

DEMOCRATIC REPUBLIC OF THE CONGO

EXECUTIVE SUMMARY

The Democratic Republic of the Congo (DRC) is a nominally centralized, constitutional republic. The president and the lower house of parliament (National Assembly) are popularly elected. Provincial assemblies choose the members of the upper house (Senate). On November 28, the country held multiparty presidential and National Assembly elections, which many local and international observers judged lacked credibility and were seriously flawed. State security forces (SSF) acted independently of civilian control and of military command in many instances.

The three most important human rights issues were: conflict and insecurity in the East that exacerbated an already precarious human rights situation, particularly sexual- and gender-based violence (SGBV); insecurity during the election period; and the lack of an independent and effective judiciary.

Other major human rights problems included the following: impunity enjoyed by SSF throughout the country for many serious abuses, including unlawful killings, disappearances, torture, rape, and arbitrary arrests and detention; severe and life-threatening conditions in prison and detention facilities; prolonged pretrial detention; arbitrary interference with privacy, family, and home; SSF members' abuse and threatening of journalists and human rights advocates, and threatening and obstructing the work of UN investigators; abuse of internally displaced persons (IDPs) by SSF and rebel and militia groups (RMG); widespread official corruption; SSF and RMG retention and recruitment of child soldiers; and use of forced civilian labor. Societal discrimination against and abuse of women and children, Pygmies, persons with albinism, and homosexual persons; trafficking in persons; child labor; and lack of protection of workers' rights were also problems.

Impunity for human rights abuses was a severe problem in both the security services and elsewhere in the government. Authorities did not prosecute or punish the great majority of abusers..

Internal conflicts, particularly in North Kivu, South Kivu, and Orientale provinces, permitted RMG to commit violent abuses against civilians. These abuses--some of which may constitute war crimes--included unlawful killings, disappearances, torture, and SGBV. RMG also recruited, abducted, and retained child soldiers and compelled forced labor. RMG and some army units engaged in the illegal

exploitation and trade of natural resources in the East. In a separate conflict in the Haut Uele and Bas Uele districts of Orientale Province, the Lord's Resistance Army (LRA) continued to commit serious human rights violations through attacks resulting in deaths, injuries, abductions, forced labor, looting, and general insecurity.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were several occasions during the year when SSF members arbitrarily and summarily killed civilians, sometimes during apprehension or while holding them in custody, sometimes during protests, and often when victims did not surrender their possessions, submit to rape, or perform personal services. For example, Human Rights Watch (HRW) reported that SSF killed 24 individuals, including both bystanders and members of the opposition, in elections-related violence between December 9 and 14. Of these incidents, 20 took place in Kinshasa, two in North Kivu, and two in Kasai Occidental.

The Armed Forces of the DRC (FARDC), including dissident elements that had been poorly integrated into the FARDC, such as former members of the National Congress for the Defense of the People (CNDP) militia led by General Bosco Ntaganda (who remained the subject of an outstanding International Criminal Court (ICC) arrest warrant), were allegedly implicated in politically motivated killings, arbitrary arrests, temporary detentions, and the abduction and disappearance of a number of individuals.

The trial of those accused of the 2010 killing of long-time human rights activist Floribert Chebeya concluded in June. A court sentenced four national police (PNC) officers to death and one to life in prison, and acquitted three. The civil party representing the families of the deceased claimed only "partial satisfaction" with the verdict and filed an appeal calling for former PNC Inspector General John Numbi to be tried. Several rule of law experts in the country and almost 80 local and international human rights nongovernmental organizations (NGOs) also expressed serious concerns about the credibility and independence of the investigation and trial. Numbi was suspended from his position in June 2010 pending an investigation, but authorities did not charge him or put him on trial.

RMG in conflict zones committed unlawful killings during the year, and there were reports that some businesses facilitated such killings and other abuses by sourcing minerals from areas controlled by RMG and FARDC units (see section 1.g.).

b. Disappearance

There were reports of disappearances attributable to SSF, including reports of disappearances of members of opposition political parties (see section 2.b.). Authorities often refused to acknowledge the detention of suspects and in some cases detained suspects in secret detention facilities. Local and international human rights organizations alleged SSF abducted individuals during the electoral period and detained individuals in secret nontraditional prisons (military camps and private offices and residences).

For example, on November 4, former CNDP members of the FARDC allegedly kidnapped and beat a popular musician after he performed songs in support of opposition candidates. They released him on November 6 after community demonstrations. On November 9, he spoke at a press conference in support of President Kabila, reportedly under intense pressure.

There were no developments in the 2010 case involving Sylvestre Bwira, president of the Civil Society of Masisi, North Kivu. FARDC units comprised of ex-CNDP members held and severely beat him; he was later released. The abuses occurred after he had sent an open letter to President Kabila in August 2010 denouncing abuses committed with impunity by General Ntaganda's troops and the parallel CNDP administration in Masisi Territory. By year's end authorities had taken no action to bring those responsible to justice.

RMG and FARDC units kidnapped numerous persons, generally for forced labor, military service, or sexual services, and there were reports that commercial sourcing of minerals from areas controlled by these entities may have facilitated such kidnappings and other abuses. Many of the victims disappeared (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

In July the president promulgated a law criminalizing torture. However, the government did not effectively enforce the law, and there were many reports from the UN Joint Human Rights Office (UNJHRO) and other human rights

organizations that SSF tortured civilians, particularly detainees and prisoners, and employed other types of cruel, inhuman, and degrading punishment. Members of the police, the National Intelligence Agency (ANR), and the FARDC perpetrated most cases of torture. There were very few reports of government authorities taking action against persons responsible for these acts.

The UNJHRO reported several cases of torture. For example, on October 3, in the Tshikapa Territory of Kasai Occidental, 15 police officers without a warrant reportedly arrested a young pregnant woman. During the arrest, they stripped her naked and punched and kicked her before sending her to their commander, who placed her in jail. While detained, the police shaved her head, armpits, and pubic area. They released her on October 6, after she miscarried. No known investigation took place, although the UN informed the military garrison in Tshikapa.

Authorities took no further action in the August 2010 case in which FARDC soldiers arrested five persons, including two minors, suspected of involvement in an attack on a United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) peacekeeping base in North Kivu that killed three peacekeepers. During their detention at the headquarters of the 12th FARDC Sector in Kasando, Lubero Territory, soldiers allegedly tortured the individuals, giving them between 40 and 120 lashes each and burning and mutilating their feet and hands to obtain confessions. The five were transferred to the Goma military court.

On several occasions during the year, SSF utilized cruel, inhuman, or degrading methods to exact punishment. For example, on September 24, members of the Republican Guards (RG) arrested and beat three civilians in Goma after their vehicle was involved in a traffic accident that damaged a military vehicle. (The RG guards the president and has no authority to arrest or detain civilians.) The soldiers allegedly beat the victims, stole their property, and detained the individuals in solitary confinement while continuing to beat them. One victim filed a complaint with the local military prosecutor.

In addition, on several occasions during the year, police beat and arrested journalists who wrote or broadcast material they did not like (see section 2.a.).

Some church leaders also beat, whipped, and starved children accused of witchcraft (see section 6).

There were continuing reports, including many from UNJHRO, of members of the SSF raping civilians, both in the conflict zone in the East (see section 1.g.) and elsewhere. For example, on November 17, two girls were allegedly raped by two soldiers of the 2nd Company of the Special FARDC Regiment in Isiro, Haut-Uele District. Intelligence services of Operation Rudia II opened an investigation, but no additional information was available at year's end.

No additional information was available regarding the rape in March 2010 by four policemen from Kampungu police station in Mweka Territory of the daughter of a man they sought in Kasai Occidental.

Prison and Detention Center Conditions

Conditions in most prisons remained severe and life threatening. The penal system was underfunded, and most prisons were understaffed, undersupplied, overcrowded, and poorly maintained. Serious threats to life and health were widespread and included: violence, particularly rape; food shortages; lack of access to potable water; and inadequate sanitation, ventilation, temperature, lighting, and medical care. Death from starvation or disease was common. Men and women, juveniles and adults, and pretrial detainees and convicted prisoners were often held together. Escapes were common.

According to the Joint Prison Coordination (which includes the Ministry of Justice, the Ministry of Defense, and MONUSCO), in 2010 the number of those in pretrial detention exceeded 18,000, including an estimated 500 women. The reported total number of sentenced prisoners did not exceed 4,000, including approximately 100 women. These figures represent several times the number of persons the system was designed to hold.

Even harsher conditions prevailed in small detention centers, which were extremely overcrowded; had no toilets, mattresses, or medical care; and provided detainees with insufficient amounts of light, air, and water. Originally intended to house short-term detainees, they were often used for lengthy incarceration. They generally operated without dedicated funding and with minimal regulation or oversight. Informed sources stated that detention center authorities often arbitrarily beat or tortured detainees. Guards frequently extorted bribes from family members and NGOs for permission to visit detainees or provide food and other necessities.

Despite President Kabila's 2006 decision to close illegal jails operated by the military or other state security forces, there were no reports of such closures during the year. According to MONUSCO, the security services, particularly the intelligence services and the RG, continued to operate numerous illegal detention facilities characterized by harsh and life-threatening conditions. Authorities routinely denied family members, friends, and lawyers access to these illegal facilities.

Authorities denied some prisoners and detainees access to visitors and did not permit them to have contact with or submit complaints to judicial authorities (see section 1.d.). The government had not established an effective or reliable system to monitor detention facilities, and authorities very rarely investigated allegations of inhumane prison or detention center conditions. There were no government ombudsmen serving to protect the rights of prisoners and detainees. There were no reports of authorities preventing prisoners or detainees from practicing their religion. No meaningful steps were taken to improve recordkeeping or to use alternatives to sentencing for nonviolent offenders. In general, the conditions of women prisoners were no worse than those for men.

On most occasions, the government allowed the International Committee of the Red Cross, MONUSCO, and some NGOs access to all official detention facilities. However, it did not allow these organizations access to illegal government-run detention facilities, including those run by the ANR, the RG, and units of FARDC, including ex-CNDP FARDC units in Masisi Territory, North Kivu.

