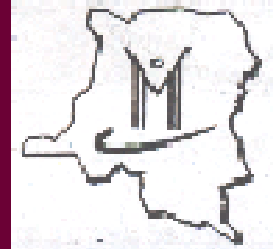


**fidh**

International Federation for Human Rights



**GROUPE LOTUS**



**ASADHO**

# Democratic Republic of Congo

## The authoritarian drift of the regime

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people, Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and that human rights should be protected by the rule of law, Whereas it is



**Some of the international human rights treaties ratified by the DRC**

- African Charter on Human and Peoples' Rights, ratified in 1987
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 1976
- Convention on the Elimination of All Forms of Discrimination Against Women, 1986
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1996
- Rome Statute of the International Criminal Court, 2002

**Some of the international human rights treaties not ratified by the DRC**

- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment an African Court on Human and Peoples' Rights
- African Charter on Democracy, Elections and Governance
- African Union Convention on Preventing and Combating Corruption
- International Convention for the Protection of All Persons from Enforced Disappearance
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

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1. Section written within the framework of the Observatory for the Protection of Human Rights Defenders, a joint programme of the FIDH and the World Organisation Against Torture (OMCT).  
2. RENADHOC is a network of roughly forty Congolese human rights NGOs and includes the League of Electors, ASADHO and Voix des Sans Voix.

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3. Section written in the framework of the Observatory for the Protection of Human Rights Defenders, a joint programme of the FIDH and the World Organisation Against Torture (OMCT).

# I. Introduction

## 1. Presentation of the mission

An FIDH international mission of inquiry visited Kinshasa, in the Democratic Republic of the Congo (DRC), from 7 to 17 April 2009. Its aim, nearly three years after the country's first multiparty presidential elections, was to take stock of the situation regarding respect for fundamental rights by the governmental and judicial authorities. FIDH is aware that the situation in the east of the country remains dramatic, with armed groups and the *Forces armées de la République Démocratique du Congo* (Armed Forces of the DRC, FARDC) continuing to commit serious human rights violations with total impunity, but on this mission, it opted to focus on the actions of the elected authorities of the DRC and their agents. The question of non-respect for human rights in eastern DRC is therefore not discussed in detail in this report.

The members of the mission were Mr. Kassoum Kambou (judge, member of the *Mouvement burkinabé des droits de l'Homme et des Peuples*, FIDH member organisation in Burkina Faso), Mr. Benoit Van der Meersch (Chairman of the *Ligue belge francophone des droits de l'Homme*, FIDH member organisation in Belgium, and FIDH *chargé de mission*), Ms. Stéphanie Rapin (lawyer and FIDH *chargée de mission*) and representatives of FIDH member organisations in the DRC, the *Association africaine de défense des droits de l'Homme* (the *Ligue des électeurs* (LE) and the Groupe Lotus). It held talks with representatives of civil society, political parties and Congolese officials who agreed to meet (Annex I). Unfortunately, FIDH's *chargés de mission* were unable to meet with the Minister of Justice, as they would have wished. They were also unable to meet with the Inspector General of the *Agence Nationale de Renseignements* (National Intelligence Agency, ANR), who did not reply to requests for a meeting. Lastly, FIDH regrets that it was not authorised to visit the detention cells of the *Direction des Renseignements Généraux et Services Spéciaux de la police* (Office of General Intelligence and Special Services, DRGS) or the Kinshasa *Centre Pénitentiaire et de Rééducation* (Penitentiary and Reeducation Centre, CPRK).

## 2. The end of the democratic transition: human rights take a beating

The period of democratic transition in the DRC, which started with the signing by the parties of the Global and Inclusive Agreement in Pretoria, South Africa concerning the conflict on 17 December 2002 and the promulgation on 4 April 2003 of a transitional Constitution, was supposed to mark the end of a period of armed conflict and place the country on the road to genuine rule of law. It ended with the promulgation of the new Constitution on 18 February 2006<sup>4</sup> and the holding of the first multiparty elections since the country's independence.

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4. Following the referendum held on 18 and 19 October 2005.

As FIDH has already observed,<sup>5</sup> the transition phase ended without having met all its objectives, in particular regarding the fight against impunity and the human rights situation in general. Indeed, in April 2006, several months before the end of the transition, the United Nations Human Rights Committee and Committee against Torture published their conclusions on the situation in the DRC. They were devastating in more than one respect: practice of arbitrary arrest and detention; use of torture by the security forces; unlawful places of detention; deplorable conditions of detention; an inadequate justice system; violations of the rights of human rights defenders; limitations on freedom of expression and impunity for the perpetrators of human rights violations<sup>6</sup>.

### 3. The 2006 elections: hopes quickly dashed

Many Congolese had pinned enormous hopes on the elections and the international community had put all its weight behind the process. After two rounds of voting, which were marked by outbursts of violence in Kinshasa<sup>7</sup>, Joseph Kabila, backed by the *Alliance pour la Majorité Présidentielle* (the Alliance for the Presidential Majority, AMP),<sup>8</sup> was sworn in as President of the DRC on 11 December 2006<sup>9</sup>. His rival during the second round, Jean-Pierre Bemba, the candidate of the *Mouvement pour la Libération du Congo* (Movement for the Liberation of Congo, MLC), conceded defeat and pledged to lead the opposition.

The AMP, which had backed Kabila, also won a majority in the National Assembly. Jean-Pierre Bemba was elected to the Senate for Kinshasa on 19 January 2007. He benefited from strong support in the west of the country, whereas the east was for the most part behind Kabila. The election process, as envisaged in the Global and Inclusive Agreement, has not yet been completed since the local elections remain to be organised.<sup>10</sup>

Within months, the regime started to drift towards authoritarianism, a trend that has gained momentum ever since. Daily human rights violations alternated with large-scale operations

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5. See FIDH note, "Un processus électoral sous haute tension. Retour d'une mission de la FIDH en RDC" [An extremely tense election process. Return of an FIDH mission to the DRC], October 2006, [www.fidh.org](http://www.fidh.org) (available in French only).

6. See Conclusions of the United Nations Committee Against Torture (7-25 November 2005), CAT/C/DRC/CO/1, 1 April 2006; see also Concluding Observations of the United Nations Human Rights Committee (15-16 March 2006), CCPR/C/COD/CO/3, 26 April 2006.

7. On 21 August 2006, between the two rounds of voting, heavy and light weapons fire was heard around the residence of presidential candidate Jean-Pierre Bemba during a meeting there of the International Committee Accompanying the Transition. According to MONUC and EUFOR RD Congo soldiers dispatched to the area, a company of the Garde républicaine, accompanied by three armoured troop transports, one equipped with a 90-mm cannon, the two others with howitzers, had collected at a strategic crossroads on 30 June Boulevard, apparently standing by to charge the Vice-President's residence. During that time, small groups of the Garde républicaine exchanged fire with around 200 of Vice-President Bemba's guards who were posted in the neighbourhood around his residence. These incidents took place on the streets of the capital and caused the deaths of many civilians. See the Twenty-second report of the Secretary-General on the United Nations Mission in the Democratic Republic of the Congo, S/2006/759, 21 September 2006.

8. The AMP comprises the Parti du peuple pour la réconciliation et le développement (People's Party for Reconciliation and Development, PPRD) and about 30 other political parties.

9. Joseph Kabila won the second round of the presidential elections, obtaining 58 per cent of the votes against 42 per cent for Jean-Pierre Bemba.

10. The local elections provided for in the 2002 Global and Inclusive Agreement comprise the election by direct universal suffrage of municipal and local community councils and the indirect election of magistrates, mayors, sector heads and their deputies.

of repression, especially in Kinshasa in March 2007<sup>11</sup> and after the election of governors in Bas Congo in February 2007<sup>12</sup> and 2008. The government authorities remained impassive in the face of countless devastating reports. When asked about this by the FIDH *chargés de mission*<sup>13</sup>, they merely replied that their country was in a post-conflict situation which made any plans for far-reaching reform hard to implement. However, the *chargés de mission* were able to observe that such statements, while undoubtedly realistic, served above all to cover up the true absence of political will to take tangible steps in favour of human rights. And yet, the DRC has signed and ratified almost all international human rights instruments. The Congolese therefore have rights that they can demand here and now and are not obliged to endure the consequences of political choices aimed at consistently delaying their full enjoyment.

The international community continues to appear reluctant to react in a manner in keeping with the seriousness of the human rights violations committed by the regime's agents. Furthermore, in order to avoid admitting to what increasingly looks like a failure, it backs the current authorities and signs the praises of the young and new Congolese democracy.

The targeted large-scale operations have been supplanted by a far-reaching campaign of repression conducted with the connivance of all state institutions against certain dissident voices. The campaign, as demonstrated by this report, affects all those who, at one time or another, have spoken out publicly against the official position.

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11. See Part II of this report.

12. The security forces used force indiscriminately and disproportionately to repress the sometimes violent demonstrations of the political-religious movement Bundu Dia Kongo (BDK), which allied itself with Jean-Pierre Bemba during the second round of the presidential election. The BDK demonstrated against the use of corruption during the election of governors in early 2007 in Bas Congo province. For more details, see *Enquête spéciale sur les événements de février 2007 et Mars 2008 au Bas Congo* [Special inquiry into the events of February 2007 and March 2008], United Nations Joint Human Rights Office and MONUC, May 2008 (available in French only).

13. Interviews with the Deputy Minister of Defence, Oscar Masamba Mantemo, 14 April 2009.

## II. Quelling the voice of dissent

Joseph Kabila was only a few months into his term of office when the repression started. His main rival, Jean-Pierre Bemba, and his partisans were the first to be targeted followed by anyone taking a stand against the president's positions and those of his political circle. Over the past several months, in particular after renewed fighting broke out in the eastern DRC in August 2008 between the FARDC and troops from the *Congrès National pour la Défense du Peuple* (National Congress for the Defence of the People, CNDP) of dissident General Laurent Nkunda and in complete violation of the Goma agreement signed in January 2008 and the Amani (peace in Swahili) programme, the government authorities have hardened their stance on dissenting voices. Whether they are from political parties or civil society, these members are systematically seen as opponents if they publicly contest the human rights violations committed by those in power.

### 1. A clear will to muzzle any political opposition

In its periodic report to the African Commission on Human and Peoples' Rights (ACHPR) in June 2007, the Government recalls that under Articles 6 and 8<sup>14</sup> of the Constitution, political pluralism and political opposition are recognised in the DRC.<sup>15</sup> It goes on to say that since the proclamation of Law No. 04/002 of 15 March 2004 relative to the organisation and operations of political parties, the DRC "falls within the scope of the process of democratization of political activities, initiated on the 24th April 1990 by the Government of President Mobutu after more than 30 years of an institutional monolithic regime, characterized by a one-party system [...], 229 political parties were registered in the Ministry of the Interior", according to Interior Ministry sources dating to 2004.<sup>16</sup>

While large number of political parties might lead one to believe that political pluralism exists in the DRC, political militants are today no longer able to carry out their activities or even to state an opinion in public for fear they will suffer horrendous abuse at the hands of the security forces. In making this observation, FIDH does not mean to interfere in Congolese politics but only to ensure respect for all human rights in the DRC. It's action for several years in respect of the International Criminal Court (ICC), it's role in the opening of an investigation into and the prosecution of Mr. Bemba and other militiamen, are ample evidence of it's desire to fight all human rights violations in the DRC, no matter who the perpetrator.

#### A/ Anything to eliminate the main rival

The members and partisans of the MLC of Jean-Pierre Bemba – the leader of the Congolese opposition – and more generally all the inhabitants of Équateur, Bemba's province of origin,

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14. Article 6 (1) of the Constitution stipulates, "Political pluralism is recognised in the Democratic Republic of the Congo", while Article 8 provides, "Political opposition is recognised in the Democratic Republic of the Congo. The rights linked to its existence, its activities and its struggle for the democratic conquest of power are sacred".

15. Eighth, Ninth and Tenth Periodic Reports to the African Commission on Human and Peoples' Rights, June 2007, § 108-116. See [www.achpr.org](http://www.achpr.org).

16. Ibid.

suffered a massive wave of repression in March 2007. On 22 March, fighting first broke out between the FARDC and Bemba's guards (from the *Division de Protection Présidentielle*, the Presidential Security Division, or DPP) in downtown Kinshasa. Several hundred people died,<sup>17</sup> including many civilians.

According to the Human Rights Office of the United Nations Mission in the DRC (MONUC), "More than 200 people were arrested by FARDC soldiers, the *Garde républicaine*, the *Police d'intervention Rapide* (Rapid Intervention Police, PIR), the DGRS and civilian and military information services during and after the fighting, in complete contravention of any legal proceedings in most cases and often on the grounds that the person was originally from the province of Equateur. After the hostilities, the unit of the United Nations Human Rights Office in the DRC, whose task is to protect the victims, witnesses and defenders of human rights, registered 51 cases of intimidation and harassment of members of the opposition (including senators and national members of parliament, most of them MLC members) and other people reportedly associated with Jean-Pierre Bemba or other opposition leaders, including journalists. In those cases, the victims said they had been threatened with death, intimidated, harassed, illegally arrested and detained, and subjected to cruel, inhuman and degrading treatment by the security services."<sup>18</sup>

Following these events, Jean-Pierre Bemba went into exile in Portugal and was subsequently arrested by Belgium on an international arrest warrant issued by the ICC in connection with war crimes and crimes against humanity allegedly committed in the Central African Republic in 2002 and 2003<sup>19</sup>.

