replaced.
- Support the UN Mapping Team.
- Urgently address the lack of security as well as the appalling conditions in prisons and detention centres in the DRC and also encourages the establishment of mechanisms to address the excessively large number of persons in prolonged pre-trial detention in all prisons.
- Effectively guarantee an inclusive and democratic space for members of the political opposition in accordance with the Constitution of the DRC and democratic principles.

---

<sup>4</sup> The *suicidaires* are current or former members of the armed forces and the police who have negotiated "protection deals" with illegal miners operating within the MIBA Polygone (concession) in Mbuji Mayi. The *suicidaires*' activities are also illegal. They have been responsible for the death of and injuries to an alarmingly high number of miners. In addition, over the past six months, the *suicidaires* have been implicated in several cases of armed robberies in the homes of diamond dealers resulting in serious injury to and also the death of victims.

<sup>5</sup> And financed by the British, Swedish and Swiss Embassies.

- Take all the necessary measures to guarantee the protection of victims, witnesses, human rights defenders, as well as members of the media.
- Develop a comprehensive set of measures that will adequately address the link between the exploitation of natural resources and human rights violations. These measures should include verification measures to ensure that mining sites are secured by mandated security services acting in conformity with the law and human rights standards.

### **15. To the Parliament**

- Give priority to the adoption of laws for the establishment of the Supreme Council of the Judiciary, the National Human Rights Commission, the Constitutional Court as well as the implementation of the Rome Statute.
- Bring existing legislation, when required, into conformity with international standards. In this connection, the UNHRO urges the Parliament to make the necessary amendments to the law on the jurisdiction of military courts to ensure that their competence is strictly limited to trying military personnel.

### **16. To the Judiciary**

- Bring to justice all perpetrators of serious human rights and international humanitarian law violations by initiating impartial and independent judicial investigations, including into the 31 January-1 February 2007 events in Bas Congo Province, as well as into the 22-25 March events in Kinshasa.
- Take urgent measures to complete the judicial investigations into the Buramba massacre of 9-10 March 2007 and to arrest and bring the perpetrators to justice.
- Complete investigations and prosecute all members of the security forces accused of having committed serious human rights violations and who continue to occupy important posts within these services.
- Ensure that all the provisions of the new laws on sexual violence be fully adhered to and implemented by all officials of the civilian and military justice system. The UNHRO also encourages the Government to severely sanction all those responsible for encouraging victims of sexual violence to enter into out-of-court settlements or for protecting or in anyway refusing to hand over alleged perpetrators of rape and sexual violence to the competent judicial authorities.
- Ensure that military and law enforcement officials who are involved in the illegal exploitation of natural resources and human rights violations directly linked to this illegal activity are brought to justice.

### **17. To the International Community**

- The UNHRO encourages the international community to continue its involvement in the fight against impunity, the reinforcement of the justice system in the DRC and also encourages it to provide support to the mapping exercise.

## **III. Methodology and Operational Structure**

18. The UNHRO comprises the MONUC Human Rights Division (HRD) and the Office of the UN High Commissioner for Human Rights in the DRC (OHCHR). The two offices have been fully integrated and therefore the UNHRO functions in accordance with their two mandates.
19. The MONUC Human Rights Division is mandated by UN Security Council Resolution 1756 of 15 May 2007 “to assist in the promotion and protection of human rights, with particular attention to women, children and vulnerable persons, investigate human rights violations with a view to putting an end to impunity, assist in the development and implementation of a transitional justice strategy, and cooperate in national and international efforts to bring to justice perpetrators of grave violations of human rights and international humanitarian law.” The HRD is to ensure the protection of individuals under imminent threat of physical violence, notably witnesses, victims and human rights defenders (S/RES/1565 Para. 4(b)). The HRD is also mandated to assist the Government to establish a

vetting process within the security forces to ensure that members who have committed serious violations of human rights and international human rights law are not given key posts but are suspended, replaced and brought to justice. The HRD monitors and documents human rights violations across the country. Special attention is paid to violations of the rights to life, liberty and physical integrity; to violations of civil liberties and to the link between the exploitation of natural resources and human rights violations. MONUC also participates in the training of members of the security forces in human rights standards.

20. The Office of the High Commissioner for Human Rights in the DRC, established in 1996 by an agreement between the UN High Commissioner and the Government of the DRC, is mandated to monitor the human rights situation in the country; to present reports on human rights violations that require urgent measures on behalf of the Independent Expert on the human rights situation in the DRC and/or special procedures; to reinforce national institutions (both governmental and non-governmental) working on human rights issues in order to ensure that the DRC is able to better respect provisions of international and regional treaties to which the country is party.
21. The UNHRO, with a total of 142 staff, has an established presence across the country with 18 field offices and four mobile investigation teams. The field offices gather information on human rights violations or abuses and verify allegations and reports of human rights violations by cross-checking the information received and also by carrying out field visits. Most cases are then followed up by engaging the relevant national authorities in order to provide justice and redress to victims and to address the causes of these violations. The field offices also monitor respect for criminal procedure law and minimum conditions in detention facilities.
22. Apart from 18 field offices, the UNHRO has five specialised units based in Kinshasa. The Transitional Justice and Fight against Impunity Unit has the responsibility to monitor the administration of justice and assist efforts to bring the perpetrators of gross human rights violations to justice. The Special Investigations Unit (SIU) is tasked with carrying out in-depth investigations into serious incidents of human rights violations, especially in remote areas of the DRC. Four investigative mobile teams in the two Kivus, North Katanga and Ituri operate in tandem with the SIU. The Victims, Witnesses and Human Rights Defenders Protection Unit is tasked with ensuring the protection of individuals and building local capacity in the field of witness protection. The Human Rights Information and Analysis Unit is responsible for the collection and analysis of information and the production of reports as well as the management of a human rights database. Capacity building and technical cooperation activities are carried out by the Technical Assistance and Cooperation Unit as well as by the field offices under the guidance of the Unit.

#### **IV. Main developments in the Human Rights Situation and Political Context**

23. The holding of historical elections in 2006 was supposed to usher in democratic principles, in particular, political tolerance, respect for human rights and an end to impunity. President Joseph Kabila and the newly appointed Congolese Government expressed their commitment to prioritize respect for human rights and the fight against impunity. However, this commitment has not yet been transformed into concrete action. The dire human rights situation in eastern DRC has only worsened with the rise in ethnic tensions, especially in the Kivus, while in the west, signs of political intolerance and troubling trends emerged resulting in two incidents of large scale and serious human rights violations.
24. In the Kivus, rising ethnic tensions, armed clashes and a deterioration of the human rights situation were the direct result of the “mixage” process established in North Kivu by which soldiers from the ex-ANC (RCD) 81<sup>st</sup> and 83<sup>rd</sup> Brigades (loyal to renegade General Laurent Nkunda) have been “mixed” with Government forces formerly based in South Kivu Province. Five mixed Brigades have so far been formed (Alpha, Bravo, Charlie, Delta and Echo). However, these brigades have been “mixed” only at the command level. As a result, at the Battalion and Company levels, the elements continue to function under their former command structure (pro-Nkunda and pro-Government). The human rights and security situation has also significantly deteriorated due to the regular clashes between the mixed Brigades, particularly Bravo Brigade, and the FDLR in the Binza *Groupement* located in the territory of Rutshuru. These clashes have resulted in reprisal attacks against the local population accused of supporting one group against the other. The situation was exacerbated by the arrival on 24 March in Bukavu, South Kivu, of a group of RCD-G and Mudundu 40<sup>6</sup> officers known for their close association with Laurent Nkunda and Jules Mutebutsi<sup>7</sup> and for their records of gross human rights violations. Among them was Lieutenant Colonel Biyoyo, who escaped from Bukavu prison in 2005 where he was serving a 20-year sentence for recruiting children. The group allegedly arrived to sensitise rebel Banyamulenge loyalist groups (Moramvia and Group of 47) about

<sup>6</sup>A now dissolved RCD-Goma affiliated militia based in South Kivu Province.

<sup>7</sup>A member of the Banyamulenge community and former Deputy Commander of the 10<sup>th</sup> Military Region (South Kivu Province). He joined forces with General Laurent Nkunda to occupy Bukavu in late May 2004. He subsequently fled to Rwanda with a group of soldiers and officers after the Bukavu crisis.

“mixage<sup>8</sup>”. The Commander of the 10<sup>th</sup> Military Region protested against their presence and they were recalled to Goma by the Commander of the Land Forces, General Gabriel Amisi.

25. Violent political demonstrations by members of *Bundu Dia Kongo* (BDK) in Bas Congo were met with a disproportionate response from the Congolese authorities. 105 people were killed in the violence. A poorly executed decision by the Government to forcibly disarm former Vice President Jean-Pierre Bemba’s security force led to an unprecedented level of violence in Kinshasa. Over 300 people lost their lives and an unacceptable level of collateral damage was caused to property during the fighting. Both incidents were indicative of the current climate of political intolerance very much at odds with statements made by the President and Government both prior to and immediately following the elections. This climate is maintained by the security services, especially the Police Special Services, the Republican Guard and the Civilian and Military Intelligence services. These services, whose actions continue to be guided by political considerations rather than by the law, are discussed in more detail below, as are the specific events which took place in Bas Congo and Kinshasa, and the specific plight of journalists and human rights defenders, who have been particularly affected by the prevailing situation of political intolerance.

