

# Democratic Republic of Congo

## TORTURE AND KILLINGS BY STATE SECURITY AGENTS STILL ENDEMIC

### INTRODUCTION

This report documents serious violations of human rights that took place in Kinshasa, capital of the Democratic Republic of Congo (DRC), during and after the 2006-2007 electoral period. In particular, the report highlights two government security forces that were responsible for the majority of politically-motivated violations against both real and supposed political opponents of President Joseph Kabila and his ruling party. They are the *Direction des Renseignements Généraux et Services Spéciaux de la police* (DRGS), known as the “Special Services” police, and the *Garde Républicaine* (GR), Republican Guard, the elite army presidential guard under the control of President Joseph Kabila.

Many people arrested by these two services were held incommunicado and suffered torture or other forms of cruel, inhuman or degrading treatment in detention. Many of these individuals remain in pre-trial detention and some have yet to undergo any judicial process to determine the legality of their arrest and continued detention. Many were detained because of their origins in Equateur province, the home province of Jean-Pierre Bemba, Joseph Kabila’s main rival in the presidential elections, or because they share Jean-Pierre Bemba’s ethnicity. Such arbitrary arrests and detentions are reportedly continuing in Kinshasa.

Serious human rights violations were also committed in the context of fighting in Kinshasa in March 2007 between the army and Jean-Pierre Bemba’s armed guard, the *Division de Protection Présidentielle* (DPP), Presidential Protection Division, after this force refused a government order to disarm and report for integration into the national army. The DPP had itself been responsible for human rights abuses during the electoral period and had become a major source of insecurity in the city. The March fighting left up to 600 people dead, including many civilians killed by indiscriminate fire by both government and DPP forces. Amnesty International has obtained information indicating that *Garde Républicaine* soldiers extrajudicially executed a large number of detainees who were held at Camp Tshatshi, the main GR military camp in Kinshasa, and at other locations in the city in the wake of this fighting.

Amnesty International is concerned that far from protecting the people of the DRC, the state security services remain agents of torture and death. The DRC government has not launched any independent judicial investigations or brought any security force member to justice for

the human rights violations documented in this report. Despite historic national elections, the country remains politically highly-charged and a climate of deep political uncertainty persists. In part, this is attributable to security force units that continue to serve narrow political interests and act outside Congolese law and international human rights treaties to which the DRC is a State party. This rampant impunity lies at the root of the lack of public confidence felt by most Congolese in all branches of their security services.

Two main factors are impeding a substantial improvement in respect for human rights in the DRC. The first is the slow progress made by the DRC government, with international support, in delivering Security Sector Reform (SSR), a national programme to integrate the former government and armed group forces into unified national army, police and intelligence services capable of operating professionally and in a politically-neutral manner, under accountable state authority. Currently the law enforcement jurisdictions of the police, army and intelligence services are unclear, overlap in practice, and suffer from confused or conflicting chains of command. Some security force units are answerable to individual political figures rather than their lawful superiors and have been used to persecute perceived or real political opponents.

The second is an institutional culture that is permissive of human rights violations, characterized by the lack of any independent mechanism to investigate and counter impunity for human rights violations committed by security officials. Weak and severely under-resourced civil law enforcement and judicial systems contribute to this state of affairs. These weaknesses in the police and judicial systems have resulted in the unlawful and excessive use of military tribunals to investigate and try civilians.

Across the country, the civilian population has borne and continues to bear the brunt of the human rights violations committed by state security forces as well as by armed political groups. In the east, where the conflict has never conclusively ended, grave human rights violations continue to be committed by government forces as well as by Congolese and foreign armed political groups. These will be the subject of further investigation and forthcoming report by Amnesty International.