After Jean-Pierre Bemba's departure from the country, "the government [...] made goodwill gestures and symbolic concessions to the opposition to appease internationals who expressed concern at the authoritarian drift of the regime [...]"<sup>20</sup> For example, a law was adopted on the status of political opposition.<sup>21</sup> Promulgated on 4 December 2007, Article 15 of the law provides that "members of the political opposition may not be questioned, prosecuted, sought, held or tried in connection with political opinions expressed in compliance with the Constitution and the laws and regulations of the Republic" [translated from French].

On the ground, however, terror was still the name of the game. An MLC senator, whom the FIDH *chargés de mission* met, recalled that the party's militants and former members of Jean-Pierre Bemba's guard were arrested in successive waves in 2008. In his words, "when they couldn't nab the husband, they arrested the wife". Today, "militants can be arrested simply for wearing a t-shirt with Bemba's image". On 8 December 2008, a march by MLC militants in Kinshasa was violently put down by the security forces. According to the same senator, the

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17. According to the report of the United Nations Secretary-General, 14 November 2007.

18. Enquête spéciale sur les événements de mars 2007 à Kinshasa [Special inquiry into the events of March 2007 in Kinshasa], United Nations Joint Human Rights Office and MONUC, May 2008 (available in French only).

19. For further information on this case, see the FIDH website, in particular Report of the FIDH Legal Action Group (LAG), FIDH and the situation in the Central African Republic before the International Criminal Court. The case of Jean-Pierre Bemba Gombo, July 2008; see also the ICC webpage on the case: <http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Situations/Situation+ICC+0105/>.

20. International Crisis Group, Congo: Consolidating the Peace, Africa Report No. 128, 5 July 2007, p. 12.

21. Law No. 07/008 of 4 December 2007 on the status of political opposition.

party now prefers to meet in private places, in order to avoid harassment.

Freedom to demonstrate and freedom to assemble are constantly being flouted. The security forces put down demonstrations, even if they present no threat to law and order, on the pretext that they are not authorised. The Government affirmed in its report to the ACHPR in June 2007 that while the right to demonstrate is guaranteed in the DRC, it may be subject to prior authorisation under a 1999 law. That requirement is contrary to Article 26 of the Constitution, which makes the freedom to demonstrate contingent only on the prior obligation to inform the authorities.<sup>22</sup>

## **B/ All political opponents now targeted**

The repression affects all political militants, no matter what their affiliation, insofar as they contest the Government's decisions.

### *(a) Example: the case of an UDPS militant arrested and tortured five times since 2008*

The security forces systematically use torture to dissuade political militants from pursuing their activities, as revealed in the case of Mr. Raoul Nsolwa Muye.

Mr. Nsolwa is 39 years old. He is the President of the *Compagnons d'Etienne Tshisekedi* (Friends of Etienne Tshisekedi), a group of young people backing the political struggle of Etienne Tshisekedi and the President of the *Union pour la démocratie et le progrès social* (Union for Democracy and Social Progress, UDPS). He is married and has two children. He has long been active within the *Compagnon*, and for this reason was arrested several times under the Mobutu regime and by the government of Laurent Désiré Kabila.

On the morning of 30 January 2008, Mr. Nsolwa went to the Victoire roundabout in Kalamu *commune* to take part in the march he had organised to denounce the cost of living in the DRC, wage inequality and, in general, what he considered to be the presidential majority's poor management of power. In accordance with the Constitution, he apparently informed the authorities beforehand that the demonstration would be taking place. Upon his arrival, he was greeted by a large contingent of security forces. On the order of the Kinshasa Provincial Police Inspector, General Oleko, who was also present, the police dispersed the demonstration as it was getting under way. Mr. Nsolwa and a dozen other demonstrators were brutally arrested. They were shoved into a police van, thrown to the ground, and kicked and walked on by booted soldiers as the vehicle drove through the streets of Kinshasa. They were finally stripped of all their personal belongings and released in the afternoon in Barumbu *commune*.

The same chain of events occurred on 19 March and again on 25 June 2008.

On 18 March 2009, when Mr. Nsolwa was trying to take part in a march to denounce the

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22. Article 26 of the Constitution provides, "The freedom to demonstrate is guaranteed. Any demonstration to be carried out on public roads or in open air requires the organizers to inform the competent public service authority in writing".

declaration of the President of the French Republic on the distribution of natural resources in the east of the country, he was arrested by policemen from the Provincial Inspectorate of the city of Kinshasa. They took him into a forest and told him, “If you start again we’ll kill you, who are you, Raoul, to demonstrate against the declaration of Nicolas Sarkozy”. The policemen then beat him with a club.

On 26 March 2009, after having made a statement to the media before the start of a demonstration to denounce the visit of French President Nicolas Sarkozy to the DRC, Mr. Nsolwa and other militants were again arrested. They were taken to an unknown place, a sheet-metal hangar. Mr. Nsolwa was threatened in the following terms: “If you dare schedule one more demonstration, no matter about what, you’ll be killed”. He was then violently clubbed. He was released the following day, 27 March 2009.

It is fair to ask how, in such circumstances, the candidates in the local elections to be held in 2010 will be able to campaign without fear for their physical and psychological integrity.

*(b) The crisis at the National Assembly in early 2009*

The crisis was sparked by the signing of an agreement allowing the *Forces Rwandaises de Défense* (Rwandan Defence Forces, FRD) to enter North Kivu province in the DRC in order to track down Rwandan rebels from the *Forces Démocratiques de Libération du Rwanda* (Democratic Forces for the Liberation of Rwanda, FDLR). Under the agreement, a joint FARDC/FRD operation was launched on Congolese territory on 20 January 2009. The next day, the President of the National Assembly, Vital Kamerhe, publicly denounced the fact that the agreement had been signed without Parliament being notified beforehand which is in violation of Article 213 of the Constitution.

The AMP, the party of Vital Kamerhe<sup>23</sup> and President Joseph Kabila, thereafter asked him and the entire National Assembly Bureau to resign.<sup>24</sup>

National and international human rights defenders denounced these acts of intimidation and the threats proffered against members of parliament during the crisis.<sup>25</sup>

On 16 March 2009, the day parliament reconvened, the President of the National Assembly had still not resigned. In protest, the AMP deputies, the members of the Government and senior magistrates did not attend the opening debates, as they usually do. Asked about their absence, which strongly resembles a government order, a senior magistrate confusedly explained to the FIDH *chargés de mission* that he had been poorly advised by the protocol service.

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23. The President of the National Assembly is also a member of the President’s party, the PPRD.

24. On this point, see the speech given by the President of the National Assembly when he resigned on 25 March 2009. Downloaded on 17 June 2009 from [www.eurac-network.org/web/uploads/documents/20090415\\_11373.doc](http://www.eurac-network.org/web/uploads/documents/20090415_11373.doc).

25. See Letter to the President of the DRC on the institutional crisis in parliament, dated 23 March 2009 and signed by 210 Congolese and four international NGOs. Downloaded on 19 June 2009 from <http://www.hrw.org/fr/news/2009/03/23/lettre-au-pr-sident-de-la-rd-congo-sur-la-crise-institutionnelle-au-parlement>.

According to the association, *Journalistes en danger* (Journalists in Danger, JED), “contrary to custom and for the first time since the beginning of the legislature, the public station *Radio Télévision nationale congolaise* (RTNC) refused to broadcast the opening ceremonies of the National Assembly and the Senate live. What is more, throughout the ceremonies, the RTNC ran a campaign to demonise the President of the National Assembly, broadcasting a show lampooning him”.<sup>26</sup> This is a disturbing development. Failure to broadcast the deliberations is not a breach of the principle of public debate if the people can attend parliament, but on 16 March the police had cordoned off Parliament, preventing anyone from entering.

The President of the National Assembly finally bowed to government pressure and resigned on 25 March 2009 but it apparently did not spell an end to the intimidation. On 12 April 2009, while the FIDH mission was in Kinshasa, a meeting of deputies backing Vital Kamerhe was interrupted by the arrival of the security forces. According to official sources, the Governor of Kinshasa province had made this order.

On 17 April 2009, the deputies elected a new Bureau to replace those who had resigned, including the President.

The fact that the State institutions, the Government, the judicial authorities, the public media and the security forces became involved in what was originally simply a conflict within a political party is troubling. The repression unleashed against all those who spoke out publicly about the crisis is even more disconcerting.

## **2. Civil society pays a high price for its assimilation to political opposition<sup>27</sup>**



Civil society members are systematically seen as opponents when they denounce breaches of fundamental freedoms, the rule of law committed by the authorities or simply, as journalists, if they convey such information. The repression that accompanied the crisis at the National Assembly is ample proof thereof. But more generally, it appears that the Government uses all the means at its disposal to silence dissident voices and thus human rights defenders and the press are prime targets.

### **A/ Systematic repression of members of civil society during the crisis at the National Assembly**

The pressure exerted on parliamentarians was accompanied by serious violations of human rights, arbitrary arrests and detention, acts of torture and judicial harassment of civil society members who took a stand on the crisis and journalists covering the events. Human rights

26. See “A Kinshasa comme en provinces, les médias paient les frais de la crise créée à l’Assemblée Nationale: JED dénonce les tentatives de faire main basse sur la liberté d’expression” [In Kinshasa and in the provinces, the media pay the price of the crisis at the National Assembly: the JED denounces attempts curtail freedom of expression], JED, 20 March 2009 (available in French only).

27. Section written within the framework of the Observatory for the Protection of Human Rights Defenders, a joint programme of the FIDH and the World Organisation Against Torture (OMCT).

defenders, civil society representatives, students and journalists were arbitrarily arrested everywhere in Kinshasa and in some cases found themselves in the same detention cells for several days.

*(a) Multiple arbitrary arrests in the RENADHOC<sup>28</sup> offices in Barumbu commune*

On 15 March 2009, the Synergy of Congolese civil society NGOs<sup>29</sup> organised a press conference at the RENADHOC offices. The aim of the conference was to announce a peaceful march the following day to denounce “the threat to the new democracy following violations of the Constitution and the National Assembly’s rules of procedure”.

At the end of the conference, the offices were surrounded by ANR agents accompanied by policemen. The agents beat several people who were in the offices and seized money, computers and files. Mr. Floribert Chebeya<sup>30</sup>, Mr. Dolly Ibefo<sup>31</sup> and Mr. Donat Tshikaya<sup>32</sup> were brutally arrested – without an arrest warrant and thus in violation of national and international law – and taken to ANR premises, across from the Prime Minister’s Office, in Gombe *commune*.<sup>33</sup>

Mr. Chebeya still remembers the journey: “The agent raced through the streets, holding a revolver in one hand that he pointed at vehicles coming from the other direction, to the stupefaction of terrorised passers-by, just like the class of untouchables who were above the law during Mobutu’s time.”

Upon arrival at the ANR office, Mr. Chebeya and his companions were surprised to find, also under arrest, Mr. Coco Tanda, the journalist from *Canal Numérique Télévision* who had filmed the press conference and Mr. Kovo Ingila Bokondo, a UDPS member who had come to the RENADHOC to meet his lawyer.

After having been intimidated and accused of acting at the behest of Mr. Vital Kamerhe, the President of the National Assembly, the detainees were transferred to the DRGS premises where they were surprised to discover that other civil society members had also been arrested.

*(b) Arbitrary arrests of civil society members at Saint Rombaut parish in Barumbu commune*

On 14 March 2009, Mr. Bogart Kabongo<sup>34</sup> attended a conference by *Synergie Congo Culture et Développement*<sup>35</sup> on “The People’s Rescue of the Democratic Process”. The aim of the

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28. RENADHOC is a network of roughly forty Congolese human rights NGOs and includes the League of Electors, ASAD-HO and Voix des Sans Voix.

29. The Synergy is a group of about 20 Congolese NGOs, including the Voix des Sans Voix, the League of Electors, COJE-SKI-RDC and the Toges noires.

30. Executive Director of Voix des Sans Voix and Executive Secretary of RENADHOC.

31. Deputy Executive Secretary of Voix des Sans Voix.

32. The RENADHOC receptionist.

33. See urgent appeals COD 003/0309/OBS 049 and 049.1 of the Observatory for the Protection of Human Rights Defenders.

34. A student and member of the association for reflection on and dissemination of ideas, an organisation affiliated with Synergie Congo Culture et Développement.