## A. Politically-motivated violations

### 1. Special Services of the PNC

26. The Special Services Branch of the police in Kinshasa, commonly referred to as Kin Mazière, has functioned over the years as a highly politicised unit, allegedly reporting directly to the *Présidence*. Reports of arbitrary arrest and detention for political reasons, as well as the use of torture, cruel, inhuman and degrading treatment by its members are well documented by the UNHRO. However, human rights officers have not always been able to verify allegations because of *de facto* denial of access to the holding cells (based on the supposed unavailability of the senior officers to authorize visits) or due to the fact that detainees are reportedly hidden during UNHRO visits.
27. On 16 February, a relative of a detainee informed the UNHRO of the arrest of four DPP members who were allegedly subjected to torture by members of the Special Services in Kin Mazière, resulting in the death of two of the victims.
28. Another case implicating Kin Mazière concerns five men who were arrested in Shabunda, South Kivu Province, at the end of September 2006 by the police and charged with organizing a rebellion. The men were all close to a former Minister of the Environment (a Mayi Mayi representative) who had fallen out of grace with President Kabila’s *Parti du Peuple pour la Reconstruction et la Démocratie* (PPRD) and then became Jean-Pierre Bemba’s campaign manager for South Kivu. At the time of their arrest, the men were reportedly subjected to torture and cruel, inhuman and degrading treatment to force them to admit that the former minister had sent them to prepare a rebellion in the area. They were subsequently transferred to Bukavu. On 12 December 2006 the detainees were transferred to the Special Services of the PNC at Kin Mazière in Kinshasa where they were detained until their transfer to the Office of the Public Prosecutor in Gombe Commune on 16 February. On 23 February, the Prosecutor released them for lack of evidence.

### 2. The Republican Guard

29. The Republican Guard (RG) was created in 2004 in accordance with *Loi No 04/023 du 12 novembre 2004 portant organisation générale de la défense et des forces armées* and is tasked with the protection of the Head of State as well as Presidential installations and facilities throughout the DRC. However, it generally functions as a highly politicized unit and its elements have been implicated in allegations of serious human rights violations, including arbitrary executions, enforced disappearances, abductions, and arbitrary arrests and detentions followed by ill-treatment. In Kinshasa, access to its holding cells in Camp Tshatshi and Camp CETA is seldom granted and detainees are generally kept for extremely long periods. Several allegations of summary executions carried out by the RG during the 22-25 March events in Kinshasa have been documented by the UNHRO. (See section C)
30. A member of the political party *Union Pour la Démocratie et le Progrès Social* (UDPS) in Bukavu claimed to have been arrested and subjected to cruel, inhuman and degrading treatment by a RG soldier on 17 May 2007 because of

---

<sup>8</sup> Fighting between the two components of Charlie Brigade, pro-Government forces and pro-Nkunda forces on 27-30 August appears to have brought the *mixage* process to an end in the 8<sup>th</sup> Military Region.

remarks he made about the 17 May celebrations in Kinshasa in the presence of a RG soldier in civilian clothes. The victim was arrested, detained, beaten with rifle butts and placed in a holding cell in a RG Camp, where he was undressed and severely beaten again before being released the following day. He was warned that he would be killed if he spoke to anyone about the incident.

31. The impunity with which elements of the RG operate is also very evident in the provinces where they are based, particularly Oriental, Maniema and Katanga. On 12 April, a civilian was shot dead by a RG soldier in the Maleke neighbourhood of Kisangani. The victim was allegedly arrested during an argument he had with another civilian. The alleged perpetrator was arrested and taken to the Office of the Military Prosecutor. A RG Commander obstructed the administration of justice by delaying the transfer of the suspect to the Prosecutor's Office.
32. On 5 July, after several unsuccessful attempts, the UNHRO met the Commander of the RG to conduct follow-up investigations into the 22-25 March events in Kinshasa. During the meeting, the Commander agreed to grant access to the Camp Tshatshi holding cells. He acknowledged some human rights violations committed by RG soldiers against prisoners under their charge and instructed the RG Legal Adviser to act as Focal Point and facilitate UNHRO visits. He also welcomed the UNHRO proposal to hold monthly meetings with the RG Legal Adviser to discuss cases of human rights violations and ensure follow-up. However, real progress has yet to be made on the key issue of access to RG camps across the country.

### 3. ANR

33. The *Agence Nationale de Renseignements* (ANR), the national civilian intelligence service, was created by *Décret-loi* No 003/2003 of 11 January 2003 and is tasked with watching over the internal and external security of the State. Despite its mandate, systematic monitoring by the UNHRO has shown that the vast majority of cases dealt with by this service concern common crimes, which have no connection whatsoever with issues of State security. During visits to ANR holding cells, human rights officers routinely find detainees accused of petty theft, assault and battery, non-payment of debts, property disputes, murder, adultery, etc. These detainees are often victims of torture, cruel, inhuman and degrading treatments. During the reporting period, ANR agents have also been implicated in politically motivated human rights violations, particularly of opposition members, journalists and human rights defenders. (See section D). ANR agents cannot be investigated or prosecuted without the preliminary authorization of the General Administrator of ANR.<sup>9</sup> In practice, the UNHRO has not been able to record a single case where an ANR agent involved in human rights violations was investigated or prosecuted by judicial authorities.
34. A member of the political party *Rassemblement Congolais pour la Démocratie* (RCD), was arrested by ANR agents on 7 January at the Ruzizi border post in Bukavu, South Kivu Province because they reportedly found the number of Me Azarias Ruberwa, a Vice-President under the previous Transitional Government, in his telephone directory. It is alleged that they accused him of planning to recruit "Rwandan mercenaries" to attack the DRC. The agents reportedly demanded up to \$1,000 for his release.
35. The President of a local NGO in Mbuji Mayi was allegedly a victim of arbitrary arrest and cruel, inhuman and degrading treatment inflicted by the Director of the ANR in Mbuji Mayi on 18 April 2007. According to the victim, the arrest took place after a press conference organised by him on 14 April during which he accused counsellors of the Governor of having violated human rights of members of the local Kanyok community. The Director of the ANR accused the victim of insulting the Governor during the press conference. The victim was detained for 26 hours and was released without charges.

### 4. Military Intelligence (Ex-DEMIAP)

36. *L'Etat-Major des Renseignements Militaires* (formerly known as the "DEMIAP") is responsible for military intelligence within and outside the DRC. As is the case for the other services mentioned in this section, access to detainees in Kinshasa is difficult to obtain. Officially, there are no holding cells at Military Intelligence Headquarters in Kinshasa. However, the UNHRO has documented cases of arbitrary detention perpetrated by members of this intelligence service. Most of the cases investigated involved civilians arrested in the provinces and transferred to Kinshasa mainly for political reasons. Such persons remained incognito and incommunicado for several weeks despite efforts by the UNHRO to determine their whereabouts.
37. The President of the NGO *Action pour un Congo Pacifié en Développement* (APCD) was arrested by the T2 (Intelligence Officer) of the FARDC on 19 January 2007 in Goma, and transferred to Kinshasa on 26 February by the Office of the Military Prosecutor. The UNHRO was informed of the case but was unable to locate the victim.

---

<sup>9</sup> Article 25 of *Décret-loi* No 003/2003 of 11 January 2003 establishing the ANR.



Finally, on 16 March, after intensive investigations, the UNHRO established that he was being detained at the ex-DEMIAP facility in Kintambo. Following the intervention of the UNHRO, the victim was released.

## **B. The Bas Congo Events of 31 January-1 February**

38. The first major incident area where political tensions led to clashes occurred in Bas Congo Province, where the leadership of the politico-religious movement *Bundu Dia Kongo* (BDK) called for a general shut down of activities in the province (*ville morte*) to take place on 1 February. The BDK alleged corruption in the election of an AMP-affiliated Governor. Their demonstrations were severely repressed by the police and the armed forces (FARDC). A multidisciplinary team led by the Special Investigations Unit of the UNHRO was dispatched to Bas Congo on 5 February to carry out investigations. The Team established that at least 105 people were killed and over 100 were wounded during the clashes, mainly due to the use of excessive force by the security forces and summary executions of BDK members. The Team also concluded that the PNC was ill-equipped and ill-prepared to deal with the BDK protesters; that this led to the involvement of the FARDC and significantly contributed to the high number of civilian casualties. The investigation also established that BDK members were involved in criminal acts, including the killing of members of the security forces, looting, theft of arms and ammunition, destruction of public buildings and property and failure to observe the legal procedures governing the organization of public demonstrations.
39. MONUC's concerns about the use of excessive force and summary executions by the police and the FARDC during the Bas Congo incidents were raised with the Interior Minister on 1 March and with the Human Rights, Defence and Interior Ministers on 12 and 14 March. Although the Congolese authorities had not yet completed their investigations into these events at the time of the meeting, the Interior Minister claimed that the incidents had been sensationalized in order to discredit the new Government. He accepted, however, that the PNC was not properly equipped and did not properly handle the situation.
40. The MONUC report on the Bas Congo incidents was sent to the Congolese Government as well as to the President of the National Assembly. However, no official reaction has been obtained to date. A Parliamentary Commission of Inquiry that was established to conduct investigations into the incidents recommended the opening of a judicial investigation to determine the criminal responsibility of, *inter alia*, the security forces in the violent confrontations. However, the report was not very comprehensive and the investigation itself was undermined by the Commission's lack of means and relevant investigative skills, and by the inadequate amount of time allotted to the inquiry on the ground (10 days). The 1<sup>st</sup> Vice President resigned from the Commission, stating that its report failed to reflect the real findings of the team in Bas Congo. The parliamentary debate on this report was held behind closed doors, despite opposition protests.
41. MONUC also shared the findings of its investigations with the Congolese judicial authorities. However, up to the time of the writing of this report, no member of the security forces implicated in the serious human rights violations that were committed during the incidents has been arrested or charged. The only measure taken against State agents in the aftermath of the Bas Congo events was the decision of the Minister of the Interior to suspend and replace the PNC Provincial Inspector and his two deputies (for alleging that MONUC was involved in the violence) and the arrest of the Provincial Chief of the *Agence Nationale de Renseignements* (ANR). On the other hand, 15 BDK members were swiftly arrested and charged with participating in an insurrectionary movement, rebellion, murder, criminal conspiracy and theft. Three were sentenced to three years in prison and two others two to five years. The remainder were acquitted.
42. The full UNHRO report on the incidents was made public and can be viewed online at [http://www.ohchr.org/english/docs/rep\\_bascongo.doc](http://www.ohchr.org/english/docs/rep_bascongo.doc).