RMG sometimes detained civilians, often for ransom, but little information was available concerning the conditions of detention (see section 1.g.).

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest or detention; however, SSF arbitrarily arrested and detained persons on a routine basis.

Role of the Police and Security Apparatus

The PNC is part of the SFF, which operates under the Ministry of Interior and has primary responsibility for law enforcement and public order, including during the electoral period. The PNC includes the Rapid Intervention Police and the Integrated Police Unit. The ANR, overseen by the president's national security advisor, is responsible for internal and external security. Other agencies include

the military intelligence service of the Ministry of Defense; the Direction Generale de Migration (DGM), responsible for border control; the RG; and the FARDC, which is part of the Ministry of Defense and is generally responsible for external security, but also fulfills an internal security role.

The SSF generally were undisciplined, corrupt, undertrained, and grossly underfunded. Salaries were often late or unpaid, although the initiative of the European Union Mission for Security Sector Reform in the DRC (EUSEC), which provided biometric identification cards to soldiers to facilitate disbursement of pay and census of soldiers, resulted in some progress (see section 4).

There were mechanisms available to investigate abuses by SSF and address internal discipline problems, although the mechanisms remained weak and ineffective, particularly for addressing misconduct by mid- and high-ranking officials. However, some progress was made during the year related to internal discipline of the PNC and FARDC. For example, see section 1.a. for a discussion of the Chebeya case. In February a military tribunal sentenced 10 FARDC officers to 10-20 years in prison for a mass rape committed in Fizi on January 1 that victimized at least 35 women. Lieutenant Colonel Kibibi Mutware, a former CNDP rebel integrated and promoted within the FARDC and the main defendant, received a 20-year sentence.

The government adopted a police reform law in August that replaced the Inspection Generale d'Audit by the Commissariat General de la Police (CG). The CG is the internal discipline unit within the PNC that investigates corruption and other misconduct and human rights violations perpetrated by police force members. The CG unit was trained and deployed countrywide to investigate police conduct during the electoral process.

The FARDC was ineffective, due in part to weak command and control, poor operational planning, low administrative and logistical capacity, lack of training, and questionable loyalty of some of its soldiers, particularly those in eastern Congo. Other serious obstacles to the formation of a coherent national army included lack of equipment and barracks. Poor integration of former militias, particularly the CNDP, remained a significant problem. During the year the government implemented a policy of reorganizing the FARDC into regiments in an attempt to disperse former RMG members throughout the military, but this had mixed results as the process was poorly planned and executed. Most ex-CNDP resisted the reorganization and refused to leave their original area of operation. The process resulted in 24 new regiments. These units were of low quality, and

most were under the control of a parallel command structure run by former CNDP officers. The reorganization also contributed to a temporary increase in instability in North Kivu and South Kivu as RMG occupied the void left by FARDC units when the latter deployed to training centers prior to reorganizing.

FARDC units throughout the country regularly engaged in illegal taxation and harassment of civilians. They set up checkpoints to collect “taxes,” often arresting individuals who could not pay the demanded bribes and stealing food and money. According to UNJHRO there was a direct correlation between the amount of salaries siphoned off by corrupt officers and the level of human rights abuses committed by FARDC, the RG, the PNC, the DGM, and the ANR. Abuses by FARDC soldiers were dramatically reduced in areas where they were properly paid and fed.

Impunity in the SSF remained a severe, widespread problem, and the weaknesses of the justice system continued to play a large role in causing it (see section 1.e.). The government rarely prosecuted and disciplined security force personnel for abusing civilians. Military justice institutions continued to face challenges, including a severe shortage of military judges and prosecutors. Magistrates, prosecutors, and investigators were poorly trained, had little or no resources for investigations, and had limited access to legal codes. In addition, the military justice system was often subjected to political and command interference, and security arrangements for magistrates in conflict-affected areas were inadequate. Magistrates who attempted to investigate politically connected high-level FARDC officers were threatened, as were witnesses providing information to judicial officers as, for example, occurred in the investigation into the Walikale and Bushani mass rapes by the Military Prosecutor’s Office in North Kivu.

Some Congolese military prosecutors participated in joint investigation teams (JITs), a UN initiative launched during the year that focused on investigating SGBV in the East. JITs, which consisted of UNJHRO officers and Congolese military prosecutors and investigators, received complaints of rape and other abuses from human rights groups and deployed to remote areas to investigate and collect evidence for judicial cases. The UNJHRO officers provided the military prosecutors and investigators with transportation, normally a debilitating deficiency in the investigation process. As the military prosecutors and investigators collected and processed information, they received field training in technical areas, such as forensics, witness protection and interviewing, and child protection. Although the JITs were ad hoc in nature and lacked adequate funding and personnel resources, participating military prosecutors and investigators and

NGOs viewed JITs as a small but effective component in the fight against impunity.

The government maintained human rights follow-up committees with MONUSCO in several provinces. Depending on the provinces, they were composed of military and police officers, judicial authorities, military prosecutors, MONUSCO human rights officers, and MONUSCO child protection officers. Committees met regularly to monitor, investigate, and develop strategies to combat human rights abuses. Their effectiveness remained mixed at year's end.

Arrest Procedures and Treatment While in Detention

By law arrests for offenses punishable by more than six months' imprisonment require warrants. Detainees must appear before a magistrate within 48 hours. Authorities must inform those arrested of their rights and the reason for their arrest, and may not arrest a family member instead of the individual being sought. They may not arrest individuals for nonfelony offenses, such as debt and civil offenses. Authorities must allow arrested individuals to contact their families and consult with attorneys. In practice, security officials routinely violated all of these requirements. No functioning bail system existed, and detainees had little access to legal counsel if unable to pay. Authorities often held suspects in incommunicado detention, including in illegal facilities run by the ANR and the RG, and refused to acknowledge their detention.

Arbitrary Arrest: Security personnel arrested and detained without charge perceived opponents and critics of the government, sometimes under the pretext of state security, and often denying due process, such as access to an attorney (see sections 1.a., 2.a., and 5).

Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members.

The military intelligence agency, DEMIAP, arbitrarily arrested persons and subjected them to prolonged arbitrary detention (see section 1.a.).

Pretrial Detention: Prolonged pretrial detention, often ranging from months to years, remained a problem. In March 2010 UN Secretary-General Ban Ki-moon reported that at least 70 percent of inmates were pretrial detainees. In July 2010 Bandundu civil society leaders reported that inmates at Bulungu prison on average spent two to three years in detention before their cases came to trial. No

substantial improvement in the situation occurred during the year. Trial delays were due to factors such as judicial inefficiency, corruption, financial constraints, and staff shortages. Prison officials often held individuals after their sentences had expired due to disorganization, inadequate records, judicial inefficiency, or corruption.

e. Denial of Fair Public Trial

While the law provides for an independent judiciary, in practice the judiciary was inefficient, corrupt, and subject to influence. Judges were poorly compensated and subject to influence and coercion by officials and other influential individuals. Authorities routinely did not respect court orders.

Trial Procedures

The constitution provides for a presumption of innocence. However, in practice most defendants were assumed guilty and had to prove their innocence. Rarely did the prosecution have the burden of proving its case. Although the government permitted, and in some cases provided, legal counsel, lawyers often did not have free access to their clients. The public could attend trials only at the discretion of the presiding judge. Juries are not used. During trials defendants have the right to be present and to be provided a defense attorney. However, in practice these rights were occasionally disregarded. Defendants have the right to appeal in most cases, except those involving national security, armed robbery, and smuggling, which the Court of State Security generally adjudicates. Defendants have the right to confront and question witnesses against them and can present evidence and witnesses in their own defense. The law requires that defendants have access to government-held evidence, but this right was irregularly observed in practice.

Political Prisoners and Detainees

There were reports of political prisoners and detainees. Voix des Sans-Voix, a Congolese NGO, reported 211 political detainees, which represents an increase from the 142 reported in 2010. While the government permitted access to some of these prisoners by international human rights organizations and MONUSCO, authorities consistently denied access to detention facilities run by the RG and the ANR (see section 1.c.).

Civil Judicial Procedures and Remedies

Civil courts exist for lawsuits and other disputes, and individuals can seek civil remedies for human rights violations within this court system. However, the public widely viewed civil courts as corrupt and believed outcomes were determined by the relative financial means of the parties to the lawsuit. There was little available evidence that individuals used civil courts to address human rights violations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Although the law prohibits arbitrary interference with privacy, family, home, or correspondence, SSF routinely ignored these provisions. Soldiers, demobilized soldiers, deserters, and police harassed and robbed civilians. SSF routinely ignored legal requirements and entered and searched homes or vehicles without warrants. In general, those responsible for such acts remained unidentified and unpunished. State security forces sometimes looted homes, businesses, and schools.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

Internal conflict continued in rural and mineral-rich parts of the East, particularly in North Kivu and South Kivu, Bas Uele and Haut Uele districts of Orientale Province, and to a lesser degree, the Ituri District of Orientale.

Foreign RMG, including Forces Democratiques de Liberation du Rwanda (FDLR), LRA, and some Congolese Mai-Mai (local militia) groups increasingly formed coalitions during the year and continued to battle government forces and attack civilian populations. Military preparations, and the fighting itself, led to further depredations against civilians by members of SSF and RMG. This continuation of fighting in the East, which impeded humanitarian aid in some areas, kept the figure of IDPs at approximately 1.7 million at the end of the year, exacerbating an already severe humanitarian crisis.

MONUSCO continued to maintain several thousand soldiers and civilian personnel in the country to assist the government in establishing and maintaining peace and security, particularly in the East. In June the UN Security Council extended MONUSCO's mandate for 12 months, adding election logistical and technical assistance to its mandate. At year's end, MONUSCO included approximately 19,000 peacekeepers, military observers, and police.

Killings, Physical Abuse, Punishment, and Torture

According to reports by UN agencies and NGOs, SSF arrested, illegally detained, raped, tortured, and summarily executed or otherwise killed civilians and looted villages during military actions against RMG. Impunity remained a severe problem, and several individuals in the SSF continued to hold high positions despite credible evidence of their direct involvement in serious human rights abuses or failing to hold subordinates accountable for such abuses (see section 1.d.).