35. According to its President, Mr. Christopher Ngoyi, Synergie Congo Culture et Développement is a citizens’ movement whose mission is to contribute to and ensure the cultural development of the Congolese nation on the basis of the values of solidarity, freedom, justice and human dignity. It comprises religious movements, associations, political groups and trade unions.

conference was to mobilise members of the Synergie with a view of the forthcoming local elections.

At the end of the conference, the same thing happened as at the RENHADO. Mr. Kabongo, Mr. Christopher Ngoyi<sup>36</sup> and Mr. Lumbamba Mwana Ntambwe<sup>37</sup> were arrested, without an arrest warrant, by ANR agents. They were taken to ANR premises where they were accused of supporting Vital Kamerhe, interrogated on the matter several times during the night and verbally threatened. In the afternoon of 15 March 2009, they were transferred to the DRGS, where they encountered Floribert Chebeya and the other people arrested.

According to the detainees' statements, they were all threatened and interrogated by Colonel Daniel Mukalay, in particular on their ties to the President of the National Assembly, Vital Kamerhe.

The three persons arrested at the parish were released on 16 March 2009, whereas those arrested in the RENADHOC offices were released the following day, 17 March 2009.

In April 2009, the *Synergie* filed a complaint with the Prosecutor General of the Republic against the General Administrator of the ANR, Mr. Daruwesi, for arbitrary arrest and detention, ill-treatment, destruction of premises and unlawful seizure of material belonging to the three human rights defenders.

In the detention cells, the detainees also encountered students arrested the day before.

#### *(c) Arbitrary arrests of students on the campus of the National Teaching University*

During the night of 14 March 2009, while talking with other students about the message of the *Synergie* that they had just distributed, he Mr. Zelence Idambo<sup>38</sup> and two other students<sup>39</sup> were arrested, without an arrest warrant, by the Police Commander of Lukunga district, Colonel Kanyama, who was accompanied by police officers. They were taken to Lufungula camp, where they were questioned about the financial support they were alleged to have received from the President of the National Assembly for their activities.

On 16 March 2009, the three students were transferred to the DRGS, clubbed and interrogated by an ANR agent about their ties with Floribert Chebeya and Vital Kamerhe. Mr. Idambo was released with no explanation on 17 March 2009. The next day he was ordered to reappear in Kin-Mazière, where he was re-arrested. On 18 March 2009, the students were heard by judicial police officers before being released the following day without any charges being held against them, which tends to prove that their arrests were

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36. President of the Synergie Congo Culture et Développement.

37. Member of the Union des syndicats croyants du Congo (Union of Religious Trade Unions of the Congo), an affiliate of Synergie Congo Culture et Développement.

38. Member of an informal group of students from the provinces of North and South Kivu, Maniema and Orientale that denounce the ongoing war and insecurity reigning in their provinces of origin.

39. Edouard Bukize and Patrick Yemba.

politically rather than legally motivated.

*(d) Judicial harassment and threats against human rights defenders in Barumbu commune<sup>40</sup>*

Mr. Fernandez Murhola and Mr. Davy Shabani<sup>41</sup> are both members of the *Collectif des organisations des jeunes solidaires du Congo-Kinshasa* (Network of Associations of Young People, COJESKI-RDC), which is active in the areas of democracy, human rights and good governance.

On 24 February 2009, Mr. Murhola was summoned to appear by a judge from Kinshasa Matete Court. Since he did not know the grounds for the summons, he asked his lawyer to go to the court. However, the judge refused to tell the lawyer the reasons for the summons or even the name of the plaintiff. Mr. Murhola therefore did not appear at the hearing and since then has limited his movements. The summons come on top of other measures of intimidation, such as surveillance of COJESKI-RDC's offices by agents belonging to the security forces. The threats started shortly after COJESKI-RDC started advocacy activities on the role of the government in the continued fighting in the east. They intensified with the publication of a memorandum on the institutional crisis.

On 24 March 2009, Mr. Shabani received an anonymous phone call during which he was told, "We know that you are one of those supposedly civil society people, which is in fact a politicised structure backing Vital Kamerhe. We're going to hunt you down."

Mr. Shabani and all the members of COJESKI-RDC are taking these threats very seriously, especially in view of the arbitrary arrest in March 2009 of Floribert Chebeya and other civil society members.

As a result, the activities of COJESKI-RDC have suffered because the members are intimidated and hardly ever go to the organisation's offices any more.

Mr. Shabani has since left the DRC, fearing for his safety.

**B/ A clear willingness to hinder human rights monitoring**

*a – For how much longer and at what cost can human rights defenders continue their courageous denunciation of abuses?*

In April 2006, the United Nations Human Rights Committee expressed its concern that "many human rights defenders cannot freely carry out their work because they are subjected to harassment or intimidation, prohibition of their demonstrations or even arrest or arbitrary detention by the security forces"<sup>42</sup>

40. See urgent appeal COD 005/0409/OBS 056 by the Observatory for the Protection of Human Rights Defenders.

41. Respectively the national coordinator and communication officer of COJESKI-RDC.

42. See Concluding Observations of the United Nations Human Rights Committee (March 15-16, 2006) Doc. CCPR/C/COD/CO/3, April 26, 2006.

However, in its report to ACHPR, the government persists in declaring that government policy on human rights promotion is “implemented by the Ministry of Human Rights with the support of the Non-Governmental Organisations”<sup>43</sup>.

Although it is true that the Congolese human rights defenders do a remarkable job in this area and have no hesitation in denouncing the relevant authorities of the serious violations committed, ordered or tolerated by the authorities themselves, the government’s principal strategy in this field is to do everything possible to hinder their work, as outlined by the United Nations Human Rights Committee in 2006 and the Observatory for the Protection of Human Rights Defenders in its Note published in December 2008.<sup>44</sup>

The recent arrests and arbitrary detention of human rights defenders in Kinshasa, related above, clearly demonstrate this trend. Mr. Muila from the *Toges Noires* (Black Gowns) Association emphasises that this intimidation works with some organisations. He adds that this was nothing new as they had “already known that under Mobutu”. In fact, as reported above, the defence and monitoring work done by members of the NGO COJESKI has been affected due to the intimidation because they are afraid to go to their offices. How could things be any different, given the methods used to silence them?

Mr. Muila reports, for example, that a visit was paid to their offices during the night of June 30 to July 1, 2008, the day after the publication of a report by their organisation on the March 2007 events in Kinshasa. Everything was stolen: computers, mobile phones, books, various documents. They obviously have no proof, especially since there has been no follow-up to the complaint they filed but in their opinion, this can only be the work of the security services. The coincidence is indeed worrying.

A wide range of measures is used to silence defenders, in violation of all the liberties guaranteed under the Constitution, first among which violation of freedom of expression, arrests and arbitrary detentions accompanied by acts of torture, judicial harassment<sup>45</sup>, media smear campaigns, anonymous calls and verbal intimidation by the security forces.<sup>46</sup> Although a great many continue their work regardless, Mr. Floribert Chebaya explains that “you can’t fight by hiding”. At the rate at which their working conditions are deteriorating, it is justifiable to wonder how much longer they will be able to keep up their fight.

#### *b – A lack of political will to support human rights*

As the government explained in its report to ACHPR, the Ministry of Human Rights is theoretically responsible for human rights promotion in DRC. However, as a MONUC

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43. Government report to ACHPR Kinshasa June 2007, paragraph 218.

44. The Observatory is a joint FIDH and OMCT programme. The Note is available on the websites of FIDH: [www.fidh.org](http://www.fidh.org) and OMCT: [www.omct.org](http://www.omct.org)

45. Judicial harassment will be dealt with in greater depth in the second part of this report.

46. For further detail see the Note of the Observatory for the Protection of Defenders, a joint FIDH and OMCT Programme on the Situation of Human Rights Defenders in DRC, December 2008. [www.fidh.org](http://www.fidh.org) and [www.omct.org](http://www.omct.org)

representative explained to FIDH *chargés de mission*, the Ministry has no power in this domain: it can only intervene.

The issue is not one of a problem of financing since, as the Minister of Human Rights stressed to the FIDH *chargés de mission*, a great many civil servants work in this Ministry.

It is really a question of the total lack of political will to support human rights. Furthermore, this is clearly demonstrated in the government's address to the Human Rights Council for termination of the mandate of the Independent Expert on the Situation of Human Rights in DRC.

In fact, the government representative, Mr. Sébastien Mutom Mujing stated during the Seventh Session of the Human Rights Council in March 2008 that several factors justified non-renewal of the mandate. He stated in particular that:

“On the national level, the Democratic Republic of the Congo had created new free and democratic institutions. The country was still in a post conflict situation but no more in an emergency situation with systematic human rights violations. The Government was doing everything in order to improve the human rights situation. A human rights unit had been created in the Ministry of Justice. Another step forward was the future opening of an independent national human rights commission. Steps towards the reform of security forces were undertaken.”<sup>47</sup>

The Human Rights Council unfortunately granted this request. As FIDH has already emphasised, the follow-on mechanism, a group of thematic independent experts responsible for drawing up recommendations focusing on technical assistance that could be provided to DRC, is a weak one. As Mr. Paul Nsapu, FIDH Secretary-General, stated at the time, “The country mandate is the only one that permits a continuing dialogue between the authorities and the Human Rights Council, with the aim of improving the general human rights situation in the country”<sup>48</sup>.

Although the international community is primarily responsible for not renewing the mandate, the DRC's address in this respect leads one to wonder about the government's willingness to support human rights. This mechanism was of primary importance in monitoring the evolution of the human rights situation in the field.

Furthermore, contrary to the government's statement in its report to ACHPR, dated June 2007, there is no longer an independent national human rights body in DRC<sup>49</sup>. In fact, the mandate of the National Human Rights Observatory, a body that was set up during the transitional period, came to an end. A draft law on the creation of a National Human

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47. Human Rights Council Press Release March 20, 2008, “Human Rights Council Reviews Mandates of Independent Experts on Human Rights in DRC and Somalia”.

48. See FIDH website: “RDC: suppression du mandat de l'Expert indépendant Le Conseil des droits de l'homme avalise la position des autorités congolaises” March 31, 2008. <http://www.fidh.org/RDC-suppression-du-mandat-de-l> (French version only available).

49. Government report to ACHPR, June 2007, paragraph 226.

Rights Commission was adopted by the Senate in 2008 but it has still not been adopted by the National Assembly, as is the case for a number of important texts on human rights protection and the fight against impunity in DRC.

### **C/ The press: a range of measures intended to control media coverage**

In its report to ACHPR in June 2007, the government recalled that freedom of expression and freedom of information are guaranteed under Articles 23 and 24 of the DRC Constitution and by the law of June 22, 1996 establishing the modalities which govern the exercise of press freedom. It emphasises that a great many radio stations, television channels and printed press exist in DRC (according to 2004 data).<sup>50</sup>

Whilst it is true that a large number of media and political parties are present in DRC, it is also true that they are subjected to systematic repression as soon as they handle information that criticises the established government or when they simply pass on such information.

The case of Coco Tanda, referred to above, is symptomatic in this respect. This journalist was arrested and arbitrarily detained on the sole grounds that he was filming a press conference for human rights defenders to denounce attacks on democratic principles. Although this affair is emblematic, it is far from being an isolated case. All methods are permitted to “put journalists back on the right track”: arrests and arbitrary detention, torture, verbal threats, administrative and judicial harassment. A brief glance at the latest reports of Journalists in Danger (*Journalistes en Danger* - JED) or Reporters Without Borders confirms this behaviour.<sup>51</sup>

These observations tally with the conclusions of the United Nations Human Rights Committee. In April 2006, it had already noted their “concern that many journalists have been prosecuted for defamation or have been subjected to pressure, intimidation or acts of aggression, including imprisonment or harsh treatment, on the part of government authorities. The Committee feels that these measures, in most cases, are aimed at impeding journalists’ legitimate performance of their work.”<sup>52</sup>

Harassment is such that nowadays journalists censor themselves. According to a JED representative, “Although, statistically speaking, there was a slight reduction in harassment in 2008<sup>53</sup>, this has been to the detriment of content”. In his view, in reaction to the harassment of which they have experienced and in order to avoid reprisals, some journalists currently practise self-censorship, particularly on the most “risky” subjects such as pillaging of natural resources or serious human rights violations committed notably in the east of the country.

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50. Government report to ACHPR Kinshasa June 2007, paragraphs 90 to 107.

51. *Journalistes en Danger* 2008 Report « La liberté de la presse en Afrique Centrale » (report available in French only).

52. See Concluding Observations of the United Nations Human Rights Committee (March 15-16, 2006) Doc. CCPR/C/COD/CO/3, April 26, 2006.

53. This statement is to be taken in very relative terms and in comparison with past years. JED devotes several pages in its 2008 report on press freedom in Central Africa to cases of arbitrary arrests of journalists. See also the Note of the Observatory for the Protection of Defenders on the situation of human rights defenders in DRC, December 2008.