## **C. The Kinshasa Events of 22-25 March**

43. Violence erupted in downtown Kinshasa when Jean-Pierre Bemba and members of his personal protection force (the DPP) refused to comply with an order that would have seen the effective dissolution of this force into the FARDC. Following several days of a tense stand-off between Government forces and the DPP, fighting broke out in earnest on the morning of 22 March. Heavy weapons such as mortars and rocket-propelled grenades (RPGs) were used by both sides, and Government forces deployed tanks and engaged targets with tank fire. The hostilities spread to different areas of Kinshasa city, moving progressively toward Limete and Barumbu Communes. Military operations continued south of Ndolo and Kingabwa until 25 March.

44. The MONUC Special Investigations Team that was established on 24 March found that serious human rights violations were committed during and in the aftermath of the violence. The team documented incidents of disproportionate, reckless or indiscriminate use of force which occurred throughout the military operations conducted by the FARDC and the RG. Heavy weapons were used by both sides in the city centre as well as in heavily populated residential areas where no military objective could justify the means or degree of force used, and where no consideration was given to the lives of the civilian population. At least 40 civilians and surrendered DPP soldiers were allegedly summarily executed, mainly by the RG, during or in the wake of these operations. Reports of mass burial sites and evidence of bodies of unidentified victims (civilians and military) recovered in the Congo River (some tied up and blindfolded) indicate that there may have been a significantly higher number of summary executions committed during and in the aftermath of these events. Over 200 persons were arrested by the security forces during and after the fighting, in many cases without the correct legal procedures being followed and often on the sole basis that the arrested person hailed from the Equateur province. A significant number of victims suffered cruel, inhuman and degrading treatments during detention. Most of these persons remain in detention to this date. The Team concluded that around 300 persons lost their lives during the hostilities and in their aftermath. However, the exact figure, which could be significantly higher, was impossible to ascertain due, in large part, to the lack of cooperation from the authorities throughout the course of the investigation.
45. A climate of fear was created in the aftermath of the events, as opposition members and persons perceived as being affiliated with them (such as journalists working for pro-Bemba media establishments) were harassed, threatened or intimidated by State security services. In numerous cases, journalists and news editors have received threatening phone calls and/or messages and have been “visited” at their private residences by the security services. The ensuing unstable political and security situation in Kinshasa led to the withdrawal, on 13 April, of the three opposition parliamentary groups from the National Assembly. The opposition continued to boycott the National Assembly until 25 April, as a sign of protest against the prevailing security situation. It should be noted that on 9 April, the President of the Provisional Bureau of the Senate authorized Senator and former Vice-President Jean-Pierre Bemba to proceed on a two-month medical leave in Portugal with his family. In June, the Senate granted a further extension of his leave of absence until 31 July.
46. The full UNHRO report on the incidents was submitted to the Government by for comments on 3 August 2007 and will be made public.

#### **D. Targeting of Journalists and Human Rights Defenders**

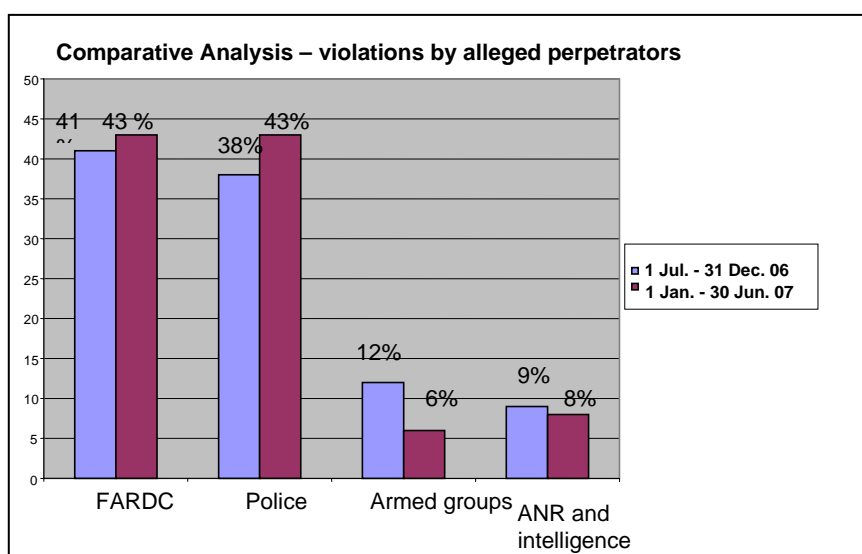
47. Journalists and human rights defenders were also singled out for intimidation and harassment outside the context of the Kinshasa March events. The ANR was often the main perpetrator of such acts. On 16 January, two journalists working for a local radio in Uvira – South Kivu Province – were arbitrarily arrested and detained for two days by the ANR for being critical of President Kabila. They were released as a result of UNHRO intervention. In early February, in Moanda – Bas Congo Province – the ANR summoned journalists suspected of collaborating with the MONUC team which was carrying out an investigation into the 31 January-1 February events in Bas Congo. In June, ANR agents arbitrarily shut down a private radio in Tshikapa – Western Kasai – for functioning without ANR authorization, which is not a legal requirement, and for ‘intoxicating the population’ and spreading information in ‘bad French’.
48. On 31 May 2007, in Mbuji Mayi, Kasai Oriental Province, an extraordinary session of the General Assembly of the provincial branch of the *Union de la Presse du Congo* (UNPC) was violently dispersed by the PNC. A group of policemen, allegedly sent by the Governor, disrupted the meeting and ordered the members to vacate the bar. The members refused because, according to them, they had duly informed the local authorities of the meeting. The police commander then ordered his men to forcefully remove the members. In the ensuing confusion, several journalists were beaten and manhandled by the police. One journalist was severely struck on the head and had to be admitted to a local hospital. Others lost mobile phones, cameras and sound-recording devices.
49. The killing by unknown gunmen of a Radio Okapi journalist in Bukavu, South Kivu Province, on the night of 13 June, provoked widespread fear among journalists and human rights defenders who have often been subjected to harassment, threats, intimidations and arbitrary arrests committed by members of the security forces.<sup>10</sup>

<sup>10</sup> On 28 August, the Bukavu Military Tribunal sentenced four defendants to death, including two friends of the journalist who were eyewitnesses to the shooting. While respecting the independence of the judiciary, MONUC expressed its concern after the first instance verdict was delivered and also noted that an appeal had been lodged. MONUC recommended that all guarantees for a fair and equitable trial be respected and that all the evidence available be taken into account.

50. This period was also marked by a number of attacks against human rights defenders, often by members of security forces ignoring the legitimacy and nature of work done by human rights non-governmental organizations. No progress was made in prosecuting the perpetrators of the killing of two NGO activists arbitrarily executed in July 2006 in North Kivu and in July 2005 in South Kivu, respectively.
51. UNHRO documented incidents in which human rights activists were exposed to retaliation by security forces after attempting to intervene to stop them carrying out human rights violations. On 26 January, a human rights activist was arbitrarily arrested and held for two days in Punia – 175 km north east of Kindu – by the *Administrateur de Territoire Adjoint* in reprisal for voicing concerns about police harassment at newly erected checkpoints. On 1 February, two human rights activists were allegedly subjected to cruel, inhuman and degrading treatment by three police officers, including the officer in charge, at the Djugu police station – 31 km east of Mahagi, Ituri – when they tried to intervene to obtain the release of a detainee who was allegedly arbitrarily detained. On 13 March, in Samba – 200 km south east of Kindu – a human rights activist was flogged and briefly detained after he intervened to protest about the treatment meted out by policemen to a woman who was tied and dragged in the street. The activist refrained from lodging a complaint for fear of reprisals. In Katanga, on 5 March, four anti-torture activists were arrested and briefly detained in Kitenge – 300 km north of Kamina – after they denounced arbitrary arrests and other human rights violations by the local ANR and PNC.

## V. Main Categories of Alleged Perpetrators of Human Rights Violations

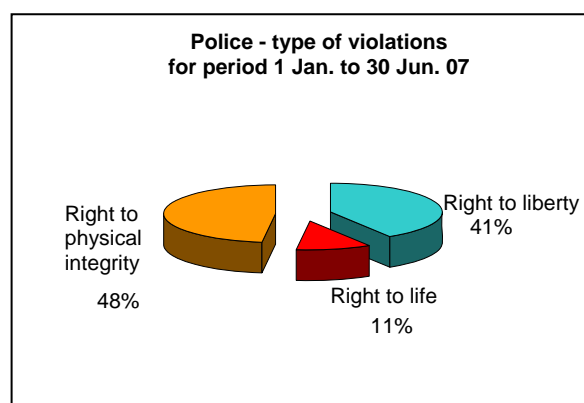
52. Main categories of alleged perpetrators of human rights violations for the reporting period remained the FARDC and the PNC, each responsible for 43 % of the violations documented, against 41 % and 38 % respectively during the previous period as illustrated below.