Amnesty International is calling on the DRC government to launch independent investigations into the human rights violations documented in this report and to bring the perpetrators to justice. At the same time, urgent measures are needed to bring the country's security services under the effective and accountable control of the state, ensuring that they uphold international human rights standards and operate in a politically-neutral manner at the genuine service of the Congolese people. As immediate steps, Amnesty International calls on the DRC government to:

- Prioritize reform of the police, ensuring that all police units are brought under the control of the civil authorities, with clear unitary lines of command.
- Place the *Garde Républicaine* under the national army chain of command, narrowing its activities to clearly-defined presidential protection duties.
- Ensure that all military, police and intelligence detention centres are under the supervision of the competent and legally-established authorities, and that national and international human rights monitors have unrestricted access to all detention facilities.
- Introduce independent and effective “checks and balances” mechanisms to ensure accountability and counter impunity for human rights violations by state security officials. Such mechanisms might include independent complaints commissions or ombudspersons, or parliamentary commissions, with powers and resources to conduct their own investigations into allegations of misconduct by security officials.

## **1 BACKGROUND: HISTORIC ELECTIONS MARKED BY RISING TENSION AND HUMAN RIGHTS ABUSE**

The 2006 presidential and legislative elections in the Democratic Republic of Congo (DRC) were a defining moment in the country’s history. Millions of Congolese participated in the first multi-party elections in over 40 years, which marked the end of a three-year transitional period in which power had been shared between the former government, former armed groups, the political opposition and civil society. For many Congolese, the elections represented hope that years of conflict and division in the DRC would be replaced by increased political stability and economic security for its citizens.

The first round of presidential and parliamentary elections, held on 30 July 2006, saw Joseph Kabila’s party, the *Parti du Peuple pour la Reconstruction et la Démocratie* (PPRD), and his wider political coalition, the *Alliance pour la Majorité Présidentielle* (AMP), elected to a clear majority in the National Assembly.<sup>1</sup> Joseph Kabila himself was returned as President after a second presidential run-off round on 29 October 2006 in which, with 58% of the vote, he saw off the rival candidacy of Jean-Pierre Bemba, Vice-President during the transition and leader of the *Mouvement de Libération du Congo* (MLC) political party and the *Union pour la Nation* (UN) political coalition. The AMP majority in the country’s political institutions was reinforced in elections, also on 29 October 2006, for the DRC’s provincial assemblies and, on 19 January 2007, for the national Senate and provincial governorships.<sup>2</sup> Joseph Kabila was

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<sup>1</sup> The AMP took 338 of the National Assembly’s 500 seats against the UN opposition coalition’s 132.

<sup>2</sup> The October 2006 provincial assembly elections gave the AMP control of seven of the 11 assemblies. In the January 2007 elections, the AMP took 55 of the 108 senatorial seats (Jean-Pierre Bemba was one of the senators elected) and 10 of the 11 provincial governor posts, the exception being Equateur, Jean-

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sworn in as President on 6 December 2006 and the new AMP coalition government formed on 5 February 2007, under Prime Minister Antoine Gizenga, with the PPRD assuming key ministries including those of Defence and Interior.

Voting on polling days took place in relative calm, but the electoral period was marked by mounting tension. Throughout the latter half of 2006 and early 2007, scores of suspected opposition activists or supporters were arbitrarily arrested and detained, many of whom remain in detention without trial. There were attacks on political party offices and media stations across the country.<sup>3</sup> Violence worsened in the aftermath of the elections. In protest at alleged corruption in the provincial governor elections, the *Bunda Dia Kongo* (BDK), an ethnically-based political and religious movement in the south-western province of Bas-Congo, called a province-wide day of protest on 1 February 2007. The demonstrations turned violent and police and army units resorted to disproportionate force and unlawful killings to suppress the protests. During two days of violence, on 31 January and 1 February, state security forces were responsible for the deaths of around 100 civilians. Protestors were responsible for the killings of 10 police and army personnel and two civilians. To date, no member of the security forces has been brought to justice for human rights violations committed during these events.<sup>4</sup>

There was also growing confrontation in Kinshasa between the *Garde Républicaine* (GR), an elite army presidential guard under the control of President Joseph Kabila, and the *Division de Protection Présidentielle* (DPP), Jean-Pierre Bemba's armed guard. On 20 August 2006, the announcement of the results of the first round of presidential elections sparked three days of fighting between the two forces which left at least 23 dead. These tensions worsened after the elections, degenerating, on 22 March 2007, into a two-day battle between government and DPP forces in downtown Kinshasa which left up to 600 people dead, including many civilians. In the wake of this fighting, the security services arrested large numbers of civilians, including scores of street children, on suspicion of supporting Jean-Pierre Bemba and the DPP.