However, according to him, another explanation for the reduced media coverage is the ruling government's financial investment in the media. As an example, the cabinet of the Ministry of Communication has recruited a number of journalists who, alongside their official functions in the cabinet, continue their work as journalists with the so-called independent media.

Although, according to the government, "The opening to the public media for all the political leanings has been realised"<sup>54</sup>, representatives of the opposition political parties describe it as being almost impossible to express themselves in these media. According to an MLC representative, if a member of the opposition appears on a public channel, then "it's someone of no importance, who has nothing to say". In addition, as several of those interviewed commented to members of the mission, the public media are used for propaganda purposes. Some topics are therefore totally banned. As an example, Reporters Without Borders (RSF) recently condemned the decision on December 4, to suspend 12 journalists and a video-editor for broadcasting footage of a street protest by members of the Congolese diaspora in Brussels against the fighting in the east of the country. A woman carrying a placard saying "Kabila must leave" could be seen among the protesters. The journalists are accused of belonging to a "mysterious organisation with subversive designs."<sup>55</sup>

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54. Government report to ACHPR Kinshasa, June 2007, paragraph 104.

55. RSF "Nine and ten-month jail terms for two journalists who "insulted" President Kabila" December 5, 2008 <http://www.rsf.org/Newspaper-editor-freed-on.html>

### **III. The government's version of the Rule of Law: the security forces dispose of full power ; justice is under supervision**

The main issue of impunity in DRC remains cruelly topical. In particular, members of the security forces are constantly denounced as those who are mainly responsible for human rights violations in the country. Instead of spending the last three years reinforcing the independence of the judiciary body and reforming the domain of security<sup>56</sup>, the governing body has been busy reinforcing the unlimited powers already available to the security forces and diluting the judiciary body. The judiciary, which is often subjugated, is currently implicated in the repression of dissenting voices.

#### **1. The security forces: a political police force with full power**

##### **A/ A real political police force that takes many forms**

*a – A multiplicity of services with unlimited power*

In April 2006, the United Nations Committee Against Torture declared that, “The Committee notes with concern the large number of security forces and services with powers of arrest, detention and investigation”. It therefore recommended the Congolese State to “keep to the strict minimum the number of security forces and services with powers of arrest, detention and investigation, and ensure that the police force remains the primary law enforcement agency”<sup>57</sup>

Questioned on security reform, the response given by the various authorities encountered was strangely similar and brief: “We’re working on it”.

In fact, there are still a great many security forces whose responsibilities and powers are not really known. The list of security forces with powers of arrest, detention and investigation is long. They include, amongst others: the Congolese National Police Force (and its special units and services such as the Rapid Intervention Police (*Police d’Intervention Rapide* - PIR), the Office of General Intelligence and Special Services (*Direction des Renseignements Généraux et Services Spéciaux de la police* - DRGS), the Presidential Guard (*Garde Présidentielle*), Military Intelligence Agency (*Etat Major Général des Renseignements Militaires*) referred to by all by its old name DEMIAP - *Détection militaire des activités anti-patrie* (Military Detection of Anti-State Activities), and the National Intelligence Agency (*Agence Nationale de Renseignements* – ANR). This situation is an all-too-real

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56. In particular by setting up a vetting procedure for the security forces with the intention of excluding from these forces members involved in serious human rights violations.

57. Conclusions of the United Nations Committee Against Torture (November 7-25, 2005) - Doc CAT/C/DRC/CO/1 April 1, 2006.

reminder of the Mobutu period for Congolese human rights activists.

A human rights defender in Kinshasa summed up their respective responsibilities, saying, “There are many parallel services that do the same thing, so it is difficult to work out what each one does”. Furthermore, some witnesses sometimes have difficulty working out which security force arrested them. In practice, the only thing that those who FIDH spoke to are sure of was summed up by the President of the Bar (*Bâtonnier National*): “The political police hold all the rights”.

*b –The confirmation of a political police force*

Whilst some members of the security forces make use of the full powers they are granted for personal ends (to satisfy their sexual desires, to settle personal scores<sup>58</sup>, to satisfy their thirst for power, to top up their monthly income), these forces follow a very clear line of action: the issue is not ensuring public security but guaranteeing the hegemony of the ruling government by repressing all dissenting voices.

Although, when questioned about arbitrary arrests by the security forces, the Human Rights Ministry replied that, “the attitude of a few low level elements is not sufficient to demonstrate the lack of political willingness”. But the facts speak for themselves. The concurring statements that were collected and presented in the first part of this report confirm that, in view of the involvement of various security forces and the focused and systematic nature of the acts committed, there is no question of these being isolated acts.

Furthermore, the security forces make no secret of their acts and talk about them to the people they arrest in order to intimidate them. As an example, for Mr. Floribert Chebaya, one of the forces’ victims, stated, “what happened to us came from the very top of the state”. In fact, when they were released, an officer (whose identity is known to the FIDH mission members) apparently said to the defenders, “You’re doing a good job. Be careful not to get mixed up in politics like you just did when you initiated a leaflet to support a politician like Vital Kamerhe. You are lucky. The first order we received from the DRGS was to transfer you to the court to be sent to Kinshasa central prison. My boss, General Union, preferred to meet the Special Advisor to the President of the Republic, who ordered your release”. Mr. N’sii Luanda from the Committee for the Observation of Human Rights confirms this and says that services like ANR and DEMIAP “do not obey the Prosecutor but only the Chief of State”.

In fact, both the ANR and the DGRS, which are almost systematically involved at one stage or another of this huge campaign of repression, are known for their implication in human rights violations that are political in nature. It is useful to specify that under the terms of the decree<sup>59</sup> in which it was established, the ANR is a civil intelligence service, placed under

58. A witness held at the CPRK explains that “a 16 year-old boy was held at the CPRK for 2 years. “He had fought the son of a neighbour, whose father works at the ANR.”

59. Legal decree 003-2003 January 11, 2003 relating to the creation and organisation of the ANR.

the authority of the President of the Republic and whose mission is to “watch over internal and external state security”. The DRGS is a police division specialising in intelligence and should therefore be supervised by the Interior Ministry. However, according to MONUC, it functions as a “highly politicised unit, allegedly reporting directly to the *Présidence*”.<sup>60</sup>

## **B/ Secret detention in numerous holding cells beyond all judicial control**

In April 2006, the Human Rights Committee noted that “although pre-trial detention is the exception, in accordance with article 17 of the Constitution and article 28 of the Code of Criminal Procedure, it seems rather to be the rule. While an arrest must be authorized by a warrant issued by the public prosecutor’s office, such a warrant is often not produced, and although pre-trial detention is not supposed to exceed 48 hours, such detention is often prolonged considerably beyond this limit. The Committee is also concerned that the civil and military security forces place detainees in unauthorized and/or secret detention cells or centres, often without allowing them to contact a lawyer or a member of their family.”<sup>61</sup>

### *a – the official version*

A reading of the ACHPR report<sup>62</sup> dated June 2007 might give the impression that the situation has greatly improved. The government recalls that under article 17 of the Constitution, “individual liberty is guaranteed. It is the rule and detention is the exception”. In addition it specifies that custody cannot exceed forty-eight hours. In fact, according to article 18 of the Constitution, “On the expiry of this deadline, the individual placed in custody must be released or placed at the disposal of the competent judicial authority”.

The General Prosecutor of the Republic, when questioned about prolonged detentions, especially in ANR or DRGS detention cells as described in the first part of this report, stated that he “doubts whether this is so”. Furthermore, according to the Defence Ministry legal advisor, Lieutenant Colonel Mutumbo, judges have access to ANR holding cells.

The reality is obviously rather different.

### *b – The reality: prolonged secret detention beyond all judicial control*

A high judge who was questioned concerning the activities of the security forces confided to *chargés de mission* that he has no control over them. The President of the Independent Union of Magistrates of the Congo (*Syndicat National Autonome des Magistrats du Congo* - SYNAMAC) explained that “the judges have no control over ANR members, they cannot even go to the detention cells, they risk being arrested there”. As for lawyers, according to the President of the Bar, “access to places of detention is complicated for lawyers. It is

60. Report by MONUC Human Rights Division on The Human Rights Situation in the Democratic Republic of Congo, October 10, 2007. <http://www.ohchr.org/Documents/Countries/UNHROBiannualReport01to062007.pdf>

61. Concluding Observations of the United Nations Human Rights Committee (March 15-16, 2006) Doc. CCPR/C/COD/CO/3 April 26, 2006.

62. Government Report to ACHPR, June 2007, paragraphs 68 to 82.

impossible on the premises of organisations such as DEMIAP or the ANR.”

The case of Mr. Ndeze is symptomatic of such arbitrary detention. He was secretly detained for a month in ANR detention cells in the town of Gombe. He saw no judge or lawyer, nor, obviously, his family. No one was allowed to visit him. He was questioned once by an ANR agent.<sup>63</sup>

Another witness, who was briefly held in ANR holding cells in Kinshasa in March 2009, met Mr. Norbert Luyeye, the President of the Republicans’ Union (*Union des Républicains*) who had disappeared several weeks previously<sup>64</sup>. Mr. Luyeye had a problem standing up due to the ill-treatment he had been subjected to and he had no access to medical care.

For Mr. Nsii Luanda from the Committee of Human Rights Observers (*Comité des observateurs des droits de l’Homme* - CODHO), there is “special justice for the Kivus”. A number of people linked to the CNDP, or reputed to be, were arrested in Goma, Uvira or Bukavu and then transferred to Kinshasa where they are still waiting to see a judge.<sup>65</sup> Some have been waiting in the CPRK for two or three years.

The same is true for the supporters of Jean-Pierre Bemba, or those who are thought to be, because they come from the Equateur province.

### **C/ Torture and other cruel, inhuman or degrading treatment or punishment is practised on a regular basis**

#### *a – The systematic use of torture*

Reports and evidence collected during this report show that torture and other cruel, inhuman and/or degrading treatment or punishment, as defined in the 1984 Convention ratified by DRC on March 18, 1996, continue to be widely practised by the security forces.<sup>66</sup>

Witnesses report that the security forces resort to this kind of practise in order to intimidate and silence them with beatings, physical and/or verbal humiliation, prolonged detention with no contact with the exterior and no knowledge of when it will end, etc.

No steps have been taken to put an end to these practises, which are also very useful to the government for repressing real opponents and/or supposed opponents.

63. For more details concerning this case see Section 3 – A/ pf this report.

64. According to concurring sources, Mr. Luyeye was kidnapped on February 4, 2009 after criticising, during a press briefing, the government decision to carry out a joint operation with the Rwandan army to pursue the FDLR.

65.. On March 26, 2009 the World Organisation Against Torture recalled in an Urgent Appeal that 16 people were still secretly detained, some of them for more than a year, in ANR detention cells in Kinshasa. See Urgent Appeal March 26, 2009 COD 191208.1 - Suivi du cas COD 19120 Libération/ Détention au secret/ Risque de torture/ Crainte pour la sécurité.

66. Article 1 of the Convention Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that: “For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. “

Furthermore, detention conditions themselves constitute acts of torture and other cruel, inhuman and or degrading treatment or punishment.

*b – Detention conditions themselves constitute acts of torture and other cruel, inhuman and or degrading treatment or punishment*

In the case of John D. Ouko v/ Kenya<sup>67</sup> brought before the African Commission on Human and People's Rights, the complainant maintained that he had been arrested and detained without trial for 10 months at the Secret Service Department in Nairobi. He was kept in a cell with no toilet and where a 250 watt light bulb was constantly left on. The Commission ruled that the detention was arbitrary and constituted inhuman and degrading treatment in violation of Articles 5 and 6 of the African Charter of Human and People's Rights. This ruling was confirmed in the case of *Achuthan and Others v/Malawi* when the Commission considered that excessive solitary confinement, shackling within a cell, extremely poor quality food and denial of access to adequate medical care were considered inhuman and degrading treatment, in contravention of Article 5 of the Charter.

From the point of view of this case on ruling and detention conditions in DRC, the simple fact of being detained constitutes inhuman and degrading treatment. FIDH mission members were not allowed to visit detention centres but witnesses told them of the horrors they had experienced.

- Kin Mazière

Messrs. Floribert Chebeya, Christopher Ngoyi, Bogart Kabongo and Dolly Ibefo were all four detained together in the holding cells of the headquarters of the Special Services police. They were placed in three cells: "Memling" – which is the name of a luxury hotel in Kinshasa – "Afrique" and "Zaire". Conditions were more or less acceptable in the "Memling" cell: there were some foam mattresses to sleep on, toilets, a bath and lighting. In the "Afrique" cell there were no toilets or lighting and people who were detained slept on plastic tables. The "Zaire" cell was the worst: there were no toilets or lighting. Detainees had to use bottles or plastic cups for their toilet needs. They slept on the floor. There is no food. The family can bring something to eat but they must pay to do so.

-Lufungula national police camp

Mr. Idambo was detained for a few hours in this camp in a cell around 8 metres by 5. There were about thirty people inside, mostly police. Detainees urinated and defecated either into a bag or directly onto the floor. All these people slept on the floor, some on top of others, "like sardines in a tin".