### A. Human Rights and the PNC

53. During the period in review, the UNHRO observed an increase in the proportion of human rights violations committed by the PNC, from 38 % to 43 % of documented cases, despite extensive training efforts by MONUC and other international bodies. Police officers were increasingly implicated in serious human rights violations including arbitrary executions, torture, cruel, inhuman or degrading treatment, rape, arbitrary arrests, illegal detention, excessive use of force and violation of the 48 hours constitutional limit period.

54. In an effort to make police officers accountable for their offences and to fight impunity, during the month of March the Minister of the Interior instructed all Provincial

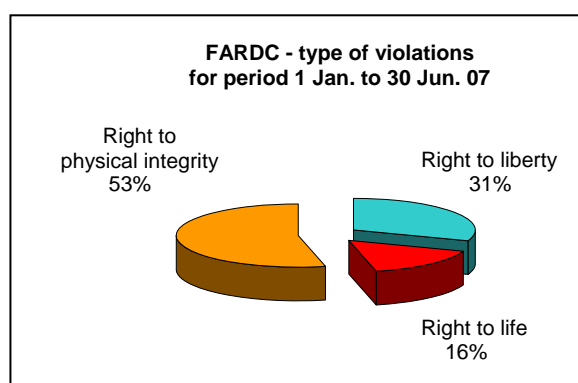


Inspectors of the PNC to establish follow-up committees in every provincial capital which will be tasked with investigating allegations of human rights violations committed by PNC elements. A follow-up committee is already operational in Bunia and preparations are underway in other provincial capitals to set up the remaining committees. Following the marked deterioration of the security and human rights situation in Mbuji Mayi in the early months of the year, the Provincial Security Committee took special measures to deal with the many allegations of the implication of PNC elements in acts of banditry in the town. One of these measures included joint night patrols with MONUC.

55. The PNC in Mbuji Mayi were allegedly responsible for the growing insecurity and marked deterioration of the human rights situation observed there during the first half of 2007. Police officers were implicated in a series of armed robberies, usually carried out in the homes of diamond dealers in conjunction with FARDC soldiers and armed civilians known as “*suicidaires*”. Large numbers of armed men often in police uniforms, generally entered private residences at night, demanded the proprietors to hand over all their money and valuables and readily killed or severely wounded any one offering resistance. In this way, a businessman was shot during the night of 9-10 January by, five men, three of whom were allegedly dressed in the PNC uniform. The man subsequently died of his injuries. Similarly, during the nights of 30-31 March, 1-2 April and 7-8 May, armed groups of men, some in PNC uniforms, broke into private residences, robbing the residents. In the 7-8 May incident (which resulted in one resident and one assailant receiving gunshot wounds), the attackers left a Motorola radio that was later identified as belonging to the Mbuji Mayi police.
56. The PNC was involved in several cases of torture and cruel, inhuman and degrading treatment of detainees, sometimes resulting in the death of the victims. A 21-year-old man died on 30 April after having allegedly been tortured by police officers in the Dibindi commune, again in Mbuji Mayi. According to the victim’s wife, members of the Police d’Investigation Criminelle (PIC) arrested her and her husband at their home on 28 April. The men accused the husband of being a *suicidaire*<sup>11</sup> and demanded that he reveal where he had hidden his weapons. Both were beaten on the spot and then taken to the police station where they were tortured in order to admit that the husband was a *suicidaire*. The wife was released on 30 April and the following day the police informed her of the death of her husband at a local hospital. The UNHRO documented several other cases of torture and cruel, inhuman and degrading treatment, including cases in Oïcha – 30 km north of Beni – Mbandaka and Bandundu Province on 1, 17 and 23 April respectively which involved such violence by the police that the detainees’ injuries resulted in their deaths.

## B. Human Rights and the FARDC

57. Members of both Integrated and non-Integrated Brigades of the Armed Forces of the DRC (FARDC) were implicated in a growing number of human rights violations, including particularly arbitrary executions and rape. Cases of cruel, inhuman and degrading treatment of civilians and other forms of harassment of citizens continued to be routinely reported. One of the most worrying developments during the current reporting period was the ethnic dimension that seems to have resulted in the arbitrary executions of dozens of civilians.



58. At least 15 civilians were arbitrarily executed by FARDC soldiers from the 2<sup>nd</sup> Battalion of the mixed Bravo Brigade in Buramba village – 106 km north of Goma, Rutshuru territory – during the night of 9-10 March 2007. The victims were shot in the head. Eleven of them were Hutus while the other three were from the Nande ethnic group. The arbitrary executions were apparently prompted by the death of four FARDC soldiers during clashes between the FARDC and FDLR as well as an attempted ambush by FDLR combatants on a convoy including the Bravo Brigade Commander.
59. On 29 April 2007, five elements of mixed Charlie Brigade shot dead four civilians in the village of Rubaya, located 60 km north-west of Goma, in the territory of Masisi, North Kivu Province. All five perpetrators belonged to the escort of the Deputy Commander of Charlie Brigade. The victims were all Hutus and resided in the neighbouring village of Kibabi. Four of the five alleged perpetrators were arrested and transferred to the Office of the Military

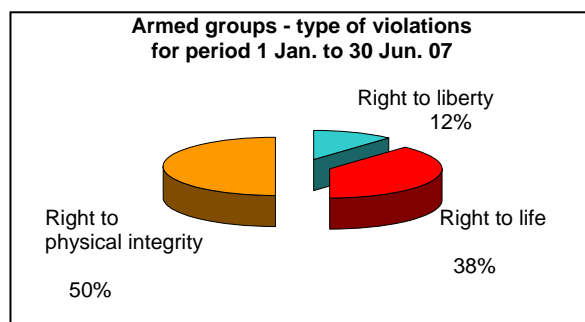
<sup>11</sup> The *suicidaires* are current or former members of the armed forces and the police who have negotiated “protection deals” with illegal miners. The *suicidaires’* activities are illegal. They have been responsible for the death of and injuries to an alarmingly high number of miners.

Prosecutor in Goma. The fifth is still at large. On 17 May 2007, five civilians were reportedly accused of being FDLR collaborators and arbitrarily executed by FARDC soldiers of the 2<sup>nd</sup> Battalion of the “mixed” Bravo Brigade in Rudehe, Rutshuru territory, North Kivu Province. On 19 June 2007, three Hutus were allegedly killed in a local church in the village of Nyabyashwa – 2.5 km north of Luke, North Kivu Province – by soldiers of the 3<sup>rd</sup> Battalion of the Charlie Brigade. Two days later, in the village of Mikeno, the same 3<sup>rd</sup> Battalion of the Charlie Brigade allegedly killed two Hutus on the pretext that they were FDLR collaborators.

60. The FARDC remains generally incapable of carrying out military operations in accordance with the law because of the ill discipline of the members of most units as well as their inadequate remuneration and logistical support. Consequently, FARDC operations systematically result in human rights violations. In Ituri, FARDC operations against Peter Karim’s FNI resulted in a large number of allegations of human rights violations committed by FARDC troops in the Walendu Pitsi collectivity in Djugu territory that covers the whole region between Kpandroma and Laudjo – an area located 50-100 km north-east of Bunia. FARDC troops engaged in fighting the FNI militia in the area of Jiba – 120 km north-east of Bunia – allegedly went on a rampage in Jiba and surrounding villages, looting and harassing the local population after dislodging the FNI on 2 February. A total of 12 villages were reportedly burnt. As a result, most of the villagers fled to the nearby forest. On 6 February, FARDC troops from Blukwa allegedly burnt the village of Linga, killing four civilians and causing the displacement of the population in the nearby forest. Still on 6 February 2007, a group of FARDC soldiers shot dead a civilian in Jiba as he was returning from the fields. The day before, the same FARDC troops had looted the health centre at the Jiba Mission. On 7 February, FARDC troops from Fataki allegedly burnt down the localities of Sanduku, Riza and Kpakala. The population from these villages was allegedly massively displaced toward Libi, where Peter Karim was reportedly operating. On 8 February, FARDC troops from Fataki allegedly attacked the locality of Dyameu reportedly killing a woman in her house during the fire they provoked. Also on 8 February, the FARDC from Kpandroma looted the villages of Mola and Buba although no destruction was reported there.
61. During the night of 11-12 January, around 250 soldiers of the FARDC Integrated Brigades based in Bunia staged a mutiny and subsequently went on a rampage in the town. Gunshots and machine gun bursts were heard throughout the night and until early morning on 12 January. At least five women were reportedly raped during the night and several shops and houses looted. The mutiny was reportedly caused by a rumour which claimed that FARDC officials had misappropriated part of the soldiers’ end of year bonus payments. On 18 June, 17 FARDC elements were given sentences ranging from 10 to 20 years in prison for looting, failure to observe military regulations (*violation de consignes*) and squandering ammunition (*dissipation de munitions*). They were also expelled from the FARDC. The Court also ordered them to pay, in conjunction with the State, a total of \$98,000 in damages to the victims (ranging from \$800 to \$7,000 per victim) as well as the restitution of the looted items.