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Pierre Bemba's home province. Widespread corruption was alleged in the voting for senators and governors, who were elected by provincial assembly members.

<sup>3</sup> For details of a range of election-related violations, see *The Human Rights Situation in the Democratic Republic of Congo (DRC), July to December 2006*, MONUC Human Rights Division/Office of the UN High Commissioner for Human Rights, 8 February 2007.

<sup>4</sup> For details of the Bas-Congo violence, see the UN (MONUC) special investigation report, [http://www.ohchr.org/english/docs/rep\\_bascongo.doc](http://www.ohchr.org/english/docs/rep_bascongo.doc). See also *Statement by Human Rights Watch to the DRC Parliamentary Commission Investigating Events in Bas Congo*, April 12, 2007. A DRC parliamentary commission enquiry was also conducted into the violence. The commission's report and findings were discussed behind closed doors by the National Assembly in May 2007, but further discussion was suspended to a future date and the report has not yet been made public.

The March fighting forced the DPP out of Kinshasa and Jean-Pierre Bemba went into exile in Portugal, from where he has expressed a desire to return to lead the political opposition.<sup>5</sup> In April 2007, the political opposition temporarily suspended its participation in parliament, citing continuing intimidation by the security forces. There has since been a measured opening of space for the political opposition, including by the passage in July 2007 of a law on the Status of the Opposition guaranteeing the opposition freedom of information, expression and assembly, and fair access to the media.<sup>6</sup> A climate of political uncertainty persists in the country, however, and there is a widespread belief that the new government is failing to tackle the many challenges the country faces.<sup>7</sup>

The human rights situation remains particularly precarious, fuelled by ongoing conflict in the east and by a continuing clampdown by security forces against perceived opponents and critics of his presidency, including journalists and human rights activists (see Chapter 6). Many of the individuals and organizations interviewed by Amnesty International for this report expressed dismay and fear at the atmosphere of heightened political repression since the elections.

## 2 SECURITY SECTOR REFORM AND ENDING IMPUNITY

One of the main factors fuelling human rights violations in the DRC is the relatively slow progress being made by the DRC government, supported by the international community, in achieving Security Sector Reform (SSR), a national programme to integrate the former government and armed group forces into unified national army, police and intelligence services under accountable governmental authority. Although some headway has been made in creating a reformed national army and police force, these efforts have not resulted in the creation of forces that are professional or that respect human rights. Across the country, many army, police and intelligence units remain unintegrated and continue to serve narrow private political interests, operating outside Congolese law and international human rights treaties.

<sup>5</sup> A warrant for Jean-Pierre Bemba's arrest was issued by the DRC authorities following the March fighting but, as senator, he has parliamentary immunity from prosecution. On 22 May 2007 the International Criminal Court (ICC) opened an investigation into hundreds of rapes and other crimes committed in the Central African Republic in 2002/03. Bemba's MLC armed group was allegedly responsible for most of these rapes. See AI report, *Central African Republic: Five months of war against women*, November 2004 (AI Index: AFR 19/001/2004).

<sup>6</sup> *Loi portant statut de l'opposition politique*, adopted by the DRC Senate on 10 July 2007.

<sup>7</sup> For the perceived inaction and drift of the new government see *Antoine Gizenga, 90 jours d'immobilisme*, an editorial in Kinshasa's independent daily *Le Potentiel* newspaper, 24 May 2007, see <http://fr.allafrica.com/stories/200705240244.html>.