Taking advantage of parallel command structures, ex-CNDP FARDC units in the East controlled their own stockpile of weapons and resisted central government orders to deploy outside of the East. According to the UN Group of Experts (UNGOE), some ex-CNDP elements collaborated with RMG who were officially their enemies.

FARDC soldiers engaged in anti-FDLR operations often arbitrarily arrested civilians whom they suspected of being collaborators or sympathizers of the FDLR and detained them without charge for days or weeks, often beating them and demanding payment for their release. SSF in the East forced men, women, and children, including IDPs, to serve as porters, miners, and domestic laborers.

RMG committed numerous serious abuses, especially in rural areas of North Kivu, South Kivu, and Orientale, killing, raping, and torturing civilians, often as retribution for alleged collaboration with government forces. RMG maintained and recruited child soldiers, including by force, sometimes from schools and churches, and sometimes killed, threatened, and harassed humanitarian workers. RMG abducted men, women, and children and compelled them to transport looted goods for long distances without pay. They forced adult and child civilians and child soldiers to mine, and forced men, women, and children to provide household labor or sexual services for periods as long as several months. In parts of the East, RMG looted, extorted, and illegally taxed and detained civilians, often for ransom.

For example, UNJHRO reported that during the night of December 31, 2010 - January 1, 2011, FARDC soldiers (probably ex-CNDP) raped at least 46 women and one girl in the villages of Bushani and Kalambahiro in Masisi territory, North Kivu. They also abducted two civilians and inflicted cruel, inhuman, or degrading treatment on 12 others. They looted at least 100 houses and three buildings and set on fire or destroyed at least four houses. While the military prosecutor attempted an investigation, FARDC commanders in the area refused to cooperate, and by year's end no one had been arrested for the crimes.

According to MONUSCO, that same night in the town of Fizi, South Kivu, FARDC Colonel Kibibi and his men raped at least 35 women in retaliation for the killing of a FARDC soldier by civilians. As discussed in section 1.d., authorities arrested Lieutenant Colonel Kibibi and 10 of his men and tried them for the rapes. The military tribunal sentenced Kibibi and three other officers to 20 years in prison, two soldiers to 15 years, and three soldiers to 10 years in prison for human rights violations, including mass rapes. In addition, one soldier was acquitted while a minor who was among the accused was transferred to a juvenile court. At year's end, Kibibi was reportedly serving his sentence.

According to the UNJHRO, during clashes in June between the RMGs Alliance des Patriotes pour un Congo Libre et Souverain (APCLS) and Mai Mai Cheka near Mutongo village in Walikale Territory, North Kivu, 85 individuals including 10 minors and one man were raped and 11 persons were subjected to other cruel, inhuman and degrading treatment. At least 20 villages in the area were looted. APCLS combatants allegedly perpetrated the majority of these abuses. Indirect sources also alleged 35 other women were raped during the clashes, but the UNJHRO could not directly interview the alleged victims. Its investigation continued at year's end.

Ugandan RMG ADF/NALU operated in North Kivu, committing terrorist attacks against the civilian population. In April it ambushed and killed 10 FARDC soldiers in Beni territory of North Kivu. In October a coalition of forces from the RMGs FDLR, National Liberation Front (FNL, a Burundian RMG operating in DRC) and Mai Mai Yakutumba operating in South Kivu killed at least five persons working for a local NGO. During the year the Front for Patriotic Resistance in Ituri (FRPI) attacked civilian populations in Orientale Province, including an attack on October 20 that killed a young woman and displaced 30,000 persons.

On December 7, the trial of eight individuals accused of organizing the 2010 Walikale mass rapes began. In July and August 2010 a coalition of the FDLR, Mai-Mai Cheka, Patriotic Forces for the Liberation of Congo (FPLC), and combatants led by Colonel Emmanuel Nsengiyumva, a former member of the CNDP and FARDC, allegedly raped 303 women, children, and men in 13 villages in Walikale, North Kivu. The perpetrators also looted more than 1,000 homes and abducted 116 civilians, whom they subjected to forced labor. According to the UN, one of the villages attacked, Luvungi, where more than 100 persons were raped, was a lucrative target because it was a mining hub located only four miles from gold mines. As of the end of the year, one of the eight individuals charged

with the rapes had been arrested and another had died. The trial was scheduled to relocate to Walikale Territory and reconvene in 2012.

During the year men were raped as part of the violence between RMG and FARDC. Male rape cases may have numbered in the hundreds, but statistics for male rape were even more difficult to compile than those for female rape.

Child Soldiers

The recruitment and use of children in North Kivu, South Kivu, and Orientale provinces by RMG and FARDC (particularly within the poorly integrated elements, including ex-CNDP), continued. The government took some steps to reduce the use of child soldiers (e.g., awareness campaigns for Congolese Army personnel and partnerships with international organizations on training materials). In addition, some FARDC commanders made an effort to remove child soldiers and turn them over to MONUSCO, UNICEF, or other humanitarian organizations. However, the integration of former RMG, including CNDP, into the FARDC continued to be a major hindrance to reducing the number of child soldiers. That process continued to be plagued by separate command structures within FARDC that did not respond to FARDC directives, including a specific prohibition against the use of child soldiers.

Various UN agencies and offices present in the country and the Congolese Ministry of Foreign Affairs created the Resolution 1612 Country Task Force in 2006. MONUSCO and UNICEF are the cochairs of the task force, which pursues advocacy to encourage the government to commit to, negotiate, and implement an action plan to end the recruitment and use of children by the FARDC. The Ministry of Justice and Human Rights and the Ministry of Defense created a Joint Committee to work on the action plan, but by year's end, the government had not finalized or adopted the action plan.

Other Conflict-related Abuses

Fighting between FARDC and RMG continued to displace populations and limit humanitarian access to conflict areas. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), between January and September there were 116 attacks on humanitarian agency personnel, compared to 105 attacks in the first six months of 2010. These two years represent a significant increase over 2009 (84 attacks in 10 months) and 2008 (36 attacks in 10 months).

In North Kivu and South Kivu RMG and criminal elements of the FARDC continued to illegally exploit and trade natural resources for revenue and power. Clandestine trade in minerals and other natural resources facilitated the purchase of small arms to commit abuses and reduced government revenues needed for increasing security and rebuilding the country. The natural resources most used to generate direct and indirect financing for armed actors and conflict were the minerals cassiterite (tin ore), coltan (tantalum ore), wolframite (tungsten ore) and gold, followed by timber, charcoal, and fish.

The illegal trade in minerals continued to be both a symptom and a cause of the conflict in the Kivu provinces. While FARDC military operations during the year and in 2010 drove RMG out of many of the principal mining areas in the Kivus, RMG continued to control many of the more remote mining deposits, increasingly pillaged mineral traders and transporters, and employed intermediaries to purchase minerals at mines they could no longer access. Further, the FARDC regimentation process allowed RMG, especially the FDLR, to regain territory they had lost in the past. Ex-CNDP FARDC elements remained loyal to and in some cases shared mining profits with General Ntaganda as they continued to control large areas rich in natural resources in North Kivu and South Kivu, including Walikale Territory, the part of North Kivu that is richest in cassiterite.

The law specifically prohibits the involvement of the FARDC in mining and the mineral trade. The law also prohibits RMG from engaging in mining. However, the government did not effectively enforce the law. Criminal involvement by FARDC units and RMG included protection rackets (such as protection fees paid by mining pit managers to avoid pillage or to facilitate smuggling), indirect commercial control (including the use of illegal “tax” revenues to buy and sell minerals near mining sites), and direct coercive control (including pillage). In addition, FARDC units and RMG routinely extorted illegal taxes from civilians and at times forced civilians to work for them or relinquish their mineral production.

In March President Kabila lifted the six-month suspension on mining in three eastern provinces that began in September 2010. Reviews of the ban’s effectiveness were mixed. Following the suspension, the military’s control of some mining areas expanded, and some FARDC elements increased their use of forced labor in the mines due to lower sale prices on the clandestine market.

The UNGOE reported that several RMG and units of SSF profited from illegal trade and exploitation in the mineral sector. Allied Democratic Forces profited

from illegal exploitation of timber and gold. The FDLR ran protection tax rackets in mining areas in Walikale through which it financed both weapons purchases and commercial enterprises. The FDLR's revenue from exploitation of cassiterite and coltan decreased, but these minerals were still a source of income. The FDLR also illegally grew and traded cannabis to finance its operations. The FNL trafficked in gold and timber in South Kivu. Mai Mai Yakutumba trafficked gold in South Kivu and imposed taxes on copper miners in the town of Yungu. Mai Mai Cheka continued to control certain cassiterite mines in Bisie, gold mines elsewhere in North Kivu, and diamond mines as well. The APCLS imposed illegal taxes on miners in Walikale. Mai Mai Simba exploited and taxed the exploitation of gold, diamond, and cassiterite deposits, and smuggled ivory, in Maiko Park in Maniema and Orientale provinces. Mai Mai Muhamba smuggled ivory and coffee in North Kivu. In addition, elements of the FARDC exerted control over mining operations throughout the eastern DRC.

The UNGOE reported that four eastern DRC mineral trading counters-- ITT Mining, Huaying Trading Company, Donson, and Etablissement Namukaya -- purchased minerals without exercising due diligence to ensure they were conflict-free. According to the UNGOE, the main onward purchasers from ITT, Huaying, and Donson were the investment companies Tolead, Unilink Trading, and Chengjian Tower. A Tanzanian company called Safaa Mining SPRL also purchased copper from an RMG.

There were credible reports that the following armed groups perpetrated serious human rights abuses in DRC during the year: ADF/NALU, APCLS, FDLR, FNL, LRA, Mai Mai Cheka, Mai Mai Yakutumba, and FRPI.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and press. While the law potentially inhibits these freedoms through its prohibition on insulting the head of state, there were no known instances of the prohibition being invoked. In practice the government restricted individuals' freedom of speech, and freedom of the press declined during the year, particularly during the election period. Generally, individuals could privately criticize the government, its officials, and other private citizens without being subject to official reprisals. However, the government intimidated journalists and publishers into practicing self-censorship. Public criticism of government officials and government conduct or decisions regarding

issues such as conflict and insurgencies, management of natural resources, and corruption, sometimes resulted in harsh responses, often from the ANR, the intelligence service under the president's control.