### C. Human Rights and Armed Groups<sup>12</sup>

62. MONUC DDR sources indicate that there are still at least 6,000 Rwandan Hutu rebels (FDLR), 300 ADF/NALU (Ugandan rebels) and 145 FNL (Burundian) armed groups currently operating in the DRC. During the period in review, armed groups intensified their predatory activities mainly in North and South Kivu. 38 % of the abuses documented by the UNHRO were arbitrary killings, 50 % violations of the right to physical integrity, including sexual slavery and 12 % violations of the right to liberty, including abduction of women and girls. Abuses by armed groups go uniformly unpunished, due to the sheer lack of capacity of the State to assert control over its territory. The perpetrators of massacres, sexual violence, and of the arson of entire villages, simply melt away into the forest. The FDLR/RASTA (Rwandan Hutu rebels) operating in Walungu territory, South Kivu Province, were implicated in the most serious abuses, including a massacre. Clashes between the FDLR and the FARDC mixed Brigades in North Kivu also resulted in several reprisal attacks by the FDLR on the local population whom they accused of collaborating with and providing information to the FARDC troops.
63. During the night of 26-27 May 2007, a massacre was allegedly perpetrated by FDLR/RASTA in the villages of Nyalubuze, Muhungu and Chihamba, located in the Kanyola *Groupement* in the territory of Walungu, South Kivu Province. Investigations conducted by the UNHRO established that 17 persons, including women and



<sup>12</sup> By Armed groups in the DRC, reference is made to these armed groups of people who do not officially belong to the FARDC. Distinction is also made between national armed groups such as the Mayi Mayi groups in North Kivu, militia groups in Ituri and Foreign Armed Groups (FAG) such as the ADF/NALU, the FDLR (FOCA and RUD) and the FNL.

children, were killed in their beds with machetes, axes, bayonets and sticks. Thirteen persons were killed in Nyabuluze, three in Muhungu and one in Chihamba where a MONUC patrol surprised the assailants. Twenty-four villagers were also injured.

64. FDLR/RASTA combatants reportedly carried out two attacks on Budodo village – 67 km south-west of Kanyola in Walungu territory of South Kivu – during the nights of 31 March-1 April and 1-2 April. During the first attack, a 2-year-old child was allegedly killed, a girl was burnt, four civilians were injured and nine others, including six minors, were allegedly abducted by the perpetrators. During the second attack, five other civilians were allegedly abducted. The perpetrators also took the victims' belongings and livestock.
65. During the reporting period, the FDLR were allegedly responsible for at least three cases of enforced disappearances of villagers of the Binza Groupement, territory of Rutshuru, North Kivu. The victims included a Hutu notable from the village of Kiseguru who was abducted by the FDLR on 10 February and a Hutu businessman from the village of Katwiguru who was abducted by the FDLR on 16 February and taken into the Virunga Park. The FDLR reportedly accused both men of collaborating with Bravo Brigade. During the month of March, the locality chief of Buramba –106 km north-east of Goma, Rutshuru territory – was kidnapped by FDLR combatants and has not been seen since.
66. The Mayi-Mayi combatants of the Baraka group were also implicated in serious human rights abuses. In the area around Malio – between 55 and 65 km south-west of Beni, North Kivu. On 9 March, 13 civilians were allegedly arbitrarily executed by the Mayi-Mayi in retaliation for the arrest of some of their combatants by the FARDC. On 15 March, Mayi-Mayi combatants allegedly abducted 13 civilians and took the victims to their positions in Kanimba.
67. On 29 March, a policeman was abducted, mutilated and subsequently killed on 31 March, by the Mayi-Mayi between Butuhe and Vurondo, villages located close to Butembo. On 2 April, one civilian was killed and seven others abducted by the Mayi-Mayi near a gold mine in Kiboto – 55 km south-west of Beni. Three civilians were burnt alive after the Mayi-Mayi attacked Kivira village and set five houses on fire in retaliation for the alleged arrest and killing of a Mayi-Mayi combatant by the FARDC on 9 April.
68. On 24 May, ADF/NALU (Ugandan rebels) allegedly abducted six civilians for five days in the village of Kpele – 6 km of Kaïnama – territory of Beni, North Kivu, in reprisal against FARDC attacks. The victims were allegedly subjected to forced labour.

## **VI. Administration of justice and Fight against Impunity**

### **A. Overview**

69. The period under review has unfortunately seen few signs of improvement in the administration of justice. The judicial system, referred to by UN High Commissioner for Human Rights, Louise Arbour as a “virtual justice system” is not accessible to the majority of the population. Both civilian and military jurisdictions remain weak, prone to widespread corruption and under-resourced. The Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy, presented a report to the Human Rights Council (A/HRC/4/25/Add.3 of 24 May 2007) on his 15-21 April visit to the DRC. He stated that there were fundamental problems with the judicial system, including: scarcity of judicial personnel, interference by the army and Executive in the system, lack of access to justice for the majority of the population, the lack of will and capacity to enforce court decisions, the routine trial of civilians before military courts and the abuse of preventive detention.
70. Little is being done to remedy these problems. The percentage allocated to the functioning of the judicial sector, in the budget presented to Parliament by the executive, was limited to 0.3 % of the national budget, despite an explicit recommendation in Mr. Despouy's report to match the average in other countries, between 2 and 6 %. Parliament has failed to adopt the laws that form the basis of the reconstruction of the judicial system, such as those creating the Supreme Council of the Judiciary and the Constitutional Court. In May, through Presidential decree, important changes were made at the top of the military justice system, defeating the constitutional principle of the separation of powers and independence of the judiciary.

## B. Justice for Serious Human Rights Violations

71. As part of the implementation of its mandate, the UNHRO conducts in-depth monitoring of investigations and trials for particularly serious human rights violations, in which cases it also assists the authorities technically and logistically. The picture emerging from this monitoring is even more disturbing than the global picture on the administration of justice. Interference by military and political authorities fundamentally alters the course of the judicial process, with devastating consequences for the rights of all those concerned – victims, witnesses and defendants – and for the establishment of the rule of law. It is useful to analyze the treatment of these cases by province, as every province has its idiosyncrasies and specific problems.

### 1. Kinshasa and Bas Congo

72. The most worrying aspect is probably the failure of the authorities to investigate and prosecute mass violations that took place during the reporting period. During the events of Bas Congo of January/February and the March events in Kinshasa (described in detail above) hundreds of lives were lost and very serious human rights violations committed. Despite verbal assurances by the authorities that investigations are ongoing, no tangible progress to bring those responsible to justice can be seen.

73. Procedural and substantial violations start precisely at the level of the *Auditorat Militaire General (AMG)* in Kinshasa. The eight Ituri militia arrested in Kinshasa in March 2005, known as the case of “General Germain Katanga *et consorts*”, have had their detention extended two more times by the *Haute Cour Militaire*, on 16 February and 11 April. However, and despite further investigation undertaken in Ituri, the military prosecutor failed to present elements of proof (*indices sérieux de culpabilité*) linking any of the suspects to the serious crimes committed in Ituri, as demanded by the law. The investigation has been flawed since the beginning, mixing former political and military leaders of armed groups (against whom elements of proof could probably be found, even in public UN and NGO reports) with individuals arrested together with the leaders, against whom there seems to be no evidence whatsoever of their involvement in crimes. Repeatedly since mid-2006, military prosecutors have confidently assured MONUC that the case would “promptly go to court”.

### 2. The Kivus

74. In North Kivu, suspects of serious violations are never arrested, and not a single trial for serious human rights violations has ever been held in the province. Besides old cases that have been effectively shelved by the prosecutors (such as the serious violations which took place in North Kivu in December 2004), even serious violations that took place during the reporting period have not been properly investigated. Following the Buramba massacre of 9-10 March 2007 (see above), a special team was sent by the AMG to conduct an investigation. No arrest was made in connection with the investigation.

75. In South Kivu, military prosecutors have been frustrated in their attempts to bring FARDC officers to trial. In at least five cases MONUC is aware of, the FARDC Military Region has refused to arrest officers against whom warrants were produced. In the only high-profile case that was brought to trial, commander Biyoyo, sentenced in March 2006 for several serious crimes and later escaped from the Bukavu central prison, incredibly re-appeared in Bukavu in February 2007, as part of a delegation sent by Laurent Nkunda to sensitize the dissidents in the 10<sup>th</sup> Military Region. The FARDC leadership has not been able to explain how a convicted prisoner on the run could return safely to North Kivu without being arrested.

### 3. Katanga

76. In Katanga, there have been at least two major trials against FARDC officers during the reporting period. Unfortunately, both trials showed very serious irregularities and cast serious doubts on the independence and good will of the military justice system in the province. This is a very worrying sign as two more important trials against former Mayi-Mayi leaders are imminent.

77. The trial against Major Ekembe and three other FARDC officers, for offences related to the death of 14 persons in their custody in the Mitwaba prison in March 2005, concluded on 25 April 2007 at the Military Court of Katanga in a very unsatisfactory manner. MONUC’s investigation uncovered evidence of torture and possibly willful killing as 95 prisoners were denied food and 14 starved to death while in custody. However, the Court sentenced one officer (*in absentia*, as he had escaped from prison) to 10 years’ imprisonment and the other three (including Ekembe) to 15 months in prison for “lack of assistance to persons in danger”. Due to the gravity of the crimes alleged, there have been claims that the decision represented little more than a disguised acquittal, since the accused had already

spent 14 months in detention when the judgment was rendered. Furthermore, despite the implication of senior officers, the Military Prosecutor limited its case to the prosecution of four officers. The Prosecutor, despite having sought 20 year prison terms for crimes against humanity, decided not to appeal the decision.