-The Kinshasa Gombe Court detention cell and the CPRK

Mr. Ndeze stayed in the Kinshasa Gombe Court detention cell for five days. He explained that detainees sleep standing up in urine because "the toilets are blocked, so they overflow". The wardens must be paid 50 dollars in order to sleep on the bench outside the cell and

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<sup>67</sup>. Communication 232/99.

100 dollars to sleep on a bed. He added, “Each minute you tell yourself you’ll die from suffocation”.

After a few days in the cell he was transferred to the CPRK. During the journey, they were tied with a strap at the back which pulled so tightly that the blood stopped circulating. The trip lasted 15 to 20 minutes and there were about fifteen of them. Three people fainted during the journey.

The prison at the CPRK is run by detainees. There are no state employees so there are all kinds of excesses. Everything has to be bartered for.

One wing is for the dying. There is no food for detainees other than food brought by the families.

While detention conditions in some cells seem to be deliberately inhuman in order to intimidate and punish detainees, especially at Kin Mazière. At other locations, particularly the CPRK, overcrowded prisons clearly play a part in the deterioration of detention conditions. According to *Avocats sans Frontières (Lawyers Without Borders)*, in July 2008, over 4,000 detainees were held in the CPRK in a space for 1,200.<sup>68</sup>

The authorities recognise this situation and blame it on a lack of funding. According to the Human Rights Minister, “Our prisons are overcrowded. If we don’t create new prisons that comply with standards, the problem will remain”. However, it is obvious that if the detention centres were to be emptied of all the people who were arbitrarily detained, the problem of overcrowding would be less acute.<sup>69</sup>

## **2. The judiciary is deliberately weakened**

In theory, the Congolese judiciary is independent. In fact, as the government recalls in its report to ACHPR, “The need for the independence of the Judiciary had been reaffirmed during the Inter-Congolese Dialogue. This concern had been reflected in the Constitution which, in its Articles 149, paragraphs 1 and 150 stipulate: ‘The Judiciary is independent from the Legislature and the Executive. The Judiciary is the guarantor of the individual freedoms and fundamental rights of the citizens. In the exercise of their duties the Judges are answerable only to the authority of the law’. [...] This option had been taken due to the subservience of the Judiciary to the Executive, a fruit of the institutional monolithism, which characterized the political organisation of the DRC for more than twenty years and which continued even after the proclamation of political liberalization in 1990”.<sup>70</sup>

However, this independence only exists in the texts. In practice, everything possible is done to weaken the judiciary.

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68. *Avocats sans Frontières* « Etat des lieux de la détention provisoire en République Démocratique du Congo » September 2008; (“Report of Detention Pending Trial in DRC” - French version only available).

69. According to an ASF study between July 2006 and April 2008, 459 out of 474 cases of detention in the CPRK do not respect the law, therefore 97 per cent of people had been held in detention in violation of the law. *Avocats sans Frontières* « Etat des lieux de la détention provisoire en République Démocratique du Congo » September 2008.

70. Government report to ACHPR Kinshasa June 2007, paragraphs 220 to 223.

## **A/ The Judiciary kept under supervision**

### *a – Theoretical independence*

The 2006 Constitution provides for reorganisation of the judiciary with three areas of jurisdiction: the Court of Cassation (*Cour de Cassation*) which controls judicial jurisdiction; the State Council (*Conseil d'État*) which is in charge of administrative jurisdiction; and the Constitutional Court (*Cour constitutionnelle*). However, until this reform is implemented, the Supreme Court (*Cour suprême*) is responsible for these three courts.

Under Article 153 of the Constitution, military courts are an integral part of the judiciary and are, in theory, governed by the principle of independence of the judiciary.

In order to guarantee the independence of magistrates, Article 82 of the Constitution stipulates that civil and military presiding judges and public prosecutors are appointed, relieved of their duties and, if need be, dismissed by decree of the President of the Republic “as proposed by the Supreme Council of the Judiciary”. The Supreme Council of the Judiciary (*Conseil supérieur de la magistrature – CSM*), the judiciary management body, is composed solely of judicial officials. Framework laws on the status of judges, the organisation and operation of the CSM completes this arsenal.

The law on the status of judges was promulgated from 2006<sup>71</sup>. Although the procedure for adopting the CSM law was more complex<sup>72</sup>, a law that complies with the Constitution was finally promulgated on August 5, 2008.<sup>73</sup> This law stipulates that the CSM is composed solely of magistrates, including, surprisingly, military magistrates.

### *b – Independence undermined by political and military interference*

#### **i) Civil judges**

The case of the judges who were forcibly retired in February 2008 is emblematic of this situation. A few months before the CSM law was promulgated, the composition of the judiciary body was fundamentally changed by the promulgation of several decrees by the head of state, acting on a proposal by the Ministry of Justice and Human Rights. The February 2008 decrees relate to the retirement of 89 presiding judges and public prosecutors and the appointment of other magistrates to their positions.

Yet, in application of the provisions of the Constitution referred to above, only the CSM may propose the dismissal and appointment of magistrates. When questioned, the Minister of Human Rights spoke of the dysfunctions of the judiciary body and the corruption that was

71. Framework Law No 06/020 of 10 October 2006 on the status of judges.

72. As an example, the Independent Expert on the situation of human rights in DRC highlighted that “a petition was submitted recently to the Bureau of the National Assembly seeking a revision of the constitutional provisions on the composition of the Supreme Council of the Judiciary. The 310 signatories petitioned for the inclusion of the President of the Republic and the Minister of Justice in the Council, in flagrant violation of the principle of the independence of the judiciary enshrined in the Congolese Constitution”. Report of the independent expert on the situation of human rights in DRC, Mr. Titinga Frédéric Pacéré. Doc. A/HRC/7/25, February 29, 2008.

73. Framework Law No 08/013 of August 5, 2008 on the organisation and operation of the Supreme Council of the Judiciary.

gnawing at it before admitting that the problem was one of violation of the law. He explained that “there was willingness to solve a political problem. That was the solution for cleaning up the legislative. Sometimes illegal methods have to be used to protect human rights”!

For a certain number of the actors in the legal world, these decrees are a question of clientelist and tribal considerations. According to them, a number of magistrates who are sent to retirement come from the west of the country and do not always correspond to the criteria for retirement, whilst those appointed to replace them mostly come from the east of the country and/or are linked to the authorities or the presidential party.

In addition, the new appointments violate Article 11 of the law on the status of magistrates regarding promotions, according to which, magistrates may only be appointed to a rank immediately above their own<sup>74</sup>. In fact some magistrates have been promoted to ranks that are not immediately superior and end up jumping several ranks.<sup>75</sup>

Magistrates who are victims of the decrees on retirement have exhausted all means of legal recourse to obtain justice, application for reconsideration<sup>76</sup>, application for declaration of unconstitutionality<sup>77</sup> and application for annulment of the decrees relating to enforced retirement<sup>78</sup>. All these applications remain without response. According to a Supreme Court judge, Mr. Tinkamanyire Bin Digebe, the judiciary is unable to make a ruling on these applications since, because of the great number of new magistrates appointed, the quorum required for a session cannot be met without the newly appointed judges being present and they obviously have an interest in the matter.

## **ii) Military judges**

The issue is even more acute with regard to military jurisdiction, due in particular to the interference of the military hierarchy in the work of the military judges. As a member of the Congolese judiciary explained, “The military courts are not independent courts. (...) You won’t find any court that will try a general”. In fact the Military High Court of Justice (*Haute cour de Justice militaire*), which has jurisdiction over high ranking military officers, cannot sit because there are no military judges of sufficiently high rank to meet in session.

The Special Rapporteur on the independence of judges and lawyers, in his recent report on DRC, explained that: “Some judges, especially in the military jurisdiction, stated that their superiors had instructed them to take a certain decision if they wanted to be eligible for promotion. In several trials involving serious crimes, the Special Rapporteur noted that judges who had begun proceedings or taken decisions unfavourable to a member of the military

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74. Article 11 of the law stipulates that “is appointed to an immediately superior grade, a magistrate who has completed at least three years’ service in one grade and who has received been rated ‘very good’ at least twice during this period.”

75. As an example, a magistrate was promoted from the rank of Counsellor to the Appeals Court to that of Counsellor to the Supreme Court of Justice, so bypassing the intermediary ranks of President of the Appeal Court and First President of the Appeal Court. For further details see the ASADHO annual report January 2008 - March 2009 « L’Etat de droit mis à l’épreuve » (“The Rule of Law is put to the test”).

76. Application for reconsideration dated February 11, 2008 addressed to the President of the Republic remained without response.

77. Application for declaration of unconstitutionality of the legal decrees dated February 8, 2008, Doc. R Const. 65/TSR remained without response.

78. Application for annulment dated August 07, 2008, Doc. RA 1020 remained without response.

command had been transferred, following which their successors had taken decisions resulting in acquittal of the accused”<sup>79</sup>.

However, the authorities, far from taking measures to confirm and promote the independence of military judges, play a part in supervising them. According to the United Nations Special Rapporteur on the independence of judges and lawyers, the military courts underwent the same purge in 2007 as the civil courts did in 2008. He explains that “the President of the Republic dismissed the Chief Justice of the Military High Court and the First Advocate-General of the military prosecutor’s office and replaced them with new judicial officers”<sup>80</sup>

### **iii) conclusion**

This interference in the appointment of judicial officials obviously affects the whole legal system. It concerns, on one hand, high officials such as the General Prosecutor of the Republic, who, as he explained to FIDH, is “the immediate superior of all members of the court”<sup>81</sup>. On the other hand, they affect a certain number of other judicial officers who are CSM members and who consequently participate in CSM decisions on proposals for future appointments and dismissals of magistrates and carrying out disciplinary proceedings. Yet, as the Special Rapporteur on the independence of judges and lawyers in particular pointed out, “such pressure has most often taken the form of threats of removal or transfer of judges”<sup>82</sup>.

However, as the President of the Bar put it in a nutshell, it doesn’t make much difference, since “the President and the Minister of Justice don’t need to be in it to influence the judiciary...”.

### **B/ Total lack of political will to support justice**

Such interference, which damages the independence of the judicial authority, is accompanied by a well-known lack of resources which has already been repeatedly denounced.

For example, in 2006, the UN Human Rights Committee said it was “concerned at the clearly insufficient number of active judges in the Democratic Republic of the Congo, and at the low pay they receive, which frequently results in their corruption, according to information provided to the Committee. The shortage of judges contributes to the increase in criminality and to the failure to prosecute criminal offences.”<sup>83</sup>

More recently, the Special Rapporteur on the independence of judges and lawyers highlighted “the negligible share of the budget allocated to the judicial authority (around 0.6%). Justice cannot function unless it is given the necessary resources”.<sup>84</sup>

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79. Report of the Special Rapporteur on the independence of judges and lawyers, Léandro Despouy, Mission to DRC, Doc. A/HRC/8/4/Add.2, 11 April 2008, paragraph 39.

80. Report of the independent expert on the situation of human rights in DRC, Mr. Titinga Frédéric Pacéré. Doc. A/HRC/7/25, February 29, 2008, paragraph 28.

81. Mr. Joseph Mushagalusa Ntayeza Ndi, who was appointed in February 2008.

82. Report of the Special Rapporteur on the independence of judges and lawyers, Léandro Despouy, Mission to DRC, Doc. A/HRC/8/4/Add.2, 11 April 2008, paragraph 16.

83. See conclusions of the UN Human Rights Committee (15-16 March 2006) Doc. CCPR/C/COD/CO/3 26 April 2006.

84. Report by the Special Rapporteur on the independence of judges and lawyers, Léandro Despouy, Mission to the DRC, Doc. A/HRC/8/4/Add.2, 11 April 2008, paragraph 36.

The judicial authorities are unanimous on the matter: many of the legal system's dysfunctions stem from a lack of resources. However, it is clear that those in power do not want justice to function. Indeed, when asked about this point, a senior judge of the Supreme Court said, "in concrete terms, justice is 0.16% of the budget".

One can only be astonished that this total absence of resources should primarily affect the justice system while other institutions, notably the security forces, have the resources they need to operate. A senior police officer told the FIDH *chargés de mission* that he was paid around 5,000 US dollars per month. The average salary for judges at the Supreme Court, the highest court in the country, is 1,200 US dollars per month.

Moreover, this lack of resources serves only to favour corruption at all stages of the proceedings. For example, a witness told the *chargés de mission* that in order to obtain a temporary release he had to disburse, on top of the official sum of 300 dollars to the judge, 10,000 Congolese francs to pay for the clerk of the court, the clerk's travel expenses and banking costs. Corruption is so widespread in the legal system that no one contests it anymore<sup>85</sup>.