Status of Freedom of Speech and Press

The Haute Autorite des Medias, a quasigovernmental organization mandated by the earlier transitional constitution, has the power to suspend broadcast stations for hate speech or calls for ethnic violence. In January a new regulatory law took effect, establishing the Conseil Supérieur de l'Audiovisuel et de la Communication (CSAC), and in August the president appointed its 15 members, who assumed their posts in September. The CSAC is mandated to guarantee freedom and protection of the press as well as ensure equal access for political parties, associations, and citizens to official means of communication and information. Journalists in Danger (JED), a Kinshasa-based journalist advocacy group, accused the president of appointing nonqualified members to manipulate the CSAC.

In September, journalists and political parties signed a CSAC code of conduct prohibiting hate speech and ensuring open access to media during elections. In practice, however, CSAC lacked the capacity to monitor adequately all of the newspapers and television and radio stations operating across the country.

The CSAC required hour-long debate programs to be broadcast for each of the 11 presidential candidates, in which they or their chosen representative discussed their campaign with selected journalists. All 11 debates were broadcast on national media outlets and several private TV stations, some of which boasted a quasi-nationwide audience. In addition Radio Okapi, an independent radio station jointly founded by MONUSCO and the Fondation Hirondelle, with support from various international donors, devoted airtime to each presidential candidate, or their representative, to allow them to explain their political platforms to the public. These interviews aired nationwide during the electoral campaign and helped ensure equality of media exposure for all contenders. With the exception of national debates, media outlets failed to ensure a fair distribution of airtime among the various candidates. The EU election observer mission reported that President Kabila received 86 percent of televised airtime, versus 7 percent for Leon Kengo wa Dondo, 3 percent for Vital Kamerhe, and 1 percent for Etienne Tshisekedi, the leading opposition presidential candidate. JED found that, in its sampling, Kabila received 60 percent, Kamerhe 20 percent, and Tshisekedi 15 percent of televised airtime. JED expressed concern over the increasing partiality of media sources, who reported their own opinions rather than events on the ground.

A large and active private press (both pro and antigovernment) functioned throughout the country, and the government licensed a large number of daily newspapers. According to JED, 52 television stations, approximately 240 radio stations, and 200 newspapers were registered with the Ministry of Communication. The government required newspapers to pay a one-time license fee of 250,000 Congolese francs (approximately \$278) and complete several administrative requirements before publishing. Many journalists lacked professional training, received little if any salary, and were vulnerable to manipulation by wealthy individuals, government officials, and politicians who provided cash or other benefits to encourage certain types of articles.

Radio remained the most important medium of public information due to limited literacy and the relatively high cost of newspapers and television. The state owned three radio stations and three television stations, and the president's family owned two television stations.

In 2010 government authorities added a provision in journalists' letters of accreditation that the military code of justice (concerning criminal penalties, including imprisonment) applied to any foreign journalists who committed press offenses. In response, international journalists expressed concerns over their ability to report on sensitive subjects such as the conflict in the East and corruption. At year's end, there were no known cases in which this policy was implemented. Nevertheless, SSF harassed foreign journalists. For example, on December 23, a RG officer confiscated the working materials of Thomas Hubert of BBC Afrique when he was investigating Tshisekedi's planned "inauguration" at Martyrs' Stadium (see section 3). Many hours later, Hubert recovered all the materials except for his camera memory card.

According to JED, one journalist was killed during the year. On June 21, unidentified armed men killed Kambala Musonia, a journalist with Radio Communautaire de Lubero Sud (RCLS), near his home in Kirumba, North Kivu, after Musonia hosted a call-in program during which listeners blamed a surge of insecurity in the region on local SSF.

SSF also beat, arbitrarily arrested, harassed, and intimidated local journalists because of their reporting. In an open letter to the deputy prime minister and minister of the interior dated November 4, Reporters without Borders and JED alleged that freedom of the media was deteriorating, citing various cases as evidence. For example, a television cameraman was taken into custody by police

after filming a Union pour la Democratie et le Progres Social (UDPS) demonstration on October 29. Police freed him two days later.

In its annual report on press freedom released on December 29, JED documented 28 cases of assault of journalists during the year, which represented a 400 percent increase compared with 2010. However, the number of jailings of journalists decreased from 17 in 2010 to nine during the year.

Overall JED reported an 84 percent increase in press freedom abuses, including one murder, and several assaults, arbitrary arrests and detentions, threats, restricted movements, and illegal sanctions or censorship, compared with 2010. Furthermore, JED noted a 28 percent increase in abuses in 2011 when compared with 2006, the last electoral year. The NGO underscored that journalists, reacting to threats of violence, censored themselves. JED further emphasized that economic and political pressure restricted press freedom and expressed concern about the continuing trend of politicians and government officials hiring journalists as advisors.

Radio journalists, particularly those in Bukavu, South Kivu, continued to fear for their safety. Journalists often received anonymous death threats from callers, and many journalists continued to be concerned by the lack of serious investigation and judicial action by authorities against the perpetrators responsible for multiple journalist killings since 2005.

In addition, there were several reports of media outlets being shut down during the election period. While CSAC was, in theory, the only institution with the authority to restrict broadcasts, the government often exercised this power. The media and communications ministry, for example, shut down the signal of pro-opposition Radio Tele Lisanga (RLTV) from November 6 to 15--before the elections--after it aired a live phone call from South Africa by Etienne Tshisekedi, in which the UDPS leader declared himself president of the republic and advocated violence against the police. DRC media minister Lambert Mende later called the suspension of RLTV “a protective measure” taken against a media organization that promoted hate speech. CSAC later followed up with an official suspension of the station’s broadcasting rights. While the sanction against RLTV expired on December 9, the station remained off the air at year’s end. In addition, the signal for Canal Futur, a TV station owned by unsuccessful presidential candidate and the head of the Union for the Congolese Nation (UNC) Vital Kamerhe, was suspended for 10 days on November 28, after the station allegedly defamed one of Kamerhe’s political adversaries. It remained off the air at year’s end. On December 21, the

CSAC's rapporteur stated that "other grievances" prevented either broadcasting signal from being relaunched. On December 31, authorities suspended Radio France Internationale's broadcasts for airing Etienne Tshisekedi's New Year's national address alongside President Kabila's address, and therefore, according to the Information Minister, supporting Tshisekedi's "anticonstitutional comedy."

During the year national and provincial governments continued to use criminal defamation and insult laws to intimidate and punish those critical of the government. For example, on April 12, Lambert Mbuyi of the radio-television station Debut Kasai airing in Mbuji-Mayi, Kasai Oriental Province, was questioned at ANR. ANR accused him of airing, the day before, a program considered defamatory toward provincial authorities.

On December 3, the government cut off the SMS function of cell phones in an effort to control information and limit demonstrations and violence in the aftermath of the national elections. Two associations of people with disabilities in South Kivu and Kinshasa protested this decision, stating that people with hearing and speech impairments used SMS as a primary means of communication, and without access to SMS their livelihoods were cut off and they were unable to receive alerts about potential violence. On December 28, the SMS function was restored.

Internet Freedom

The government did not restrict access to the Internet or monitor e-mail or Internet chat rooms. The CSAC law stipulates that bloggers must obtain authorization from CSAC. At year's end, CSAC had not refused authorization to any bloggers, and individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Private entrepreneurs made Internet access available at moderate prices through Internet cafes in large cities throughout the country.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of peaceful assembly. The government sometimes restricted this right.

The government requires organizers of public events to register with local authorities in advance. To deny authorization, authorities must do so in writing within five days of being notified of the planned event. State security forces often acted against unregistered protests, marches, or meetings.

On occasion authorities denied permission to hold demonstrations, in particular to opposition parties and their civil society allies. Incidents related to freedom of assembly occurred regularly. For example, according to HRW, 12 opposition supporters and bystanders were killed and 41 were injured on November 26, the final day of the campaign period, when supporters of both Etienne Tshisekedi and President Kabila gathered at N'djili Airport to greet the incoming candidates. RG personnel reportedly fired their weapons into the air and into the crowds.

In addition, the UNJHRO recorded 24 incidents concerning the freedom to assemble between November 2010 and September 2011. One such incident occurred when presidential candidate Kamerhe visited Goma and Bukavu in December 2010. Kamerhe was welcomed by a large crowd in Goma, which was then violently repressed. Thirteen victims, including one child and one 80-year-old woman, were treated after the incident. Local authorities banned subsequent gatherings and jailed Kamerhe's followers in Kasongo and Kindu. At least one woman, Consolate Kanyangire Biringanine, the women's coordinator of Kamerhe's UNC political party, was killed on April 24.

SSF occasionally arrested demonstrators. Opposition party UDPS staged weekly protests in front of the headquarters of the National Independent Electoral Commission (CENI), decrying what it claimed was a lack of transparency and CENI's failure to create an inclusive political process for all parties. During the weekly protests, demonstrators at times burned cars and threw objects while police responded with tear gas, shot bullets into the air, and arrested several individuals.

On September 7, the governor of Kinshasa banned all demonstrations during the final week of the candidacy registration period in response to violent back and forth retaliatory actions between supporters of UDPS and the Parti du Peuple pour la Reconstruction et la Democratie (PPRD).

Freedom of Association

The constitution provides for freedom of association. In practice the government sometimes restricted this right directly. During the year several domestic NGOs

were denied authorization to operate (see section 5). In addition, on February 26, in the Ituri District of Orientale Province, the UNC coordinator was arrested when he was reportedly conducting recruitment activities for his party. Indirectly freedom of association was impeded through intimidation in some areas, including Kasai Oriental and Maniema provinces.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation. The government sometimes restricted these rights.

In-country Movement: SSF established barriers and checkpoints on roads, and at ports, airports, and markets, ostensibly for security reasons, and routinely harassed and extorted money from civilians for supposed violations, sometimes detaining them until they or a relative paid. The government forced travelers to pass through immigration procedures during domestic travel at airports, ports, and when entering and leaving towns.