78. On 28 June, the Military Court of Katanga delivered its verdict in the Kilwa trial. The court acquitted all defendants, military officers and foreign employees of multinational company Anvil Mining, concluding that no massacre had taken place and casualties were the accidental result of fighting. Four of the defendants were sentenced to a range of prison sentences for unrelated crimes committed in Pweto. A MONUC investigation conducted in October 2004 had documented incidents of summary executions, torture, illegal detention and looting by FARDC forces and concluded that little and sporadic fighting took place when FARDC regained control of Kilwa from the rebel group which had briefly occupied it. Investigations conducted by human rights NGOs reached similar conclusions. During the trial, which was monitored by MONUC at every hearing, several irregularities were noted: the suspicious absence of the victims’ lawyers during the on-site hearings in Kilwa; the failure of some key witnesses to appear at the trial; the untimely presence of the Governor in Kilwa during the on-site hearings, and the questionable rejection of the victims’ civil action by the Court. Despite these problems, plenty of evidence was presented at the trial, particularly witnesses’ testimonies, pointing to the commission of serious crimes. For this reason, on 4 July, the UN High Commissioner for Human Rights issued a statement in which she expressed her concern at the verdict. The military prosecutor appealed the decision.
79. Former Mayi-Mayi leader Ngoy Banze, known as Tshindja-Tshindja (the throat-cutter) has been in detention in Kinshasa since February 2005, and was only brought before a judge on 3 January 2007, almost two years into his detention. The judge extended his detention for 45 days, and the defendant appealed this decision. Ironically, it was only on 20 June – four months after the expiration of the period granted by the judge – that a higher military court confirmed the initial decision. A field investigation was finally undertaken by the military prosecutor of Kamina in May 2007, and hopefully Banze will be soon brought to trial.

80. Another former Mayi Mayi leader, “Gédéon”, was finally brought before a judge on 5 June, though for the sole purpose of having his detention extended. On 10 July, the military prosecutor of Kamina committed Gédéon to trial, for constitution of an insurrectional movement, war crimes, crimes against humanity and genocide. Awaiting trial, Gédéon continues to enjoy a VIP status in the Officers’ Mess in Lubumbashi, including a monthly allowance of \$200 for his upkeep and that of his family. Political interference in this case has been evident throughout, and has even been acknowledged by magistrates on several occasions.



81. Given the precedents of the Ankoro (2003-2004) and Kilwa trials as well as of the trial in the Mitwaba prison case, and the interference registered during the investigations, there are serious doubts on the ability and willingness of the military justice system in Katanga to adjudicate these two cases respecting the rights of defendants and victims.

4. *Equateur*

82. The main developments in Equateur are related to repeated escapes from prisons and detention centers. Between March and June, all six prisoners convicted for the Songo Mboyo mass rape escaped, as well as all four condemned for crimes against humanity committed during the Mbandaka mutiny of July 2005. These two trials were the two most significant trials held in the province. Most of the policemen and army soldiers in custody for three different serious incidents involving mass rapes and other crimes also escaped. Suspiciously, the most recent escape took place on the night of 30 June, just days before a scheduled transfer of 14 detainees to Kinshasa for security reasons. Twelve out of the 14 scheduled for transfer escaped, though two were later recaptured.

5. *Ituri*



83. In Ituri, despite some reservations, some progress has been registered during the first semester of 2007. On 19 February, the Bunia Military Court delivered the verdict in the Bavi massacre case. The 15 accused, all FARDC, were tried for their participation in the summary executions of at least 32 civilians in Bavi – 32 km south of Bunia – between August and November 2006 and were charged with war crimes and other serious offences. On the basis of the ICC Statute, thirteen were sentenced to life imprisonment, one was sentenced to 180 days and the other was acquitted. Four of the accused were sentenced *in absentia* as they were never arrested. Such trials, as is also the case with the Milobs trial reported below, represent an important contribution to the fight against impunity, and would have been unthinkable only some time ago. However, the Military Prosecutor refused to take responsibility for the protection of the two key witnesses which made the trial possible. The witnesses, both FARDC soldiers, also said that they had informed their superiors of the crimes that had been committed several months before the MONUC investigation revealed the massacre. This claim, if proven, would have rendered the superior officers criminally responsible for failing to act upon the allegations. However, this issue was not properly investigated during the trial.
84. Also on 19 February, the Bunia Military Court delivered the verdict in the murder case of two MONUC Military Observers (Milobs) in Mbongwalu on 13 May 2003. The defendants, former members of the FNI militia, were charged with war crimes. Four of the seven defendants in the Milobs trial were sentenced to life imprisonment, one to 20 years, another to 10 years and one was acquitted. One of the defendants was tried and sentenced *in absentia* after he managed to escape from prison on 13 January 2007. It is regrettable that one of the major suspects in this trial was set free from prison only five days before the beginning of the trial, under the direct and illegal orders of the FARDC leadership in Bunia. Despite MONUC's explicit requests, the authorities refused to re-arrest or even try *in absentia* the suspect. Furthermore, several of the accused in this trial claimed that the order to kill the observers came from Jerome Kakwavu, who was then the leader of the FAPC movement. Kakwavu, today an FARDC General based in Kinshasa, is accused of other serious crimes, and was not even called to testify at the trial.
85. It is unfortunately necessary to conclude that, with the partial exception of Ituri, military judicial authorities have shown that the conclusion of the electoral process and the installation of an elected government have had little effect on their willingness and ability to prosecute serious human rights violations, which remains extremely limited.

### C. Sexual Violence

86. Despite the existence of tougher laws which were passed by the Parliament of the Transitional Government, sexual violence continued to occur at an alarmingly high rate in many parts of the country, with almost total impunity. During the period in review, the proportion of sexual violence cases committed by the FARDC and the PNC substantially increased, respectively from 40 % to 54 % and from 23 % to 43 % of cases documented by the UNHRO. The absence of an effective criminal justice delivery system has led to an increase in the number of out-of court settlement of cases often by traditional and

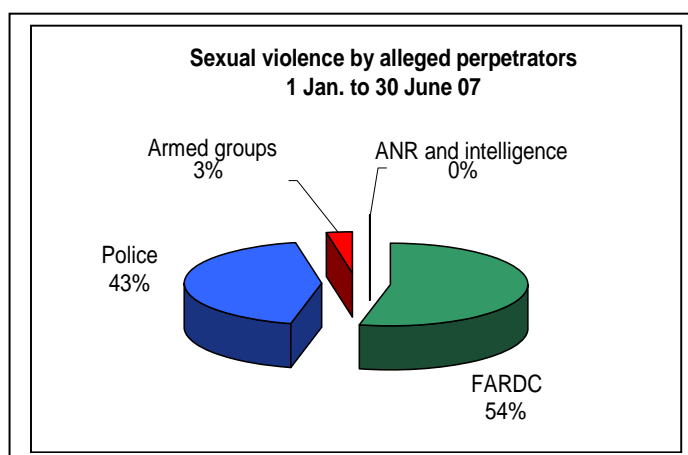


administrative leaders, to the detriment of the victim's rights to due process and in violation of the Constitution and the new laws on sexual violence. An important factor that contributes to the impunity enjoyed by perpetrators of rape is the difficulty encountered by victims to prove the crime before the court. In this connection, the UNHRO has initiated a national project aimed at harmonizing the different medical certificates currently used in order to arrive at a uniform one that can be presented as legal proof at trials.

#### 1. South Kivu Case Study

87. A case study from South Kivu Province demonstrates the magnitude of the sexual violence phenomenon, the high degree of impunity that perpetrators of sexual violence continue to enjoy as well as the slow rate at which sexual violence cases are treated by Congolese judicial authorities. During the period 2005-2007, 287 cases were reported to the justice system (186 before the civilian jurisdictions and 101 before the military jurisdictions). However, in 2005 alone, based on statistics obtained from hospitals, clinics and other health facilities based in the province, approximately 14, 200 cases of rape were registered. This means that less than 1 % of the cases were reported to the justice system. Of the 287 reported cases, 162 are currently under investigation (102 cases are before the civilian jurisdictions and 60 before the military jurisdictions) representing approximately 56 % of the number of reported cases. 60 % of these cases have been under investigation for more than one year. Of the 60 cases that have been registered to be tried before the courts, 80 % of the alleged perpetrators have been granted bail and have never again appeared before a justice official. More than 80 % of such cases have been scheduled to be heard in court for more than two years now. 64 cases have been tried (45 before the civilian jurisdiction and 19 before the military jurisdiction) resulting in 58 convictions. The heaviest sentence handed down is 20 years in prison and the payment of \$10,000 in reparation to the victims. However, no reparation payment has yet been made because the majority of the victims are poor women from the rural areas who do not possess the money needed to pay the legal fees required by law for judgement execution.

88. The main perpetrators of the huge number of rape cases recorded in South Kivu are members of foreign armed groups such as the Rwandan Hutu FDLR/RASTA who carry out systematic attacks on villages located in the Kanyola *Groupement*, territory of Walungu during which young girls and women are abducted. Between December 2006 and March 2007, there were 89 such attacks. Victims are carried away for months to vast and inaccessible areas, mainly in the north-east of Bukavu (Bunyakiri, Kanyola, Kalonge and Nindja). The victims are either used as sex slaves, gang raped or forcibly taken as “wives”.



## 2. Other cases

89. The UNHRO has continued to document cases of mass rape in the Equateur Province. In Karawa – 75 km north-west of Gemena, Equateur Province – between 28-31 December 2006, 30 women were allegedly raped by police officers who had come from Businga, Inera and Bobadi – 75, 45 and 25 km from Karawa respectively – to reinforce the Karawa police officers on 28 December 2006 following the destruction of the police station by some 250 villagers the day before. The UNHRO interviewed the victims during a field visit to Karawa in February. No legal or disciplinary action has yet been taken against the commander of the police officers who were implicated in the incidents.

90. In many parts of the country, young and old women, pregnant women, minors and even babies were victims of rape during the period in review. A 3-year-old child was allegedly raped by a policeman in Mvuzi – 2 km from Matadi – on 4 April 2007. The perpetrator allegedly lured the child into his house by promising to give her sweets and then raped her. The incident was reported to the police and the alleged perpetrator was arrested. He was remanded in custody to the Matadi prison to await trial. In Bandundu Province, three policemen allegedly kidnapped and subsequently raped a 13-year-old girl from the Malebo neighbourhood between 28 December 2006 and 1 January 2007. The victim was allegedly kept at the home of one of the three perpetrators, had her hands tied behind her back and was blindfolded. She was allegedly left on the streets by the perpetrators. The Military Prosecutor arrested one of the alleged perpetrators and the other two are still at large. On 18 April, a woman was allegedly raped by two FARDC soldiers from the escort of the Commander of the 85<sup>th</sup> Brigade in Djingala village, in the territory of Walikale, North Kivu Province. The perpetrators allegedly broke into the victim’s residence, threatened her husband with death and took her to a nearby forest where they raped her.