Even if this state of affairs is known, no concrete action has been taken to combat corruption. Although the press campaign denouncing corruption and legal dysfunction conducted in tandem with the compulsory retirement of judges might suggest that these actions were linked to the anti-corruption effort, this was manifestly not the case. In that case, the judges should have been subject to disciplinary procedures.

This lack of political will is not limited to the anti-corruption campaign but also to the operation of the entire legal system. Interference by the executive and the total lack of resources allotted to it clearly demonstrate this. With the judicial authority reduced, its simplest expression is more easily malleable and may bend before the demands of repression.

### **3. Justice à la carte**

Thus weakened, justice is used to muzzle dissenting voices or to suppress those of whom the authorities wish, for whatever reason, to rid themselves. Perpetrators of serious human rights violations, chief among whom are members of the security forces and those at the highest levels of political power, continue to act with complete impunity.

#### **A/ Using the justice system as a tool to repress dissent**

Political activists and human rights defenders have been issued with summons or have been

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85. See the UN Development Programme's 2008 national report on human development, which states that «it is not unusual to hear both presiding judges and public prosecutors say that they 'live off cases' whereas such language can only be used for barristers and defence counsels, as they live off their fees».

informed that complaints have been lodged against them<sup>86</sup>, some of which have led to legal proceedings. Public prosecutors have come under pressure to take action against opponents or those suspected of being opponents but against whom there is no legal case.

Several recent cases illustrate these practices.

*a – Example of pressure being applied to judges to bring prosecutions: the Ndeze case*

Mr Ndeze was head of communications and press attaché for the Governor of Nord Kivu, Mr Paluku. He was arrested by the National Intelligence Agency (*Agence nationale de renseignement* – ANR) in Goma on 18 September 2008, a few days after the visit to Goma by the President of the Republic, Joseph Kabila. He was then interrogated by an ANR officer, who told him he was suspected of having disseminated false information to foreign journalists concerning an attack by the President's escort during his visit to Goma. This false information was subsequently relayed by Radio France Internationale.

Mr Ndeze denied these accusations and explained during the interrogation that, having heard these rumours, he discussed them with a Congolese journalist from Voice of America in order to ascertain whether they were founded. Having doubts, he immediately checked the information with the Provincial Director, who quickly reassured him that these were just false rumours.

On 20 September 2008, the Goma ANR transferred him to the ANR in Kinshasa, where he was held secretly for one month.

On 21 October 2008, after one month of secret detention in the ANR's cells in Kinshasa, Mr Ndeze was finally transferred to the Public Prosecutor's Office at the Kinshasa Gombe Court of Appeal after his case had been highlighted by the media.

On 23 October 2008, for the first time since his arrest on 18 September 2008, Mr Ndeze appeared before a public prosecutor. Prosecuting counsel Mposhi, who was investigating his case, told him after the hearing that, because there was nothing in the case against him, he would apply for an acquittal. However, shortly afterwards, the prosecutor informed him that he had to withdraw from the case and served a temporary arrest warrant on Mr Ndeze, who was then transferred to the Kinshasa Penitentiary and Re-education Centre (*Centre Pénitentiaire et de Rééducation de Kinshasa* – CPRK). At the request of the prosecutor's office, Mr Ndeze's temporary arrest was extended by one month on four occasions.

Under Congolese law, the state of being under arrest [*garde à vue*] cannot exceed 48 hours. After this period, the person under arrest must be released or brought before the competent judicial authority.<sup>87</sup>

In addition, the Public Prosecutor can issue a temporary arrest warrant to a suspect for

86. For example, in July 2008 Mr Amigo Ngonde, Honorary President of the ASADHO, was informed by the public prosecutor's office of the Court of Kinshasa Gombe that a complaint had been lodged against him by the chief of the Head of State's military household for «defamation and prejudicial imputation». Mr Ngonde had denounced the arrest and arbitrary detention in February 2008 of Mrs Jackie Mukonkole Kawanga, a women's rights activist, by henchman working for the chief of the military household. Mr Ngonde has since been informed that he must remain at the disposal of the justice system. To date, Mr Ngonde has not yet been summoned again by the public prosecutor. Cf. 2008 annual report and urgent appeal COD 007/0708/OBS 122 by the Observatory for the Protection of Human Rights Defenders.

87. Article 18 of the Constitution.

a period of five days.<sup>88</sup> After five days, the suspect must be brought before a magistrate sitting in chambers. The magistrate may give permission for the suspect to be remanded in custody for 15 days. At the request of the Public Prosecutor, the period of remand may be extended by one month on three consecutive occasions if the imposable sentence is six months or more, as in the case of Mr Ndeze. Any extension beyond that must be made before the competent judge in a public hearing.

A suspect can only be held on remand if there is strong evidence of guilt.<sup>89</sup>

Mr Ndeze's detention was therefore illegal in more than one respect.

In mid February 2009, Maitre Kasonga took over Mr Ndeze's case. He discovered that the ANR, having been informed that the prosecuting counsel intended to request an acquittal and release his client, had put pressure on the Public Prosecutor, which was why the prosecuting counsel had to withdraw from the case. The case was then transferred to a judge at the Kinshasa Gombe High Court, who systematically requested that the period of remand be extended.

Maitre Kasonga then asked the Public Prosecutor's Office to terminate the investigation. The case was finally referred to the Kinshasa Gombe Magistrates Court, which is able to deal with the offence of propagating false rumours. It is punishable by up to one year of imprisonment and is the offence with which Mr Ndeze<sup>90</sup> was charged.

The lawyer noted that the judge at the Kinshasa Gombe Court was not territorially competent, as the alleged offence had taken place in Goma. However, to avoid the risk of prolonging the proceedings further, he decided not to raise this question.

On 31 March 2009, the competent judge granted temporary release on bail and Mr Ndeze was finally released on 2 April 2009.

At the case hearing on 10 April 2009, the judge asked him virtually no questions.

On 18 April 2009, Mr Ndeze was acquitted of all charges. He told FIDH that he would not lodge a complaint because "I've seen Congolese justice; it's a waste of time".

It is hoped that the magistrate who acquitted Mr Ndeze will not suffer the same fate as the President of military judgement panel [*formation de jugement militaire*]. He acquitted Marie Thérèse Nlandu and her co-accused<sup>91</sup> in April 2007 which resulted in his dismissal from his post. The Public Prosecutor appealed the judgement.

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88. Article 28 and following of the Code of Criminal Procedure.

89. Article 27 of the Code of Criminal Procedure.

90. In application of Article 199 ter of the Congolese Penal Code, which stipulates that «anyone who, while not intending to sow unrest in the country, nevertheless knowingly spreads false rumours likely to alarm or worry the population or incite them against the established powers, shall be punished by a prison sentence of between one month and one year and a fine of between 20 and 100 zaires, or by just one of these penalties».

91. Marie Thérèse Nlandu acted as lawyer for Jean Pierre Bemba and was a former candidate in the presidential election. She was arrested by the DRGS [Police General Intelligence and Special Services Department] and together with nine other persons accused of illegally holding weapons and munitions and participating in an insurrectionary movement.

Mr Nginamau Malaba is an official at the Ministry for the National Economy. He is also chairman of the Centrale Congolaise du Travail, economy section.

For several months, his union has been denouncing the misappropriation of public funds from within the Ministry for the National Economy and Commerce and the non-payment of premium arrears. To this end, the union started a petition on 14 November 2008 for the attention of the Minister, Mr André Futa.

Following the petition, Mr Malaba was finally summoned to the Primature on 19 January 2009 to submit the evidence relating to the denunciation. Before entering the building, he was stopped by ANR officers and escorted to their nearby offices. Two other members of the Centrale, Mr Kamimbaya Tony Israel, vice chairman of the Centrale, and Mr Kambale Richard, an advisor, had both been arrested by ANR officers a few days before.

Two days later, on 21 January 2009, an ANR officer interrogated the men and told them that they had been accused by the Minister of the Economy of having fabricated a false ministerial order, although the trade unionists' names did not appear on it.

Mr Nginamau Malaba and his two colleagues were held in the ANR's cells for around one month. Mr Malaba was able to see his wife for five minutes but saw neither a judge nor a lawyer.

On 17 February, all three were transferred to the Gombe Public Prosecutor's Office in Kinshasa.

On 19 February 2009, Mr Malaba and his two colleagues were brought before a public prosecutor following the complaint of forgery and the use of forgery lodged by the Minister for the Economy. However, the public prosecutor declined to consider a complaint of "abduction, arbitrary detention and violation of fundamental rights"<sup>93</sup>, lodged by the Centrale Congolaise du Travail on account of their secret detention at the ANR.

On 23 February 2009, they were transferred to the CPRK. The judge in charge of the case confided to the families of the accused that if it were up to him they would have been released but he had received instructions from his superiors.

On 26 February 2009, the Kinshasa Gombe Magistrates Court ordered their temporary release, having noted that the "Public Prosecutor has not produced the criminal offence in order to demonstrate the existence of strong evidence that the accused are guilty"<sup>94</sup>. However, they remained in detention following an appeal by the Public Prosecutor's Office.

On 13 March 2009 an appeal was heard. The Court ordered that the accused be released on bail on 19 March 2009. They were actually released on 23 March 2009. However, the three trade unionists remain suspected of forgery and the use of forgery.

The sole aim of these fallacious proceedings was to put an end to their whistle blowing

92. This section has been drafted under the auspices of the Observatory for the Protection of Human Rights Defenders, a joint programme run by the FIDH and the World Organisation Against Torture (OMCT). Cf urgent appeals COD 002/0209/OBS 026, 0261 to 0264 by the Observatory for the Protection of Human Rights Defenders.

93. Complaint lodged with the Public Prosecutor of the Republic, by letter dated 28 January 2009.

94. Order for temporary release N080/2009/RMP/3099/PG

activities. Mr Malaba told the FIDH *chargés de mission* that he nevertheless wished to continue with his union activities because “not to speak out is to die”.

In addition, the administrative secretary of the Centrale Congolaise du Travail, Mr Manix Bowesi Mokoma, took fright when he heard that the chairman of the Centrale had been arrested. He has not been to work since and has gone into hiding. He told the FIDH *chargés de mission* that the authorities wanted to “weaken the union’s economy division” following the petition and other activities recently undertaken by the Centrale to denounce the misappropriation of public funds.

*c – A practice becoming widespread*

These two cases are far from isolated. For example, after it left the DRC, FIDH was informed that on 21 April 2009, Mr Gabriel Mokia had been sentenced by the Kinshasa Gombe Magistrates Court to 2 years and 6 months in prison for incitement of tribal hatred, propagation of false rumours and libel against the Head of State<sup>95</sup>. According to consistent reports from various sources, Mr Mokia, who is chairman of the Movement of Congolese Democrats (*Mouvement des démocrates congolais* – MDC), had been arrested at his home in July 2008 and then held at the premises of the DRGS at Kin Mazière before being transferred to the Public Prosecutor. Mr Mokia had been arrested after publicly criticising the authorities’ record of poor administration and arbitrary arrests. FIDH *chargés de mission* were unable to hear Mr Mokia’s testimony because he was being held at the CPRK during their visit and they were not authorised entry.

In addition, according to various consistent sources,<sup>96</sup> Mr Mulumba Kapepula was arrested on 16 March 2009 at Lubumbashi on the grounds that, during a rally by striking workers from the Congolese National Railway Company (*Société nationale des chemins de fer du Congo* – SNCC) at the Place de la Gare, he reportedly declared that he did not agree with the reward given by the President of the Republic to the national football team, while SNCC workers had not been paid in 36 months. Arrested by 5 ANR officers, he was taken in an unidentified vehicle to the ANR’s provincial headquarters. There he was severely tortured throughout the night of 16 March 2009. He had been restrained in a tyre, whipped all over, bitten in his stomach, wired up to a live electricity socket and his genitals were crushed by ANR officers, which severely affected his health, leading him to vomit and urinate blood, before fainting. The ANR officers took him urgently to the Polyclinique Flora in the Golfe district where he was given intensive care, but was not allowed any visitors (including his wife). On 20 March 2009, the victim was forced from his sick bed by the ANR who, on the morning of 21 March, flew him to Kinshasa on a Hewa Bora flight. Once in Kinshasa, Mr Kapepula was given medical attention and then held at the general headquarters of the ANR/Kinshasa where he was interrogated by an official from the office of the ANR’s General Director. This official was apparently shocked by his detention and ordered that he be returned to Lubumbashi so

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<sup>95</sup>. See press release from the ASADHO, No 15/2009 of 5 May 2009.

<sup>96</sup>. Notably a representative of MONUC, ASADHO and the World Organisation Against Torture.

that his case could be properly dealt with by the competent legal authorities. Returned to Lubumbashi on 28 March, Mr Kapepula was transferred to the General Public Prosecutor's Office, where a legal case was opened against him on the charge of libelling the Head of State. Despite efforts by his lawyers, no doctor's referral was ordered by the Public Prosecutor so that a complete medical report on the torture inflicted during detention at the provincial headquarters of the ANR/Katanga could be included in the file. The Public Prosecutor also refused to release Mr Kapepula temporarily for medical care.