Local authorities continued to extort taxes and fees from boats traveling on many parts of the Congo River. There were also widespread reports of FARDC soldiers extorting fees from persons taking goods to market or traveling between towns.

There were reports of attempts by DGM officials to fine foreigners not carrying passports, although the law does not require foreigners to do so.

SSF sometimes required travelers to present official travel orders from an employer or government official, although the law does not require such documentation. SSF often detained individuals traveling without official orders in order to pressure bribes.

The significant risk of rape by SSF and RMG, coupled with government inability to secure eastern territories, effectively restricted freedom of movement by women in many rural areas, particularly in the East (see section 1.g.).

Foreign Travel: Passport issuance was irregular and often required payment of substantial bribes.

Internally Displaced Persons (IDPs)

As of September, there were 1.7 million IDPs in the country, including 600,984 in North Kivu, 518,618 in South Kivu, and 447,627 in Orientale provinces. The remainder of the IDPs were in Equateur, Katanga, and Maniema provinces. These figures represented a slight decrease (1 percent) over the course of the previous six months. While still high, the rate of displacement was lower than in previous years. Likewise, OCHA reported the rate of return also slowed during the year amid continued insecurity.

The conflict in the East, and the continuing state military operations against RMG, were considered the primary causes of displacement. For example, many people fled their villages in July as the FDLR continued to target villages in South Kivu, stealing cattle and looting houses.

The government did not provide adequate protection or assistance to IDPs, who were forced to rely heavily on humanitarian organizations. The government generally allowed domestic and international humanitarian organizations to provide assistance to IDPs. However, lack of security and roads impeded their efforts.

While the majority of IDPs in North Kivu stayed with relatives and friends, as of November 30, approximately 77,000 stayed in 31 sites and camps managed by international NGOs and coordinated by the Office of the United Nations High Commissioner for Refugees (UNHCR). The percentage of IDPs in North Kivu in formal and informal camps fell from 35 percent in 2008 to 17 percent in 2011. Those residing outside camps stayed with host families, found shelter in dilapidated buildings, or found refuge in the forest. Displaced women and children were extremely vulnerable to abuses, including rape and forced recruitment, by FARDC, RMG forces, and civilians.

IDPs in North Kivu were victims of abuses, including sexual exploitation of women and children, abduction, forced conscription of children, looting, plundering of crops, illegal taxation, and general harassment, by all factions engaged in fighting, including FARDC, and by other civilians. For example, OCHA reported in June the abduction and killing of IDPs in Beni Territory, North Kivu, as IDPs returned to their fields during the day. Abuses in camps around

Goma included killings and death threats, particularly by demobilized fighters, as well as abduction and rape. Some IDPs were also reportedly subjected to forced labor (see section 1.g.).

Protection of Refugees

As of November there were 153,180 refugees in the country from seven adjacent countries, the majority from Angola and Rwanda. In addition, there were 221,055 Congolese refugees recorded as living in Burundi, Rwanda, Tanzania, and Uganda.

The country's laws provide for the granting of asylum or refugee status, and the government has established a rudimentary system for providing protection to refugees. In practice it granted refugee and asylum status to individuals and provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government provided temporary protection to an undetermined number of individuals who may not qualify as refugees.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers with welfare and safety needs. The government provided assistance in enabling the safe, voluntary return of refugees to their homes by allowing their entry into the country and facilitating their passage through the immigration system. However, government authorities did not provide adequate security to refugees.

As of November 30, 7,626 refugees had returned voluntarily to Rwanda and 3,941 refugees had returned voluntarily to Burundi. In addition, 1,538 Angolans had returned to Angola after the November 4 resumption by UNHCR of the voluntary repatriation operation to Angola.

Unlike in previous years there were no reports of widespread forced expulsions. In 2009 Angola forcibly expelled 85,000 irregular Congolese immigrants to Bas-Congo Province, and the DRC retaliated by forcibly expelling 30,000 Angolans, including those with refugee status. During the year smaller expulsions along the entire border between the two countries continued. While most 2009 expulsions were conducted peacefully, abuses during expulsions by SSF of both countries occurred during the year. According to the UNJHRO, in January and February 2010, 9,205 Congolese were allegedly expelled from Angola, including 1,943

women, of whom 304 were allegedly raped by Angolan security forces. Congolese security forces committed 23 documented and verified rapes of expelled Congolese women on Congolese soil. Authorities had arrested one lower-level FARDC officer for the rapes by year's end.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through presidential and parliamentary elections based on universal suffrage.

Elections and Political Participation

Recent Elections: Presidential and parliamentary elections were held on November 28, and on December 9, the CENI announced that President Joseph Kabila received approximately 49 percent of the vote, Etienne Tshisekedi received 32 percent, and Vital Kamerhe 8 percent. Several international observer missions, including the Carter Center and the EU Observer Mission, judged that the results of the elections “lacked credibility,” due largely to irregularities and a lack of transparency in the vote tabulation process.

Election day was generally peaceful but chaotic and disorganized at a number of polling stations throughout the country. For example, many individuals could not find their names on the voting lists and therefore could not vote. Midway through election day, the CENI publicly announced that these “omitted” individuals could vote in the stations in which they registered, regardless of whether their names appeared on the rolls. In addition to the confusion, an RMG attacked a polling station in Lubumbashi on election day, and there were numerous incidents of violence in Kasai Occidental and parts of Kinshasa.

On December 12, Vital Kamerhe, on behalf of the opposition, filed a claim with the Supreme Court seeking to annul the presidential elections. On December 16, the Supreme Court upheld the CENI's provisional results declaring that President Kabila won the election. The opposition quickly denounced the Supreme Court's ruling, and some international stakeholders criticized the procedure employed by the court. President Kabila was sworn into office on December 20.

Meanwhile second place winner and Kabila's primary opponent Etienne Tshisekedi declared he had won the election and held his own “inauguration” at his

home on December 23. SSF had prevented the inauguration from taking place at the Martyr's Stadium, as planned by Tshisekedi and his UDPS party. Up to five people died in small-scale clashes on that day. At year's end Tshisekedi remained in detention in his residence.

By year's end parliamentary election results had not been announced.

During the year, a number of legal codes were changed concerning the elections process. Perhaps most significantly, on January 25, the Senate and the National Assembly adopted an amendment to the constitution that changed the presidential election from a two-round voting system to a single-round system whereby a simple majority determines the winner.

In June and July, officials completed the voter registration process, registering approximately 32 million voters nationwide. In October the CENI began publishing voter lists on its Web site. Many observers, including the Carter Center, claimed that the voter registration process was flawed.

The registration of presidential and legislative candidates was accompanied by demonstrations, especially by opposition party UDPS and Alliance pour la Majorite Presidentielle (AMP) member PPRD.

Political Parties: The 2007 law on the status and rights of the political opposition recognizes opposition parties represented in parliament as well as those not in parliament. The law also details the various "sacred" rights and obligations of opposition parties. During the year political parties were able to operate most of the time without restriction or outside interference, but there were notable exceptions, particularly during the election period. Opposition members were sometimes harassed (see section 2.a.).

Participation of Women and Minorities: At year's end women held 10 percent of seats in the National Assembly (50 of 500) and approximately 6 percent in the provincial assemblies (43 of 690). This was a decrease from the 12 percent of seats held prior to the 2006 elections. In addition, four of the 108 senators were women. Among the 45 government ministers and vice ministers, four were women.

Many ethnic groups, including Pygmies, were not represented in the Senate, the National Assembly, or provincial assemblies. The lack of political participation of some ethnic groups may have been a result of continuing societal discrimination.

The enslavement of and discrimination against Pygmies continued in some areas and undoubtedly contributed to their lack of political participation (see section 5).

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. In 2002 the government established a watchdog agency for the enforcement of the Code of Professional Ethics, which promotes ethical behavior among civil servants in the workplace. The Congolese Court of Accounts and the Congolese Anti-Corruption League NGO are also entities that work closely on corruption matters. In 2007 the government ratified a protocol agreement with the SADC (Southern African Development Community) on fighting corruption.

Nevertheless, the authorities did not implement the law against corruption, and corruption remained endemic throughout the government and state security forces. Bribery was still routine in public and private business transactions, especially in the areas of government procurement, dispute settlement, and taxation. The public perceived the government to be widely corrupt at all levels. According to the World Bank's Worldwide Governance Indicators, official corruption was a severe problem.

Corruption in the judicial and penal systems continued to be severe (see section 1.c.). In rural areas where there were often no courts within a 300-mile radius, justice was administered on an ad hoc basis by any available authority, creating extraordinary opportunities for corruption and abuse of power. Some observers asserted that members of both the executive and legislative branches were content to keep the judiciary weak and ineffective because it protected their power and allowed them to engage in corruption and abuse of power without consequence.

Weak financial controls and lack of a functioning judicial system encouraged officials to engage in corruption with impunity. Many civil servants, police, and soldiers reportedly were paid late, had not been paid in years, received irregular salaries, or did not earn enough to support their families, all of which fostered corruption. *L'Observateur*, a daily newspaper, reported in December that a number of police officers in Beni, North Kivu, went on strike after not being paid for up to five years. Embezzlement of soldiers' salaries by FARDC commanders was common and appeared to contribute to extortion, looting, and other abuses by soldiers against citizens (see section 1.d.).

The law criminalizes money laundering and terrorist financing, and provides for a Financial Intelligence Unit. Limited resources and a weak judicial system hampered the government's ability to enforce anti-money laundering regulations, however, and local institutions and personnel lacked the training and capacity to enforce the law and its attendant regulations fully. During the year the government reached money-laundering convictions in two cases.

Reports, including the UNGOE report, indicated that the mining sector continued to lose millions of dollars because of official corruption at all levels, including illegal exploitation of minerals by FARDC and RMG in the East (see section 1.g.).

In October the International Monetary Fund (IMF) raised concerns about two mining contracts entered into in August with Sodimico and Gecamines that it and the World Bank noted were concluded without proper adherence to transparency principles. The IMF refused to conclude its fourth review of the government under the PEG 2 (the government's Economic Program) until the government audits and publishes the contracts.