91. During the first semester of 2007, the UNHRO documented 16 cases of sexual violence against women in prisons and detention facilities. During the night of 10-11 February, a PNC officer attached to the PNC Headquarters in Ilebo – 450 km north-west of Kananga, Kasai Occidental – allegedly raped a female detainee. The victim, the only female detainee at the time, was kept outside the holding cell. In the middle of the night, the officer-in-charge of the guards allegedly took her behind a nearby building and raped her. The other policemen on guard witnessed the act but did nothing to protect the victim because the perpetrator was their commander. According to a local source,

a minor was allegedly raped by a PNC commander while in illegal detention in a police holding cell in Mukonga – 180 km from Kasongo in Maniema Province – in early March 2007. The minor had been arbitrarily arrested instead of her brother by policemen carrying out an investigation into a theft. The victim was allegedly taken out of the holding cell during the night and brought to the office of the police commander who then raped her.

## D. Prisons and Detention Centres

92. Detention remains a very problematic issue in DRC and a large number of human rights violations continue to be committed in prisons and detention centres throughout the country. Overpopulation, inadequate conditions, lack of security, mistreatment of prisoners, recurrent escapes and disturbances, acute corruption and rent-seeking practices, poor record-keeping, abuse of pre-trial detention, lack of qualified prison staff as well as of rehabilitation programs for inmates are just some of the issues that must be addressed by new Government.
93. Overpopulation is one of the major problems affecting most prisons throughout the country. The first reason for this is the abuse of pre-trial detention. Statistics gathered by the UNHRO show that roughly between 70 % and 80 % of inmates in prisons throughout the country are awaiting trial. The UNHRO has found detainees in detention for a period longer than the maximum penalty that could be inflicted on them if they had been tried. Another reason for overpopulation is the growing number of detainees held for months without having a judge confirm their charges, a phenomenon known as that of the “*hebergés*”.
94. Prisons and detentions facilities generally never meet minimal hygienic requirements, and inmates tend to fall ill in high numbers. Sick inmates usually have to wait several days before they could be taken to the nearest hospital, while others are left in their cells without any medical assistance. The situation of overcrowding, malnutrition, lack of health care as well as cruel, inhuman or degrading treatment leads to an intolerably high death toll. Over the past six months, MONUC has documented at least 30 deaths of inmates in custody.
95. The principle of separation of prisoners is rarely upheld. Convicts and detainees in pre-trial detention are held together, and minors are systematically detained together with adults whereas women are commonly detained along with their babies, thus increasing their vulnerability.
96. Finally, prison security is almost non-existent, with the partial exception of the CPRK, Kinshasa’s central prison. During the reporting period, the UNHRO documented 188 escapes including of some prisoners convicted for serious human rights violations (see also above). In Equateur Province, according to the figures obtained by the UNHRO from the registry of the Mbandaka Central Prison, of 104 inmates who left the detention facility during the period January-June 2007, only 27 were released by the competent legal authority. During the night of 12-13 January, five inmates (sentenced or in pre-trial detention for serious human rights violations) escaped from the military prison in Bunia.
97. While the degraded state of prisons is mostly to blame for such escapes, unsuitable and unqualified prison staffs continue to serve in prisons fuelling corruption and rent-seeking practices. During the period under review, 23 out of 33 documented jailbreaks were staged in connivance with prisons wardens and police officers.



## VII. Exploitation of Natural Resources and Human Rights

98. During the period under review, UNHRO offices located in the provinces where Congo’s rich mineral resources are extracted, either industrially or artisanally, have reported on many occasions violations of human rights directly linked to the exploitation of these resources. UNHRO field officers have documented numerous cases involving members of the security forces as well as irregular armed forces who have subjected artisanal miners to forced labour, illegal taxes and extortion, and cruel and inhuman treatment. A culture of impunity, the poor management of natural resources and the unsolved problem of poorly paid state security agents (FARDC, PNC, ANR and others) are some of the root causes of the problem.

99. Judicial authorities have entirely failed to address this situation. No prosecutions have been initiated in cases of alleged abuses against artisanal miners. They argue that since artisanal miners operate illegally within the concessions of private companies, they are breaking the law and are therefore not in a position to lodge complaints related to the consequences of their illegal actions. An FARDC officer accused of extortion and intimidation of the mining population of Lunga, 350 km north-west of Kalemie, is also allegedly responsible for the summary execution of a civilian in August 2006. Although Kalemie's Military Prosecutor has opened a file on this officer, the latter continues to travel unhindered between Kongolo, Lubumbashi and Kinshasa.
100. The Bisiye mine in Walikale – North Kivu – proves to be a good example of how various state actors exacerbate the general situation of lawlessness, rather than attempt to rectify it. Although cassiterite (tin ore) production and trade remains largely unregulated and highly dangerous, it is still the economic backbone of Walikale town, generating direct employment for an estimated 10,000 people. Since the authorities have failed so far to address the legal status of the rich Bisiye mine, several mining companies claim the rights to it and lawlessness continues unabated. Judicial and military authorities are frequently used to intimidate business rivals or artisanal miners. The 85<sup>th</sup> Brigade ex-Mayi-Mayi/FARDC soldiers of Colonel Sammy Mutumo have been particularly active in the zone. They have been able to derive substantial income through illegal taxation on production in Bisiye and through extortion at the several checkpoints in the area. Witnesses have also reported that they force the local artisanal miners to mine for them two days a week.
101. In the cassiterite mines of Lemera – 80 km north-west of Uvira, South Kivu – FARDC soldiers, PNC and ANR agents, as well as local administrative authorities, are routinely harassing the population, conducting arbitrary arrests and extortions under the pretext of collecting taxes from miners and from the population.
102. In Katanga, in the territory of Moba – 350 km south of Kalemie – many human rights violations are perpetrated against miners and other civilians who work in and live near to the six gold mines that are operational there. According to information obtained in February 2007, in the Mpama and Mutotolwa mines, ANR agents subjected the local miners to arbitrary arrests, torture and extortion. Witnesses and victims in the Mutotolwa mine informed the UNHRO of the several types of fines that they are made to pay in order to obtain their release when arrested. First of all, a charge of \$20 is paid for the accused to respond to the accusation brought against him. Secondly, a fine of between \$40 and \$100, depending on the gravity of the accusation, is paid in order to obtain immediate release. The local population monitored an ANR agent who made four to five visits per month to the Mutotolwa mine to harass the miners. A local ANR Chief in Mwanza allegedly recruited Mayi-Mayi and demobilised soldiers to harass and intimidate the miners. The local FARDC officer responsible for military intelligence (S2) usually visits the same mine twice per month in search of Mayi-Mayi and demobilized soldiers. Persons arrested are usually released following the payment of \$60 or two carats of gold.
103. Physical violence committed by state security agents either on behalf of themselves or on behalf of mining agents is another reason of concern. On 23 May, two civilians were submitted to cruel, inhuman or degrading treatment by two PNC agents affected to the guard of the TSM mining concession in Tombolo – 25 km south of Kolwezi in Katanga province. Reports received indicated that five civilians residing nearby were in the process of purchasing cell phone cards within the concession when they were arrested by two PNC agents and a Chinese citizen who were in a TSM vehicle. The two agents started beating one of them with the butt of his rifle. As two friends of the victim tried to prevent the policemen from beating him, they were handcuffed and also beaten. Other villagers arrived and one of the policemen panicked and shot in the air before leaving. The victims sustained injuries and were taken to the local hospital for treatment where one of them underwent surgery.
104. Still in Katanga, a civilian was subjected to a severe beating by ANR agents of the *cit  G camines Musonoyi* on 26 April 2007 after having spent over 48 hours in detention accused of lumber trafficking. After questioning the victim, who denied any knowledge or involvement in such trafficking, the ANR Chief ordered his men to administer 30 strokes to the victim on his feet. The man lost consciousness in the process and was subsequently freed by the ANR agents.
105. Militias and foreign armed groups present in the eastern DRC, whose role in the illicit exploitation of Congo's minerals has been amply documented, are equally responsible for violence vis- -vis the local populations. Exploitation of natural resources by Rwandan Hutu combatants of the FDLR in the National Park of Maiko – located at the border of the Lubero territory in North Kivu and of the western part of the Oriental Province – is reportedly the cause of growing insecurity and human rights violations in this area. According to information received, FDLR combatants regularly force the civilian population to carry the minerals exploited to their bases which require travelling on foot for one to two weeks. In some villages of the western part of Lubero territory, this situation has reportedly caused displacement of the population.