In its ruling of 5 June 2009, the Court revealed that there were numerous contradictions between witness statements and the Public Prosecutor's petition. Given the doubt, it acquitted Mr Joseph Kapepula. The Public Prosecutor has appealed this decision.

Being heavily engaged in investigating cases against anyone criticising the authorities, the Public Prosecutor's Office has no time to devote to prosecuting those responsible for serious human rights violations.

## **B/ Victims still waiting for an end to impunity**

In April 2006, the UN Human Rights Committee made the following statement: "Despite the information from the delegation on several criminal proceedings against human rights violators, the Committee notes with concern the impunity with which many serious human rights violations have been and continue to be committed in the territory of the Democratic Republic of the Congo, even though the identity of the perpetrators of these violations is often known."<sup>97</sup>

These concerns are more relevant than ever.

### *a – General observations: impunity is the rule*

According to the Public Prosecutor of the Republic, appointed by the order of February 2008: "impunity is not the fault of the Public Prosecutor's Office; it is not because the Public Prosecutor's Office refuses to take action against offenders, or is complicit with them. The fundamental causes of impunity are: the war conducted by foreign armies, the fact that many cases of rape are beyond the competence of the civil public prosecutor's office; and the fact that some people cannot be brought to justice without authorisation, such as deputies and senators".

When asked why no action has been taken on the complaints lodged against ANR officers, notably by the ASADHO, a member league of the FIDH in the DRC, the Public Prosecutor explained that "the Public Prosecutor's Office receives at least 1,000 letters a day, so that takes time".

However, the above-mentioned case of the three trade unionists from the Centrale Congolaise

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<sup>97</sup>. See the conclusions of the UN Human Rights Committee (15-16 March 2006) Doc. CCPR/C/COD/CO/3 26 April 2006.

du Travail is symptomatic of what happens: the complaint against their torturers was not proceeded with, while the complaint brought against them by the Minister for the Economy led to them being held in custody.

FIDH was unable to identify a single case of legal proceedings against members of the ANR<sup>98</sup>. The Public Prosecutor of the Republic, however, has “no complaint to formulate concerning legal action against ANR officers”. But bearing in mind that he was appointed in February 2008 by the President of the Republic, acting in violation of the Constitution and given the pressure exerted on the prosecution service, how could it be otherwise?

In addition, no legal investigation has been opened into members of the security forces involved in the serious acts of violence committed in Bas Kongo in 2007 and 2008. The Military Hearing [*Auditorat militaire*] of Matadi, in Bas Kongo, informed MONUC that it had received no instructions to this effect. On the contrary, a number of members of the Bundu dia Kongo (BDK) were prosecuted and brought to justice. For example, 22 people were prosecuted on various counts – murder, participating in an insurrectionary movement, attacking freedom of worship, racial or tribal hatred – before the Caratactes High Court at Mbanza-Ngungu. Four of them were acquitted, while the others were sentenced to penalties varying between two month’s imprisonment and death.<sup>99</sup>

The same is true of serious violations committed by the security forces against supporters of Jean-Pierre Bemba. No legal investigation has been opened into members of the security forces, while supporters of Bemba, or those suspected of being supporters, are languishing at the CPRK, awaiting trial.<sup>100</sup>

#### *b – No legislative advance in the campaign against impunity since 2006*

The military courts are still competent to try members of the security forces who are responsible for serious human rights violations. Under Article 156 of the Constitution, military courts are able to deal with offences committed by members of the armed forces and the national police. This arrangement is not without problems in a country where the forces of order are the main parties responsible for serious human rights violations and the military courts cannot claim to appear independent.

Moreover, as stated by the Special Rapporteur of the Sub-Commission for the Promotion and Protection of Human Rights, Emmanuel Decaux, “the doctrine and jurisprudence of the Human Rights Committee, the Committee against Torture, the Committee on the Rights

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98. The human rights office of the MONUC made a similar observation in 2007: «in practice, the BNUDH has been unable to record a single case where an ANR officer involved in human rights violations has been the subject of investigations or legal proceedings». Joint report by the human rights division of the MONUC and the Office of the High Commissioner for Human Rights of the United Nations on the human rights situation in the DRC covering the period January to June 2007, page 9.

99. Caratactes High Court, Mbanza-Ngungu, 22 May 2008 RP.10.651.

100. According to a MONUC representative, persons from the MLC or persons from Equateur are still at the CPRK. Cases are still at the indictment stage, with no progress in a year.

of the Child, the African Commission on Human and Peoples' Rights, the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights and the country-specific and thematic procedures of the United Nations Commission on Human Rights, are unanimous: military tribunals are not competent to try military personnel responsible for serious human rights violations against civilians"<sup>101</sup>.

Furthermore, the Rapporteur recommends that "in all circumstances, the jurisdiction of military courts should be set aside in favour of the jurisdiction of the ordinary courts to conduct inquiries into serious human rights violations such as extrajudicial executions, enforced disappearances and torture, and to prosecute and try persons accused of such crimes"<sup>102</sup>.

However, the incumbent authorities have not adopted any reforms on this matter. In addition, the draft bill to implement the Statute of the ICC in domestic law has still not been adopted. If adopted, it would mean that crimes against humanity, war crimes and the crime of genocide would be included in the Congolese Penal Code and competence for crimes covered by the Statute would be transferred to the civil courts.

The same is true of the law prohibiting torture. In April 2006, the UN Committee Against Torture recommends that the DCR should "take all necessary legislative, administrative and judicial measures to prevent acts of torture and ill-treatment in its territory [...] take vigorous steps to eliminate impunity for alleged perpetrators of acts of torture and ill-treatment, carry out prompt, impartial and exhaustive investigations, try the perpetrators of such acts and, where they are convicted, impose appropriate sentences, and properly compensate the victims"<sup>103</sup>. The Committee, however, noted with satisfaction, "the existence of a bill amending and expanding the Penal Code to ensure that the Convention is fully incorporated in the domestic legislation of the Democratic Republic of the Congo".

In its report to the ACHPR of June 2007, the government pointed out, in relation to articles 4<sup>104</sup> and 5<sup>105</sup> of the African Charter on Human and Peoples' Rights, that in application of article 16 of the Congolese Constitution, "every individual has the right to life, to physical integrity and to the free development of his person subject to respect for the law, public law and order, the rights of others and good behaviour. [...] No individual shall be subjected to cruel, inhuman or degrading treatment." The government adds that "with regard to torture, there is need to point out that it has not yet been established as an independent offence, but

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101. Report presented by the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights, Emmanuel Decaux concerning the question of the administration of justice by military tribunals, Human Rights Commission, 62nd session, Doc. E/CN.4/2006/58, 13 January 2006, paragraphs 32 to 35.

102. Report presented by the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights, Emmanuel Decaux concerning the question of the administration of justice by military tribunals, Human Rights Commission, 62nd session, Doc. E/CN.4/2006/58, 13 January 2006, paragraphs 32 to 35.

103. Committee Against Torture, Conclusions and recommendations, DRC, 35th session, 7-25 November 2005, fCAT/C/DRC/CO/1, 1 April 2006.

104. Article 4 of the Charter declares that: «Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.»

105. Article 5 of the Charter declares that: «Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.»

is considered as mitigating circumstances of certain offences in the ordinary Penal Code and the military Penal Code [...] efforts are also currently being deployed to make torture a criminal offence”<sup>106</sup>.

However, this proposed law has still not been passed.

Yet Parliament is capable of acting with alacrity when it comes to passing draft laws on amnesties for the new allies of the incumbent authorities. On 8 May 2009, Parliament voted on a law relating to the amnesty on acts of war and acts of insurrection<sup>107</sup> in the east of the country...

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106. Government's report to the ACHPR, June 2007, paragraphs 54 to 57.

107. According to the information available, this law excludes from its sphere of application war crimes, crimes against humanity and the crime of genocide. However, one might wonder what will happen to those responsible for serious human rights violations that do not constitute war crimes, crimes against humanity or genocide.

## IV. Conclusions and recommendations

### 1. Conclusion: are we heading towards the affirmation of an authoritarian regime supported by the international community?

Congolese non-governmental human rights organisations called for peaceful demonstrations in mid March 2009 “to safeguard young democracy”. The rallying cry was “No to dictatorship, long live democracy!”<sup>108</sup>

This is certainly the key issue in the DRC right now. What is to be done to prevent the country once again falling prey to an authoritarian regime? As a human rights defender in Kinshasa explained: “Today we have the opposite of what we hoped for. All our institutions are subject to the will of the Head of State.”

The policy pursued by the authorities for several months now is clear. Its aim – contrary to all the fundamental freedoms guaranteed by the Constitution and the international instruments ratified by the DRC – is to bring to heel all opposition and more broadly all those who still dare to denounce and/or oppose the authoritarian excesses of the regime, whether they be members of parliament, magistrates, political activists, human rights defenders, journalists, students or simple citizens.

Comparisons made by people who spoke to the FIDH between the methods used by the current authorities to silence dissident voices and those used during the rule of Marshall Mobutu made for chilling listening.

In this context, the fight against impunity is becoming a fight *for* impunity. Those who denounce violations are criminalised while those responsible for serious human rights violations are promoted<sup>109</sup>, as is amply illustrated by the case of Bosco Ntaganda. Presently wanted by the ICC<sup>110</sup> for war crimes committed in 2002-2003 in Ituri, in the eastern part of the country, the military chief of staff of the *Forces patriotiques pour la libération du Congo* (FPLC) is now integrated into the Armed Forces of the Democratic Republic of the Congo (FARDC).

This kind of impunity only encourages the cycle of violence, with torturers and criminals acting in total freedom. For example, a women’s rights activist in Kinshasa explained that today it is not only uniformed men in the East of the country who are involved in sexual violence: the situation is a frightening one all over the country, including in Kinshasa. “Impunity means that now even civilians are guilty. Sexual violence has become commonplace.”

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108. Synergy of NGOs in the DRC, call to demonstrate on 16 March 2009.

109. According to MONUC, for example, Captain Blaise Bongi Massala, a FARDC major, was sentenced by a military tribunal in Ituri in November 2006 and subsequently reinstated in the FARDC.

110. On this point see the ICC website: <http://www.iccpi.int/menus/icc/situations%20and%20cases/situations/situation%20icc%200104/related%20cases/icc%200104%200206/icc%200104%200206>

The electoral process frequently leaves much to be desired. Local elections have constantly been postponed, in 2008, then 2009. While revision of the electoral roll began in June<sup>111</sup>, in his last report to the Security Council on the United Nations mission in the RDC<sup>112</sup>, the UN Secretary General noted that major problems still persisted regarding the organisation of these elections<sup>113</sup>. However, for many observers these elections are a trial run for the new regime before the general elections planned for 2011. Apart from technical questions, how, can candidates mobilise effectively for an election campaign, given the context described in this report?

Despite these facts, the international community continues to give its wholehearted support to the powers in place. It is true that it supports the organisation of local elections but as the three years following the election of Kabila have shown, the organisation of elections is not a real solution if it is not accompanied by genuine rule of law and a determination to put an end to the impunity and corruption that are widespread in Congolese institutions. The States of the international community have shown that they are ready enough to use diplomacy when it is in the interest of their economies. For example, during an official visit by the French president to the DRC in March 2009 – when human rights defenders were still reeling from the days they had spent in Kin Mazière prisons – a cooperation agreement was signed between the Congolese Minister of Mines and AREVA<sup>114</sup> with a view to setting up an uranium exploration partnership throughout the entire Congolese territory<sup>115</sup>.

However, when it comes to human rights, the international community has not shown the same zeal. For example, having – as the Congolese State desired – suppressed the mandate of the independent expert on the human rights situation in the DRC, a majority of member States of the Human Rights Council rejected the European Union's proposal to set up a mechanism designed to reinforce coordination and follow-up of the recommendations formulated by the group of thematic experts.<sup>116</sup>

111. MONUC « début de la révision du fichier électoral à Kinshasa », 8 June 2009 <http://monuc.unmissions.org/Default.aspx?tabid=1069&ctl=Details&mid=1143&ItemID=4308> Consulté le 17 juin 2009.

112. 27th Report of the Secretary General on the United Nation's **Mission in the DRC**, 27 March 2009 Doc. S/2009/160.

113. « While the legal framework for the local elections is largely in place, the law establishing an authoritative list of the territorial entities, which will become the electoral constituencies, has yet to be adopted by the Parliament. The resource constraints faced by the Commission and, in particular, the constraints on the availability of Government funds owing to the worse-than-foreseen economic and financial situation, are also major obstacles. », 27th Report of the Secretary General on the United Nation's Mission in the DRC, 27 March 2009 Doc. S/2009/160 Paragraph 72.