The Ministry of Justice and Human Rights created an internal anticorruption team on May 10. According to one internal source, however, this new structure lacked independence and therefore the power to fight corruption.

Government authorities and wealthy individuals at times used antidefamation laws that carry criminal punishments to discourage media investigation of government corruption (see section 2.a.).

The law requires the president and ministers to disclose their assets to a government committee. President Kabila and all ministers and vice ministers reportedly did so during the year. However, the data were not made public.

The law does not provide for public access to government-held information. In practice the government did not grant access to government information for citizens or noncitizens, including foreign media.

To enforce anticorruption laws among civil servants and other government employees, in 2009 President Kabila launched a "zero tolerance" campaign. Within this framework, he established the Financial Intelligence Unit to combat money laundering and misappropriation of public funds.

In 2008 the country was accepted as a candidate in the Extractive Industries Transparency Initiative (EITI), an international voluntary initiative designed to increase transparency in transactions between governments and companies in the extractive industries. Although the government took some positive steps under EITI, including the establishment of a National EITI Committee, publication of the first report on EITI in the country, and the hiring of an independent auditor to validate the EITI process, the government did not meet its March 2010 validation deadline, nor did it meet a subsequently imposed June 2011 deadline. The EITI Secretariat granted the government a final 18-month extension to complete validation by March 1, 2013.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights organizations investigated and published findings on human rights cases. However, SSF continued to harass, beat, intimidate, and arbitrarily arrest and detain local human rights advocates and NGO workers, and government intimidation of domestic human rights defenders worsened. In addition, prison officials consistently denied access by NGOs and UN officials to detainees in certain types of facilities (see sections 1.c. and 1.d.). The government allowed international humanitarian agencies access to conflict zones, permitted many UN human rights officers to investigate abuses, and invited UN special rapporteurs and representatives to visit the country to assess the human rights situation and provide technical assistance. However, the government took no significant steps to implement their recommendations. There were instances in which authorities, particularly SSF, obstructed the work of UN human rights monitors and special rapporteurs, and FARDC units in North Kivu occasionally made death threats against UN personnel.

Officials from the Ministry of Justice and Human Rights met with domestic NGOs and sometimes responded to their inquiries. In March 2010 the minister announced the creation of a liaison organization for consultation between the government and human rights NGOs to monitor human rights and devise strategies to improve the situation. Scheduled to meet every two weeks, the first session convened in September 2010. Thereafter the liaison organization met sporadically, the latest occasion being November 18 to discuss human rights issues during the electoral period. While there was no official Human Rights Commission, there is an Interministerial Human Rights Committee, which meets on an ad hoc basis to address high-profile issues. During the UNHRC's Universal Periodic Review

(UPR) process, numerous domestic human rights NGOs and the government underscored the need to establish an independent national human rights commission, with a broad mandate to protect and promote human rights.

There were reports that local officials required domestic NGOs seeking to register to pay bribes and denied several domestic NGOs authorization to operate. Domestic human rights NGOs were particularly vulnerable to harassment, arbitrary arrest and detention, and other abuses by SSF, when reporting on or supporting victims of abuses by FARDC, ANR, or other SSF and when spotlighting the illegal exploitation of natural resources in the East.

The government generally cooperated with international NGOs that published reports on human rights and humanitarian issues and permitted their investigators access to conflict areas. These human rights and humanitarian aid workers operated in unstable environments where RMG were actively engaged, and were sometimes attacked. For instance, on September 9, RMG kidnapped five members of one of the UNHCR's NGO partners and their drivers near Kigome, Walikale Territory. The members of the NGO escaped although the drivers did not. On September 10, an RMG kidnapped six workers with the NGO Welthungerhilfe in southwest Lubero Territory.

The government cooperated with multilateral organizations in many instances. However, there were some notable problems. While authorities continued to permit international humanitarian agencies access to conflict areas, authorities denied the agencies access to certain prisons located in these areas (see section 1.g.). They also continued consistently to deny UNJHRO officers access to detainees in facilities run by the ANR and the RG in numerous areas.

There was an increase in cases of members of SSF obstructing human rights work by MONUSCO and the UN human rights country team. FARDC units in the East, comprised mainly of ex-CNDP members, consistently denied UNICEF child protection officers access to children in their ranks and sometimes threatened them (see section 1.g.). The government had not responded to several requests for information from various UN human rights monitoring bodies made in prior years. In addition, during the year the government replied to only a small percentage of communications, including urgent appeals, from UN rapporteurs and representatives, according to the UNHCR.

The government cooperated in some respects with the ICC, which continued investigations into war crimes and crimes against humanity committed in the

country since 2003. However, despite the ICC indictment of General Ntaganda in 2008, the government made no effort to arrest and transfer him to the ICC.

The government continued to cooperate with the International Criminal Tribunal for Rwanda (ICTR), which operated freely in areas under government control, seeking several individuals indicted for involvement in the 1994 Rwandan genocide, who the ICTR believes might be in the DRC. On May 24, Congolese authorities arrested Bernard Munyagishira, allegedly responsible for leading the genocide in the border town of Gisenyi, Rwanda, directly across the border from Goma, North Kivu. He was transferred to the ICTR on June 14, made an initial appearance before the court on June 20, and at year's end was awaiting trial. In 2009 the government transferred Gregoire Ndahimana, who had surrendered to authorities, to the ICTR in Arusha, Tanzania. On November 17, the ICTR convicted Ndahimana of genocide and crimes against humanity and sentenced him to 15 years in prison.

On December 16, the ICC freed Callixte Mbarushimana, a Rwandan rebel leader who was charged with murder, rape, and torture in the DRC, because of lack of evidence.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on ethnicity, gender, or religion. The government did not enforce these prohibitions effectively.

In many cases throughout this section data from prior years are presented because more recent data were not available. In all such cases observers believed that the situation had not materially improved during the year.

Women

Rape and Domestic Violence: The law criminalizes rape, but the government did not effectively enforce this law, and rape was common throughout the country and especially pervasive in conflict areas in the East. Spousal rape is not criminal under the law, which was last modified in 2006. The law defines rape to include male victims, sexual slavery, sexual harassment, forced pregnancy, and other sexual crimes. It also prohibits compromise fines and forced marriage, allows victims of sexual violence to waive appearance in court, and permits closed hearings to protect confidentiality. The minimum penalty prescribed for rape is a prison sentence of five years.

SSF, RMG, and civilians perpetrated widespread and sometimes mass rape of women and girls (see section 1.g.). In 2009 the United Nations Population Fund (UNFPA) reported 12,838 cases of sexual violence against both adults and minors in North Kivu, South Kivu, and Orientale provinces, with a total of 17,507 cases across the entire country. According to the March 2009 UN Secretary General's 27th report to the UN Security Council, more than 1,100 women and girls were raped each month in the East alone. An *American Journal of Public Health* study published in June supported this assertion.

Statistical information on rape, often based on information from the judiciary and agencies providing services to victims, remained fragmented and incomplete. According to UN officials and NGOs such as HRW, statistics on sexual violence represented a small percentage of the actual number of crimes committed and excluded victims who were unable, afraid, or ashamed to seek assistance. The June study also supported the claim that rape and sexual violence were widespread and not limited to conflict zones.

Prosecutions for rape and other types of sexual violence remained rare. According to the High Military Prosecutors Office, in 2010 the military justice system convicted 17 FARDC soldiers of crimes of sexual violence in North Kivu Province. HRW and several other human rights groups continued to criticize the government for failing to investigate and prosecute members of SSF, particularly high-ranking officers, who were responsible for rape (see section 1.d.) or failed to take action against personnel under their command. Of the 14,200 rape cases that were registered in South Kivu between 2005 and 2007, only 287, or 2 percent of the cases, were taken to court. Both victims and the UNHRC's special rapporteur on violence against women cited widespread impunity as the main reason for sexual violence. Most victims did not have sufficient confidence in the justice system to pursue formal legal action or feared subjecting themselves to further humiliation and possible reprisal.

It was common for family members to pressure a rape victim to remain silent, even to health care professionals, to safeguard the reputations of the victim and her family. Victims of SGBV faced enormous social stigma. After a sexual assault, many young women and girls were often labeled as unsuitable for marriage, and married women were frequently abandoned by their husbands. Some families forced rape victims to marry the men who raped them or to forego prosecution in exchange for money or goods from the rapist.

Domestic violence against women was common throughout the country. For example, according to the 2007 Demographic Health Survey, 71 percent of women reported some form of sexual, mental, or physical abuse. Other sources found that 86 percent of women in Equateur Province were victims of domestic abuse. While there were few recent statistics available regarding the extent of domestic abuse across the country, a Kinshasa-based December 2010 survey of 1,000 individuals conducted by Les Experts found that 45 percent of respondents had been abused. Although the law considers assault a crime, it does not specifically address spousal abuse, and police rarely intervened in domestic disputes. There were no reports of judicial authorities taking action in cases of domestic or spousal abuse.

Female Genital Mutilation: The law does not prohibit female genital mutilation (FGM). According to the World Health Organization, isolated groups in the north practiced FGM, and approximately 5 percent of women and girls were victims.

Sexual Harassment: Sexual harassment occurred throughout the country. A 2010 study conducted by the World Health Organization found that 64 percent of workers surveyed had experienced sexual harassment at the workplace. The law prohibits sexual harassment, and the minimum penalty prescribed by law is a prison sentence of one year. However, there was little to no effective enforcement.

Reproductive Rights: The government respected the right of couples to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. However, while the law does not require spousal permission for family planning usage, it was still common practice for providers to require permission of a woman's spouse before providing family planning. Women's access to contraception also remained extremely low, with only 6.7 percent of women using modern contraceptive methods. According to the World Health Organization, the maternal mortality rate for 2008 was 670 deaths per 100,000 live births.

Women's access to treatment for sexually transmitted diseases was not known. Recent studies did not disaggregate by gender, and the data were highly variable across geographic regions, reflecting variations in cultural norms and access to health care services. The percentage of women seeking skilled medical assistance during childbirth was 74 percent in 2010.