106. Social and consequently security problems are looming now that the artisanal miners are under increased pressure by the new mining companies to move off the sites they have occupied for so long. In Katanga, following the decision of the mining company CHEMAF to mechanise the exploitation process, the local authorities decided to relocate more than 1,500 artisanal miners from Kalukulu mining site in the Commune of Ruashi – 15 km of Lubumbashi. However, the miners opposed their eviction resulting in a confrontation between the miners and the Ruashi PNC elements and the GMI on 28 December 2006 during which at least two miners and three other civilians were killed and seven others injured. Although the miners' protest was violent and caused injuries to policemen, the PNC resorted to excessive use of force and physical assault. One PNC agent is being tried in the military court of Lubumbashi for this case.
107. A final concern is the labour conditions of the DRC's artisanal miners. They generally work in harsh conditions with no protection whatsoever. Fatal accidents occur frequently, most often when mineshafts collapse. On 10 June 2007, following a mission conducted by experts of the Congolese Office of Control (OCC – *Office Congolais de Contrôle*) on the mining site of Lwisuishi – 25 km from Lubumbashi – the Katanga Provincial Minister for Mines, Mumba Gamma, raised concerns that miners were forced to exploit uranium under an unacceptably high exposure of radiation. He stated that an analysis of samples collected revealed that the level of uranium in the ores was higher than the level of deposits in Shinkolobwe, another uranium mining site where exploitation was banned by the State following a similar situation. The Lwisuishi mining site belongs to the Malta Forrest Mining group.

## VIII. Promotion of Human Rights, Technical Cooperation and Protection

108. During the period under review, the UNHRO continued its training, human rights promotion and capacity building activities. Those activities were set up for stakeholders including parliamentarians, FARDC and PNC officers, judicial authorities, penitentiary officers, traditional leaders, representatives of human rights NGOs, women and youth groups, as well as the academia.
109. The UNHRO also embarked upon the creation and installation of Legal Aid Clinics aimed at providing free legal assistance to victims by improving access to justice. During the reporting period four Legal Aid Clinics were set up, two in Equateur Province and two in Orientale Province.
110. On 18 May 2007 in Goma, during the last leg of her visit to the DRC, the UN High Commissioner for Human Rights officially launched the Canadian Project which is aimed at providing medical, legal and psychosocial assistance to the victims of sexual violence in the provinces of North and South Kivu. The project is coordinated by the UNHRO, UNFPA and UNICEF. The UNHRO also conducted training and sensitization sessions on the new laws on sexual violence for the benefit of judicial actors, police officers as well as of the general population. In Walikale on 28 March, the UNHRO/Goma conducted a session for 31 local civil society organizations. On 5-7 May, a similar session was organized with a view of engaging over 80 local and traditional leaders in the districts of Tshapa and Mongala of the Equateur Province.



111. From 13 to 23 June 2007, the UNHRO Victims, Witnesses and Human Rights Defenders Protection Unit (the Unit) conducted a 10-day induction programme for eleven National Protection Officers in a European Commission-funded project aimed at building local capacities in the area of protection. These officers have been deployed to the UNHRO field offices in Kinshasa and in the provinces to empower a selected network of human rights NGOs working in the field of witness protection.
112. In March, military judicial officials at both local and national levels were trained in investigation techniques and protection of victims by the UNHRO in partnership with the Institute for International Criminal Investigations

(IICC), a Hague-based NGO. The goal of the exercise was to help the Chief Military Prosecutor establish a small cell of specialized investigators, who could be deployed throughout the country to conduct complex investigations into serious violations of human rights and humanitarian law. The first cell of trained investigators, accompanied by an IICI mentor, conducted a special investigation into the events of Buramba, North Kivu.

113. All semester long, trainings were organized throughout the country for judicial police officers, police commanders, as well as ANR and other security agents on the rights of persons under custody. A training of trainers was held, for example, on 19-25 March in Lubumbashi to the benefit of 170 PNC trainers from the provinces of Katanga, Kasai Oriental and Kasai Occidental. In similar sessions, 25 PNC commanders were trained in Beni on 21 May as well as 43 judicial police officers from Tshikapa on 24 May. In Goma, 56 intelligence officers from various security services (ANR, DGM, PNC and FARDC) received training on “the intelligence services and the fundamental rights to life, physical integrity, liberty and private property”.
114. As part of its activities to implement the Action 2 Programme, the UNHRO conducted a two-day (31 May-1 June) human rights training session for 40 Parliamentarians (30 Representatives and 10 Senators) covering a wide range of topics. Action 2 is aimed at integrating a human rights-based approach to all programmes and activities undertaken in the country, particularly by all UN agencies.
115. Within the framework of the celebrations for international days respectively, International Women’s day, International Day Against Racism, African Child Day, the International Refugee Day, the International Day in support of the Victims of torture, in Kinshasa and in the provinces, a number of in-door programs, outreach campaigns, roundtable discussions, exhibitions, parades, theatrical and sports performances were organized for non-governmental and governmental actors and institutions.
116. The UNHRO was also involved in the distribution of international and national human rights materials, most specifically the *Guide de la personne arrêtée*, the Congolese Constitution, criminal law and criminal procedure law codes and the new laws on sexual violence to stakeholders. In addition, the UNHRO granted office equipment to the civilian and military courts in Buta, Yagambi and Isiro, Province Orientale.

## **XII. Conclusions**

117. The human rights situation in the Democratic Republic of Congo remains dire. Historic elections should have brought the impetus for change but as yet no concrete improvement in the overall human rights situation can be seen. Promises were made at election time by the President and by the Government with regard to promoting respect for human rights and prioritizing the fight against impunity. However, the first half of 2007 was marked by an attitude of political intolerance which manifested itself in the violent repression of demonstrators and political opponents and the harassment, intimidation, physical assault, arbitrary arrest and detention of journalists, human rights defenders and opposition figures.
118. The situation in the East of the country, where ethnic tensions threaten to boil over at any given moment and massacres continue to occur, is desperate. No improvement can be seen in the Kivus, or in other regions of the country where armed groups and the DRC’s own soldiers and security forces present the biggest danger facing the local populations. The Government’s decision to pursue a policy of “*mixage*” has brought the situation in the East of the country to the brink of violent clashes.
119. Perhaps most worryingly is the lack of will by the Government to tackle the problems discussed in this report or to implement the recommendations made by the UNHRO in its last report. The Government has done nothing to stop prison escapes, or to improve conditions in detention facilities and nothing to even suggest to members of the security forces that they will be held responsible if they commit human rights violations against their own people. The Government has made appointments that raise further questions as to the independence of a judiciary which is already so riddled with corruption that it was capable of denying the very occurrence of the Kilwa massacre. The Government has done too little to prevent human rights violations related to natural resources, and nothing whatsoever to fight the plague of sexual violence that affects so many women and girls in the DRC every day. There are issues related to a lack of capacity which are having a negative impact on the respect for human rights in the DRC. These issues are being worked upon by various actors, including the UNHRO. However, the bleak human rights situation is principally a consequence of a lack of will by the Congolese Government to resolve the problems which are facing the country at the moment.
120. The State must give space to the political opposition in order to respect the will of the Congolese people, who voted for democratic elections and a break from the past. A mandate to govern, in a democratic country, is circumscribed by the international legal obligation to respect certain fundamental freedoms which no State may deny its people.

The State must also take concrete action, now, to improve the plight of its people and sanction those who violate their rights. If the donor community is to take seriously promises made by the Government with respect to human rights in the DRC, some concrete progress on the recommendations made in this report needs to be seen in the very near future.



## XII. List of Acronyms

<b>ACAT</b>	Action by Christians for the Abolition of Torture
<b>AMP</b>	<i>Alliance de la majorité présidentielle</i>
<b>ANC</b>	National Congolese Army ( <i>Armée nationale du Congo</i> )
<b>ANR</b>	National Intelligence Agency ( <i>Agence Nationale de Renseignements</i> )
<b>CPRK</b>	Kinshasa's main prison ( <i>Centre pénitentiaire et de rééducation de Kinshasa</i> )
<b>DDR</b>	Demobilization, Disarmament, Reintegration
<b>DEMIAP</b>	Office of Military Detection of Antipatriotic Activities ( <i>Détection Militaire Anti-patrie</i> )
<b>DPP</b>	<i>Division de la Protection Présidentielle</i> (Jean-Pierre Bemba's security force)
<b>DRC</b>	Democratic Republic of Congo
<b>FARDC</b>	Armed Forces of the DRC ( <i>Forces Armées de la République Démocratique du Congo</i> )
<b>FDLR</b>	Liberation Forces of Rwanda ( <i>Force de Libération du Rwanda</i> )
<b>FNI</b>	Nationalist and Integrationalist Front ( <i>Front Nationaliste et Intégrationiste</i> )
<b>FNL</b>	National Liberation Front ( <i>Front National pour la libération</i> )
<b>FRPI</b>	Ituri Patriotic Resistance Front ( <i>Front de Résistance Patriotique de l'Ituri</i> )
<b>GMI</b>	Mobile Group of Intervention of the National Police ( <i>Groupe Mobile d'Intervention</i> )
<b>HR</b>	Human Rights
<b>HRD</b>	MONUC Human Rights Division
<b>ICC</b>	International Criminal Court
<b>MLC</b>	Congolese Liberation Movement ( <i>Mouvement de Libération du Congo</i> )
<b>MONUC</b>	United Nations Mission in the Democratic Republic of the Congo ( <i>Mission de l'Organisation des Nations Unies en République Démocratique du Congo</i> )
<b>MR</b>	Military Region
<b>NGO</b>	Non Governmental Organisation
<b>OCC</b>	<i>Office Congolais de Contrôle</i>
<b>OCHA</b>	Office for the Coordination of Humanitarian Affairs
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>PNC</b>	Congolese National Police ( <i>Police Nationale Congolaise</i> )
<b>RCD/G</b>	Congolese Rally for Democracy-Goma ( <i>Rassemblement Congolais pour la Démocratie/Goma</i> )
<b>RG</b>	Republican Guard ( <i>Garde républicaine</i> ) (ex-GSSP)
<b>UDPS</b>	Union for Democracy and Social Progress ( <i>Union pour la Démocratie et le Progrès Social</i> )
<b>UNHCR</b>	United Nations High Commission for Refugees
<b>UNHRO</b>	United Nations Human Rights Office in the DRC