114. A French multinational operating in the nuclear sector.

115. See the website of the Agence Française de développement, <http://www.afd.fr/jahia/Jahia/op/edit/home/Qui-Sommes-Nous/Filiales-et-reseau/reseau/Portail-RDC/pid/933>. Consulted on 17 June 2009

116. As the FIDH pointed out: "This mechanism was nevertheless called for by the thematic experts themselves, who asked the Council to act firmly concerning the extremely serious human rights situation in this country." For Dismas Kitenge, President of the Groupe Lotus and FIDH Vice President: "This resolution is a negation of the deteriorating human rights situation that we are observing every day (...). We deplore the fact that the State members of the subregional Board did not wish a mechanism ensuring follow-up of the thematic experts' recommendations to be implemented, and preferred to support the DRC government rather than the Congolese population and victims." See the FIDH website: <http://www.fidh.org/Le-Conseil-des-droits-de-l-Homme>, 6468.

## 2. Recommendations

### To the Congolese authorities

- Ratify the following international and regional instruments: the Additional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women; the Additional Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights; the International Convention for the Protection of All Persons from Enforced Disappearance; Harmonise national laws in these areas; the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
- Respect the Rome Statute by cooperating fully with the International Criminal Court and in particular by immediately transferring Bosco Ntaganda who is under an arrest warrant from the ICC; Adopt the law for the implementation of the Statute of the ICC in domestic law under which the penal code will incriminate war crimes, crimes against humanity and the crime of genocide ;
- Cease all political interference within the judiciary and promote effective implementation of the principle of the independence of the judiciary body in compliance with the Congolese Constitution;
- Allocate the judicial authority a budget which is adequate for the administration of an independent, impartial and efficient justice system and which reflects the importance to be given to this authority;
- Cancel the decrees on compulsory retirement of judges and magistrates of February 2008 and reinstate- all civil magistrates to their appointments held before the promulgation of these decrees ;
- Restrict the competence of military tribunals to military-type infractions only;
- Adopt a law making torture a crime in accordance with the provisions of the Convention against Torture;
- Take measures to ensure that investigations and legal action are undertaken against any persons, including members of the security forces, who are responsible for acts of torture;
- Implement the recent recommendations of the United Nations Special Rapporteur on the independence of judges and lawyers;
- Adopt a law for the creation of a national Human Rights Commission in accordance with the Paris principles;
- Reform the security sector and in particular restrict powers of investigation, arrest and detention to the police force only;
- Establish a “clean-up” process for security forces designed to exclude members of these forces who have been involved in serious human rights violations;
- Ensure that training on standards relating to human rights be provided to personnel responsible for applying the law, especially criminal investigation officers, judges and lawyers.

- Ensure that all places of detention be under legal control;
- Put an end to arbitrary detention; ensure that any victim of arbitrary arrest or detention has the right to challenge the legality of his detention in court and, if applicable, the right to compensation, in compliance with articles 9.4 and 9.5 of the International Covenant on Civil and Political Rights;
- Align conditions of detention on international standards regarding human rights;
- Allow international observers and local/national human rights organisations access to places of detention;
- Reform prison law dating from 1965 to comply with regional and international human rights protection instruments;
- Invite the Special Rapporteur of the African Commission on Human and Peoples' Rights on prisons and conditions of detention in Africa to visit the DRC;
- Set up effective mechanisms to fight corruption, in particular with regard to the judicial authorities;
- Ratify the African Union Convention on Preventing and Combating Corruption;
- Organise local elections, in accordance with the requirements of pluralism and transparency as guaranteed by the international and regional human rights instruments;
- Ratify the African Charter on Democracy, Elections and Governance;
- Cease immediately all threats, harassment, arrests and arbitrary detention of opposition activists;
- Allow opposition demonstrations to take place peacefully in accordance with the Congolese Constitution;
- Guarantee political parties equal access to the media ;
- Respect the provisions of the Declaration on Human Rights Defenders adopted by the United Nations General Assembly in 1998, in particular on freedom of association, information, speech and assembly;
- Guarantee the physical and psychological integrity of human rights defenders and journalists;
- Respect the provisions of the press releases and resolutions of the African Commission on Human and Peoples' Rights on the protection of human rights defenders in the DRC;
- Invite the Special Rapporteur of the African Commission on Human and Peoples' Rights on human rights defenders to visit the country;



#### **To the African Commission on Human and Peoples' Rights**

- Question the Congolese authorities on the facts presented in this report on the occasion of the examination of the DRC report planned for its 47th session in November 2009;

- Demand that Congolese authorities respect the provisions of its resolution on the human rights situation in the DRC adopted at its 45th session in Abuja, Nigeria.

#### **To the African Union's Peace and Security Council**

- Invite representatives of independent human rights NGOs to present the situation in the DRC, in accordance with its conflict-prevention mandate.

#### **To the United Nations Human Rights Council**

- Adopt a resolution formally recording the critical human rights situation in the country and the serious authoritarian drift of the regime;
- Appoint a new independent expert on the human rights situation in the DRC;
- Question the Congolese authorities on the facts presented in this report, on the occasion of the 6th session of the Universal Periodic Review, and call upon them to take all necessary measures to ensure respect for the provisions of the international and regional human rights instruments which they have adopted.

#### **To the United Nations Security Council**

- When MONUC's mandate is renewed, reinforce its human rights component in order to continue investigating and denouncing abuses in its public reports, for example events in Bas Congo, serious human rights violations and to urge the government to end such abuses; also reinforce its mandate to protect civilians;
- Call on the Congolese authorities to fight against the impunity of perpetrators of serious crimes; cooperate with the International Criminal Court, particularly in the matter of bringing to court Bosco Ntaganda, currently under an international arrest warrant.

#### **To the European Union**

- Establish a real political dialogue with the Congolese authorities in compliance with article 8 of the Cotonou Agreement, ensuring the full participation of representatives of civil society in this dialogue.

#### **To Donors**

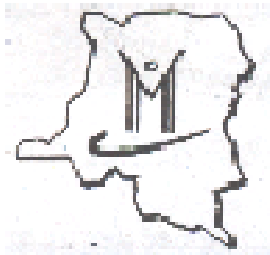
- Urge the government to immediately end the current campaign of repression and comply with its international obligations with regard to human rights;
- Urge the Congolese authorities to cooperate fully with the International Criminal Court;
- Urge the Congolese authorities to implement the reform of the security sector;
- As a priority, contribute to financing the judiciary to support the fight against impunity in the case of human rights violations, and contribute to improving the prison system.

## Appendix 1 – Persons met by the mission

- Mr Upio Kakura, Minister of Justice
- Mr Oscar Masamba Mantemo, Vice Minister of National Defence and Ex-servicemen with several members of his office
- Representatives of the *Mouvement de Libération du Congo*
- Mr Jean Joseph Mukendi Wa Mulumba, Press and Communication officer at the *Union pour la Démocratie et le Progrès Social*
- Mr Raoul Nsolwa Muye, President of the *Compagnons d'Etienne Tshisekedi*
- Representatives of the Congolese national police
- Mr Tinkamanyire Bin Digebe, First President of the Justice Supreme Court
- Mr Joseph Mushagalusa Ntayondez Ndi, General Prosecutor of the Republic
- Mr Mbuy-Mbiye Tanayi, President of the Bar
- Mr Nsambayi Kutenda, President of the Independent Union Magistrates of the Congo
- Several judges retired since the February 2008 ordinance
- Mr Floribert Chebeya Bahizire, Executive Director of the *Voix des sans Voix pour les droits de l'Homme*
- Mr Dolly Ibefo, Deputy Executive Director of the *Voix des sans Voix pour les droits de l'Homme*
- Mr Fidele Badibanga and André Muila from the *Toges Noires*
- Mr Léon Kekya, Secretary General of the COJESKI-DRC
- Mr Fernandez Murhola, National Coordinator of the COJESKI-DRC
- Mr Davy Shabani, Communication Director at COJESKI-DRC
- Ms Grace Lula, Coordinator at the *Ligue des femmes pour le développement et l'éducation à la démocratie* and several activists and lawyers involved in the fight against sexual violences
- Mr N'sii Luanda Shandwe, President of the *Comité des observateurs des droits de l'Homme*
- Mr Kasonga Tshibamba, Member of the *Comité des observateurs des droits de l'Homme*
- Mr Robert Numbi, President of the *Amis de Nelson Mandela*
- Mr Tshivis Tshivuadi, Secretary General of *Journalistes en Danger*
- Mr Christopher Ngoyi Mutamba, President of the *Synergie Congo culture et développement*
- Mr Bogart Kabongo, Student and member of the *Association pour la réflexion et la socialisation des idées*, organisation affiliated to the *Synergie Congo culture et développement*
- Mr Nginamau Malaba Ebola, President of the *Centrale congolaise du travail*, national economy branch
- Mr Manix Bowesi Mokoma, Administrative Secretary of the *Centrale congolaise du travail*, national economy branch
- Mr Kamimbaya Tony Israel, Vice President of the *Centrale congolaise du travail*, national economy branch
- Mr Kambale Richard, Counsellor of the *Centrale congolaise du travail*, national economy branch
- Mr Zelence Idambo, member of an informal group of students from North and South Kivu, Maniema and Oriental Provinces
- Several officials from the MONUC's office on human rights and from the United Nations Joint Human Rights Office
- Several diplomats based in Kinshasa

## List of abbreviations

ACHPR – African Commission on Human and Peoples’ Rights  
AMP - Alliance pour la Majorité Présidentielle (*Alliance for Presidential Majority*)  
ANR - Agence Nationale de Renseignements (*National Intelligence Agency*)  
ASADHO - Association Africaine de Défense des Droits de l’Homme  
CNDP - Congrès National pour la Défense du Peuple (*National Congress for the Defence of the People*)  
CODHO - Comité des observateurs des droits de l’Homme  
CPRK - Centre Pénitentiaire et de Rééducation de Kinshasa (*Kinshasa Penitentiary and Reeducation Centre*)  
CSM – Conseil supérieur de la magistrature (*Supreme Council of the Judiciary*)  
DEMIAP – Détection militaire des activités anti-patrie (*Military Detection of AntiState Activities*)  
DRC – Democratic Republic of Congo  
DRGS - Renseignements Généraux et Services Spéciaux de la Police (*Office of General Intelligence and Special Services*)  
FARDC – Forces armées de la République démocratique du Congo (*Armed forces of the DRC*)  
FIDH – International Federation for Human Rights  
FDLR - Forces Démocratiques de Libération du Rwanda (*Democratic Forces for the Liberation of Rwanda*)  
FRD - Forces Rwandaise de Défense (*Rwandan Defence Forces*)  
GR – Garde républicaine  
ICC – International Criminal Court  
JED – Journalistes en danger (*Journalists in Danger*)  
LE - Ligue des électeurs  
MLC - Mouvement pour la Libération du Congo  
MONUC – United Nations Mission in DRC  
OMCT – World Organisation Against Torture  
PIR – Police d’intervention rapide (*Rapide Intervention Police*)  
PPRD -Parti du peuple pour la reconstruction et la démocratie (*People’s Party for Reconciliation and Development*)  
RENADHOC – National Network of NGOs working on the human rights situation in DRC  
RTNC – Radio télévision nationale congolaise  
SYNAMAC - Syndicat national autonome des magistrats du Congo (*Independent Union of Magistrates of the Congo*)  
UDPS - Union pour la Démocratie et le progrès Social (*Union for Democracy and Social Progress*)  
UNJRHO – United Nations Joint Human Rights Office  
VSV - Voix des sans voix pour les droits de l’homme



### **Association africaine des droits de l'Homme (ASADHO)**

Created in 1991, the ASADHO has the following mandate: Promotion and protection of individual and collective rights and freedoms; Respect of the primacy of law and independence of the judiciary for the consolidation of the Rule of law, basis of a democratic society; Sensitisation on human rights.

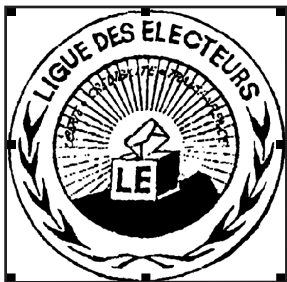
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**website : [www.asadho-rdc.org](http://www.asadho-rdc.org)**



### **Ligue des Électeurs (LE)**

Created in 1990, the Ligue des Électeurs's purpose is to support the democratic development, through the protection of human rights and promotion of the electoral culture. The LE organises training session of civil society members, carries out activities of sensitization to human rights, undertake international missions of assessment and electoral observation.

**2 avenue Shaba -Q Golf BP 16363 Kin 1 KINSHASA RDC**



### **Groupe Lotus**

The Groupe Lotus is based in Kisangani. It denounces human rights violations, alerts public opinion, investigates on authorities' practices to urge the government to the respect of the Rule of Law. It supports those who suffer from discrimination and oppression due to their belonging to a social, national, religious group or due to their political opinion. It informs, teaches and promotes human rights values and principles in DRC.

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essential to promote the development of friendly relations between nations, Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom, Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and a common and freedoms

fundamental freedoms, Whereas understanding of these rights is of the greatest importance

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- An independent organisation  
Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

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