According to the 2010 Cluster Survey (MICS) conducted by the government with various UN agencies and a foreign aid agency, 87 percent of pregnant women received prenatal care at least once from a qualified professional. This represented

a 2 percent increase from the 2007 demographic and health survey. Medical assistance during childbirth was not as prevalent as prenatal care, but access did increase between 2001 and 2007. Education, socioeconomic status, place of delivery (hospital, clinic, or home), and geographic location had a significant impact on who received postpartum care. Cultural barriers to seeking healthcare were nonexistent except for the minority of women who belonged to Bunda dia Mayala (formerly known as Bunda Dia Congo), a political and religious movement in which adherents were sometimes prevented from receiving vaccinations.

Discrimination: Women did not possess the same rights as men under the law or in practice. The law requires a married woman to obtain her husband's consent before engaging in legal transactions, including selling or renting real estate, opening a bank account, or applying for a passport. According to UNICEF, many widows had been dispossessed of their property. Women found guilty of adultery may be sentenced to up to one year in prison, while adultery by men is punishable only if judged to have "an injurious quality."

In their 2009 report to the UN Human Rights Council (UNHRC), seven UN special rapporteurs and representatives expressed concern that, while the family code recognizes equality between spouses, it "effectively renders a married woman a minor under the guardianship of her husband," by stating that the wife must obey her husband.

Women experienced economic discrimination. The law forbids a woman from working at night or accepting employment without her husband's consent. According to the International Labor Organization (ILO), women often received less pay in the private sector than men doing the same job and rarely occupied positions of authority or high responsibility.

The constitution calls for gender parity, but the provision was not given effect by any legislation. Various laws require political parties to consider gender parity when presenting candidates at all levels. However, fewer than 12 percent of the recent legislative candidates were women.

Children

Birth Registration: According to 2010 UNICEF data, 28 percent of children under the age of five were registered with the state. This represented a 3 percent drop in the previous three years. However, for the first four months of 2011, the Ministry of the Interior reported overall registration of 47 percent of births. Birth

registration was lowest among ethnic minorities such as Pygmies. The lack of registration did not affect access to government services.

Education: The constitution and law stipulate that public education should be free and that education should be compulsory until 16 years of age. In practice, however, primary school education was not compulsory, tuition-free, or universal, and few functioning government-funded schools existed. Public and private schools generally expected parents to contribute to teachers' salaries, and parents typically funded 80 to 90 percent of school expenses. These expenses, combined with the potential loss of income or labor while their children attended class, rendered many parents unable or unwilling to enroll their children. In September 2010 President Kabila ordered that primary school fees would no longer be required outside Kinshasa, Katanga, and Bas-Congo provinces. However, the inadequate education budget severely limited the state's ability to implement its free primary education policy. As a result, many schools continued to rely on fees paid by parents in order to function.

Primary and secondary school attendance rates for girls were lower because many parents preferred to send only their sons to school due to financial, cultural, or security reasons. Approximately 7.6 million children and adolescents did not attend school.

Many of the schools in conflict zones were dilapidated and had been closed due to insecurity. The 2010 Report of the UN Secretary General on Children and Armed Conflict in the Democratic Republic of the Congo noted an increase in attacks on schools in areas that often had corresponding reports of child recruitment. Parents in such areas often prevented their children from attending the few functioning schools due to fear that RMG would forcibly recruit their children.

Child Abuse: Although the law prohibits all forms of child abuse, it occurred. The 2010 MICS survey found that 92 percent of children two to 14 years old experienced some form of violent discipline methods (psychological aggression and/or physical punishment). There was no information about authorities arresting individuals for child abandonment or other abuse during the year.

The constitution prohibits parental abandonment of children believed to have committed sorcery. Nevertheless, parents or other care providers sometimes abandoned and abused such children. The law provides for a sentence of imprisonment for parents and other adults who accuse children of witchcraft, but authorities did not implement the law effectively.

Child abuse was an especially serious problem in the eastern conflict regions. A 2008 report of the UN Secretary General on children and armed conflict in the country concluded that children continued to be the primary victims of the conflict in the East.

In 2009 a group of seven UN special rapporteurs and representatives mandated by the UNHRC to assess human rights in the country deemed it “alarming” that a significant percentage of the victims of sexual violence were girls, and in some cases boys. Between January 2010 and September 2011, UNICEF reported that approximately 21,395 SGBV survivors received medical care, of which 12,829 were in the East. Of the overall number, 57 percent were children.

Many churches in Kinshasa conducted exorcisms of children accused of witchcraft involving isolation, beating and whipping, starvation, and forced ingestion of purgatives. According to UNICEF children with disabilities or even speech impediments and learning disabilities were branded as witches. This practice sometimes resulted in parents abandoning their children. According to UNICEF as many as 70 percent of the street children it assisted claimed to have been accused of witchcraft.

In 2009 the Committee on the Rights of the Child established under the UN Convention on the Rights of the Child published its concluding observations, which underscored the committee’s concern over the frequency of sexual assaults committed against street children, as well as SSF’s regular harassment, beating, and arrest of street children. In addition the committee expressed concern that “violence against children accused of witchcraft was increasing, and that children were being kept as prisoners in religious buildings, where they were subjected to torture and mistreatment or even killed under the pretext of exorcism.”

Several NGOs, including Save the Children, worked with MONUSCO and UNICEF to promote children’s rights throughout the country.

Child Marriage: The law prohibits marriage of girls under the age of 14 and boys under the age of 18. The 2010 MICS Survey found that 45 percent of 20- to 45-year-old women were married before the age of 18. In addition, some marriages of girls as young as 13 years old took place. Dowry payments greatly contributed to underage marriage, as parents would marry off a daughter against her will to collect a dowry or to finance a dowry for a son.

The law criminalizes forced marriage. It subjects parents to up to 12 years' hard labor and a fine of 92,500 Congolese francs (approximately \$103) for forcing a child to marry. The penalty doubles when the child is under the age of 15. However, there were no reports of prosecutions for forced marriage.

Sexual Exploitation of Children: The minimum age of consensual sex is 14 years for girls and 18 years for men, and the law prohibits prostitution by anyone under the age of 18. Nevertheless, child prostitution occurred throughout the country, although there were no statistics available regarding its prevalence. Some of these children engaged in prostitution without third-party involvement, while others were forced to do so.

According to the World Bank, 26 percent of children living on the streets were girls, and of these, nine out of 10 were involved in prostitution, and seven out of 10 had been raped.

Child Soldiers: All parties to the conflict in the East used child soldiers (see section 1.g.).

Displaced Children: There were an estimated 8.4 million orphans and vulnerable children in the country in 2009. Ninety-one percent received no external support of any kind, and only 3 percent received medical support. UNICEF and the World Bank estimated that 30,000 - 40,000 children lived on the streets, with the highest concentration in Kinshasa. Many of these children were forced out of their homes when their families accused them of witchcraft and bringing misfortune to their families. Others were child refugees and war orphans.

The government was ill equipped to deal with such large numbers of homeless children. Citizens generally regarded street children as delinquents engaged in petty crime, begging, and prostitution and approved of actions taken against them. SSF abused and arbitrarily arrested street children (see sections 1.c. and 1.d.). During the year children's tribunals were launched with the training and deployment of 12 magistrates--one for each provincial tribunal.

There were numerous reports that street children had to pay police officers to be allowed to sleep in vacant buildings and had to share with police a percentage of goods stolen from markets.

Anti-Semitism

The country has a very small Jewish population, and there were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

Although the law prohibits discrimination against persons with disabilities, the government did not effectively enforce this provision, and persons with disabilities often found it difficult to obtain employment, education, or government services.

The law does not mandate access to buildings or government services for persons with disabilities. Some schools for persons with disabilities, including persons with visual disabilities, received private funds and limited public funds to provide education and vocational training.

An August 2010 *American Journal of Public Health* study found that overwhelming numbers of civilians in the conflict zone were suffering from symptoms associated with mental illness, ranging from post-traumatic stress disorder to depression.

National/Racial/Ethnic Minorities

Members of the country's more than 400 ethnic groups practiced ethnic discrimination, and discrimination was evident in hiring patterns in some cities. The government took no reported actions to address this problem.

SSF in Kinshasa sometimes harassed, arbitrarily arrested, or threatened members of many different ethnic groups from Equateur, North Kivu, and South Kivu, according to regular reporting from the UNJHRO.

Indigenous People

The country had a population of between 200,000 and 500,000 Pygmies (Twa, Mbuti, Aka, and others), believed to be the country's original inhabitants. The government did not effectively protect their civil and political rights, and societal discrimination against them was widespread. Most Pygmies took no part in the

political process and lived in remote areas. Fighting in the East between RMG and SSF caused displacement of some Pygmy populations. Since 2003, many Pygmies who had lived in IDP camps in the East were forced out of the camps by other IDPs, removing their access to humanitarian relief provided to camp residents.

In some areas, traditional leaders (mwami) and wealthy persons captured Pygmies and forced them into slavery. For 2009-10, the World Peasants/Indigenous Organization (WPIO) reported 644 new cases of enslavement of Pygmies.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

While there are no laws specifically prohibiting homosexuality or homosexual acts, individuals engaging in public displays of homosexuality were subject to prosecution under public decency provisions in the penal code and articles in the law on sexual violence. In October 2010, a law was proposed in the national assembly that would impose significant fines and jail terms on individuals engaging in homosexuality or groups promoting or protecting homosexual behavior. No action had been taken on the draft legislation by the end of the year. Homosexuality remained a cultural taboo, and harassment by SSF was believed to have continued.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination based on HIV/AIDS status.

Discrimination against persons with albinism was widespread and limited their ability to obtain employment, health care, and education, or to marry. Persons with albinism were frequently ostracized by their families and communities.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The constitution provides all workers, except government officials and members of SSF, the right to form and join trade unions without prior authorization or excessive requirements, to conduct legal strikes, and to bargain collectively. Additionally, the law provides unions the right to conduct activities without interference. However, the provision does not clearly define specific acts of

interference. In the private sector a minimum of 10 employees are required for unionizing a business. Bargaining with the employer requires a minimum of 10 union committee members plus one. Union committee members report to the rest of the workforce. The union committee gives a notice of strike to the company's management and does not need authorization to strike. In general the committee delivers a notice to strike to the employer and then waits for a reply for 48 hours. The employer is not obligated to reply. If he chooses to reply, negotiations, which may take up to three months, begin with a labor inspector and ultimately, the Peace Court. If the employer does not reply signaling his readiness to negotiate, the strike may immediately start. Sometimes employees provide only minimum labor while negotiating.