The SSR programme, which began in 2004, has been adversely affected by: (1) the refusal of some armed groups to be integrated into the national army; (2) the apparent reluctance by the government of Joseph Kabila to have the *Garde Républicaine* integrated into the national army under a unified chain of command; (3) a poor training programme that fails to impart training on international human rights and humanitarian law to all security force agents; (4) ambiguous law enforcement jurisdictions which result in virtually all security agencies exercising arrest and detention powers as well as operating their own detention centres; (5) a weak and under-resourced prosecution and judicial system that fails to keep the security sector agents in check by making them criminally liable for human rights violations. These factors have resulted in some elements within the DRC security services violating, with impunity, the rights and freedoms of Congolese citizens.

### **The challenges to army reform**

SSR was seen as essential to the holding of elections, but by June 2006 the former government army and armed groups had only been partially and unsatisfactorily integrated into a new national army, the *Forces Armées de la République Démocratique du Congo* (FARDC). The FARDC, whether in its integrated or still unintegrated brigades, routinely commits human rights violations.<sup>8</sup> At the same time as expressing public commitment to the army reform process, few of the main protagonists to the conflict have submitted all their forces to the army unification programme, known as “*brassage*”. The *Garde Républicaine* (GR) has committed only a small portion of its estimated 10,000-plus strength to the unification programme.<sup>9</sup> A number of armed groups also avoided surrendering all of their military forces for reform. These include Jean-Pierre Bemba’s DPP, forces loyal to the dissident commander Laurent Nkunda<sup>10</sup>, which have been responsible for widespread violations of international humanitarian law in North-Kivu province, as well as several *mayi-mayi* militia and other armed groups in eastern DRC.

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<sup>8</sup> For details of the many problems associated with the formation of the new army and the Disarmament, Demobilization and Reintegration programme see AI’s January 2007 report, [DRC: Disarmament, Demobilization and Reintegration \(DDR\) and the Reform of the Army](#) (AI Index: AFR 62/001/2007) and AI’s October 2006 report, [DRC: Children at War – Creating hope for their future](#) (AI Index: AFR 62/017/2006).

<sup>9</sup> The GR is also sometimes known by its former title of GSSP or ex-GSSP, *Groupe spécial de la sécurité présidentielle*. The true size of the GR (estimates range between 10,000 and 16,000) has never been disclosed. This in itself is indicative of a disturbing lack of accountability in the management of this force.

<sup>10</sup> Laurent Nkunda, a former commander with the RCD-Goma armed group who refused a position as general in the FARDC, is accused of having committed war crimes including in Kisangani in 2002 and Bukavu in 2004. He is the subject of an international arrest warrant issued by the DRC government in September 2005.

Jean-Pierre Bemba's reluctance to integrate his armed forces into the FARDC was the driving factor behind the fighting that erupted in central Kinshasa on 22 March 2007. On 6 March 2007, after months of inconclusive negotiations between the government and Bemba, the FARDC Chief-of-Staff ordered all armed forces responsible for guarding the four former vice-presidents, including Jean-Pierre Bemba's DPP, to report to the main FARDC base in the city, Camp Kokolo, for integration into the FARDC. The government move was widely viewed as legitimate given the DPP's increasingly destabilizing presence in the heart of the city, but there were concerns about the adequacy of the arrangements to be put in place for the former vice-presidents' security.<sup>11</sup> Jean-Pierre Bemba refused to disband the DPP and as tension mounted the FARDC moved more troops into downtown Kinshasa and DPP units returned from Maluku, a town upriver of Kinshasa to which a part of the DPP had withdrawn, to reinforce their positions in and around Bemba's residence in the city centre. This confrontation led to the 22/23 March 2007 fighting that left up to 600 people dead, and many injured.