Foreigners cannot hold trade union office until they have lived in the country for at least 20 years. The law requires unions to have prior consent from the Ministry of Labor (MOL) and to adhere to lengthy mandatory arbitration and appeal procedures before striking. In general the police, army, and domestic workers cannot strike. Directors in public and private enterprises are also excluded from striking.

The law prohibits discrimination against union employees and requires employers to reinstate workers fired for union activities. However, the government did not effectively enforce applicable laws, and the extent to which the government protected these rights in practice was limited.

International NGO Freedom House reported in January that labor unions existed only in urban areas and were largely inactive. The government recognized only 12 unions at the national level. These unions, largely in the natural resources sector, were recognized after the 2008 elections and have a mandate that extends until 2013. Employees in the private sector are free to join one of these 12 nationally recognized unions. Unions present in a private sector company form a union committee, which is recognized by management and, at times, even financially assisted. Membership in the unions was unknown. Informally and not within an official union, artisanal miners organized themselves in small groups for mutual support and sharing benefits.

In August 2010 a Freedom House assessment found significant restrictions on labor rights and a "repressive" labor rights environment. Also in 2010, the International Trade Union Confederation (ITUC) reported that there were arrests of trade union members who were tortured and received ill treatment during their detention. The ITUC and the Trade Union Confederation of the Congo (CSC) also

reported acts of interference in trade union activities, including threats of dismissal in violation of the law, the existence of many unions established and financed by employers, and the failure to comply with requirements for collective bargaining. For example, the management of the Societe Nationale des Transports et des Ports (SCTP) dismissed its union head and sent some union members to jail.

Despite the law, antiunion discrimination occurred in practice. To a limited extent, the government protected the right of reinstatement for workers fired for union activities.

In small- and medium-sized businesses, workers could not effectively exercise the right to strike. With an enormous unemployed labor pool, companies and shops could immediately replace any workers attempting to unionize, collectively bargain, or strike. Despite the law prohibiting employers and the government from retaliating against strikers, in April police prevented employees of the SCTP and the Regie des Voies Aeriennes from striking and arrested some employees and union delegates.

Collective bargaining was ineffective in practice. For example, public hospital nurses and public school teachers launched strikes, but both returned to work without any of their demands met. In the public sector, the government set wages by decree and permitted unions to act only in an advisory capacity.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits all forms of forced or compulsory labor, including by children. Under the Labor Code, forced labor is punishable by a maximum of six months' imprisonment plus a fine. Another law also provides for a penalty of prison labor from 10 to 20 years for the enrollment or use of children under 18 years of age in armed forces or the police.

The government did not effectively enforce laws prohibiting forced or compulsory labor. Although no statistics were available, forced labor widely occurred throughout the country.

Examples of violations include the coercion of men, women, and children into forced labor. In the mining sector, individuals took on debt from intermediaries and dealers to acquire food, supplies, and mining tools and equipment. Miners who failed to provide sufficient ore to pay off this debt became debt slaves, forced to continue to work to pay off arrears. The government did not attempt to regulate

this practice. By some estimates, tens of thousands of children worked in the mining sector, most often in extremely dangerous conditions as artisanal miners. Children mined diamonds, gold, cobalt, coltan, wolframite, and cassiterite. In mining areas, children sifted, cleaned, sorted, transported heavy loads, and dug for minerals underground. In the East, FARDC elements and RMG, operating outside central government control, continued to abduct and forcibly recruit men, women, and children to serve as laborers (including in mines in the Kivus), porters, domestics, combatants, and sex slaves (see section 1.g.).

A June report by the NGO Free the Slaves stated that children were particularly vulnerable to forced labor in the East. The report noted that, “[i]t is not uncommon ...for members of armed groups to force an individual to work in the mines during the day and sexually exploit the same person at night.”

Some police officers in the East reportedly arrested individuals arbitrarily in order to extort money from them. The police forced those who could not pay to work until they had “earned” their freedom.

SSF forced men, women, and children, including IDPs and prisoners, to serve as porters, miners, and domestic laborers (see sections 1.c., 1.g., 6, and 7.c.). In addition, according to the UNGOE report of November 2010, in Mushake, Masisi Territory, ex-CNDP FARDC soldiers “enforce salongo, whereby civilians are required to build houses, clean camps, and transport merchandise for the military.” Observers believed that the situation did not materially improve during 2011.

SSF and RMG in conflict-affected areas in the East used children, including child soldiers, for forced labor in mines (see section 1.g.). However, the use of forced child labor by SSF was not limited to conflict zones. For example, in 2009 UNICEF reported that soldiers in Katanga Province forced children and adults to mine and transport heavy loads. No available information suggests that the situation materially improved during the year.

The government took no action against FARDC soldiers who used forced labor and abducted civilians for forced labor during the year.

The government did not conduct any official child labor investigations during the year. Little if any information existed on the removal of victims from forced labor. At year’s end there was no effective government effort underway to limit child labor in mines. The government and UN sources reported the removal of minors from the ranks of the armed forces in the course of its census and registration

program. The armed forces handed these minors over to the United Nations' reintegration program.

Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for full-time employment without parental consent is 18 years. Employers may legally hire minors between the ages of 15 and 18 with the consent of a parent or guardian. Those under the age of 16 may work a maximum of four hours per day, and all minors are restricted from transporting heavy items.

While criminal courts continued to hear child labor complaints, neither the courts nor other government agencies were able to effectively enforce these laws. Government ministries and the National Committee to Combat the Worst Forms of Child Labor lacked the resources and capacity to enforce child labor laws.

The MOL has responsibility for investigating child labor abuses but had no dedicated child labor inspection service. In December the government approved a National Action Plan to Combat the Worst Forms of Child Labor. Other government agencies responsible for combating child labor included the Ministry of Gender, Family and Children, the Ministry of Social Affairs, and the National Committee to Combat the Worst Forms of Child Labor. These agencies had no budgets for inspections and conducted no child labor investigations during 2010 or 2011. According to the NGO Volunteer Office in the Service of Children and Health, while child labor was widespread, no formal complaints had been filed.

The government did not undertake any measures to reinforce the capacities of the labor inspectors to ensure that children under 18 did not engage in hazardous work in mines.

Child labor, including forced child labor, was a problem throughout the country (see section 7.b.).

Child labor was most common in the informal sector, particularly in mining and subsistence agriculture. For economic survival, families often encouraged children to work. According to the MOL, children worked in mines and stone quarries, and as child soldiers, water sellers, domestic servants, and entertainers in bars and

restaurants. In December the International Organization of Migration (IOM) reported that several industries in the country used child labor.

According to data collected by a September 2010 UNICEF survey, approximately 42 percent of children between the ages of five and 14 were involved in child labor. The same survey indicated that children in rural areas are more likely to be involved in child labor than children in urban areas (46 percent compared to 34 percent). UNICEF considered children to be involved in labor if, during the week preceding the survey, a child five to 11 years old performed at least one hour of economic activity or at least 28 hours of domestic work, or a child 12 to 14 years old performed at least 14 hours of economic activity or at least 28 hours of domestic work.

Children were also exploited in the worst forms of child labor, many of them in exploitative work in agriculture, street vending, water selling, and domestic service. Children made up as much as 30 percent of the work force in the artisanal mining sector. In mining regions of the provinces of Katanga, Kasai Occidental, Orientale, North Kivu, and South Kivu, children performed dangerous mine work, often underground. In many areas of the country, children who were five to 12 years old broke rocks to make gravel for a small wage.

Parents often used children for dangerous and difficult agricultural labor. Families unable to support their children occasionally sent them to live with relatives who effectively treated the children as domestic slaves, subjecting them to physical and sexual abuse.

Children were also trafficked for sexual exploitation, including for prostitution in brothels or by loosely organized networks. Reports indicated continued child prostitution, including forced prostitution, throughout the country (see section 6).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda/htm.

d. Acceptable Conditions of Work

The government sets regional minimum wages for all workers in private enterprise, with the highest pay scales applied to the cities of Kinshasa and Lubumbashi. In January 2009 the government established a minimum wage of 1,680 Congolese francs (approximately \$3 at that time) per day. Given the continued devaluation of the currency, the minimum wage, which has never been adjusted, stood at \$1.87 at

year's end. While most foreign employers paid higher wages than the official minimum wage, the average worker has had to cope with falling real wages for over a decade.

The law defines different standard workweeks, ranging from 45 to 72 hours, for various jobs and prescribes rest periods and premium pay for overtime. However, the law establishes no monitoring or enforcement mechanism, and employers often did not respect these provisions.

The law specifies health and safety standards. The law does not provide workers the right to remove themselves from dangerous work situations without jeopardizing their employment. Health and safety standards were not effectively enforced in either the formal and informal sectors.

Employers in the informal sector often did not respect the legally required minimum wage. The average monthly wage did not provide a decent standard of living for a worker and family. Government salaries remained low, ranging from 45,000 to 75,000 Congolese francs (approximately \$50 to \$83) per month, and salary arrears were common in both the civil service and public enterprises (parastatals). More than 90 percent of laborers worked in subsistence agriculture, informal commerce or mining, or other informal pursuits.

According to the World Bank, between 500,000 and two million miners worked in the informal sector nationwide and up to 16 percent of the population indirectly relied on artisanal mining. Overall estimates were notoriously challenging to verify, and determining the number of miners working specifically in the conflict areas was difficult. In 2010 the international NGO Pact estimated that between 200,000 and 250,000 miners worked in North Kivu and South Kivu. Many suffered violence from guards and SSF for illegally entering mining concession areas.

Informal sector workers, who make up approximately 90 percent of the workforce, are subject to hazardous and/or exploitive working conditions.