Intense fighting that began in eastern DRC in September 2007 between Laurent Nkunda's forces and the FARDC in North-Kivu province, and which by October had caused the displacement of almost 500,000 civilians, is also a direct result of the failure to respect the established army integration procedure.<sup>12</sup> In late 2006, the DRC government reached an agreement with Laurent Nkunda allowing for the deployment in North-Kivu of "mixed" brigades, composed jointly of Nkunda's fighters and regular government soldiers, under FARDC chain of command. This process, known as "*mixage*", was short of full integration ("*brassage*") and allowed Nkunda's forces to remain intact in North-Kivu, rather than being merged into the FARDC in designated integration centres and redeployed to other areas of the DRC. "*Mixage*" was a supposed confidence-building measure, designed to meet Nkunda's demand that his fighters remain in North-Kivu to protect the local rwandophone (Hutu and Tutsi ethnic) population from attack by the Rwandan FDLR<sup>13</sup> and other armed groups. The "*mixage*", however, undermined the efforts at integrating armed groups into the FARDC, enabling Laurent Nkunda to retain a parallel control over his forces in the mixed brigades, which were responsible for numerous human rights violations and a deepening of insecurity and ethnic tension in the province. In response, other ethnically-based militia have regrouped in opposition to Laurent Nkunda's forces, raising concern that the violence could lead to a new wave of ethnic killings and other mass human rights abuses.

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<sup>11</sup> A guard of 12 police officers for each vice-president, rotating in shifts of three to four. Bemba and his aides had repeatedly insisted on retaining a "minimal and acceptable" DPP contingent in the city

<sup>12</sup> For the situation in the east, see AI press release 'Democratic Republic of Congo (DRC): Escalating violence in North-Kivu deepens risk of mass ethnic killings' (AI Index: AFR 62/014/2007, 10 September 2007).

<sup>13</sup> *Forces démocratiques de libération du Rwanda*, Democratic Liberation Forces of Rwanda

The failure to fully and effectively integrate the disparate armed forces into a unified army under clear chains of command, and to train them to professional standards, has led to the creation of ill-disciplined and unaccountable military units that routinely disregard human rights. At the same time, the government has also pursued a policy of appointing or promoting to senior positions in the national security services individuals who are themselves suspected of involvement in serious violations of international human rights and humanitarian law, including in some cases war crimes and crimes against humanity committed during the conflict.

### **Police reform**

Reform of the national police force, the *Police Nationale Congolaise* (PNC), which numbers an estimated 103,800 officers<sup>14</sup>, was made secondary to army reform during the transitional period. The police service has suffered years of neglect, poor and confused command structures, under- or non-payment of salaries, and a lack of equipment, training and professional development for officers.<sup>15</sup> This has forced many Congolese police, who typically receive a salary of around \$10 a month,<sup>16</sup> to seek other sources of income and it is common to find officers working as private security guards, even during their police shift, and still dressed in police uniforms. A poorly resourced and trained police force is likely to commit or condone human rights violations. The end of the conflict also brought an influx of armed group fighters to the police service, who as part of the early and most chaotic stages of national integration, were arbitrarily redesignated as “police officers” by their commanders.

Until recently, most human rights violations in the DRC were attributable to the army, but by March 2007 records compiled by the Human Rights division of the UN Peacekeeping force to

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<sup>14</sup> This figure includes only 5,252 women or 5.3% of the total force. The estimate, compiled from Ministry of Interior studies, is not considered reliable. As with the army, the lack of accurate force numbers is a fundamental handicap, hampering the development of appropriate budgets and planning for the reform of both services. A census of the PNC, backed by European Union finance, is planned. It is estimated that after the census perhaps 40% of this figure, or 60,000 officers, will prove illusory or non-operational. The eventual necessary size of the PNC is estimated at 166,000, a target that would require the recruitment, training and equipment of 100,000 new officers over a 10 year period. Sources: Report of the mixed national and international working group (GMRRR) examining police reform, *Travaux de Réflexion sur la Réforme de la Police Nationale Congolaise*, 4 March 2007, p.36, and AI interviews with international policing experts, Kinshasa.

<sup>15</sup> “Often deprived of all means of executing their duty, badly paid, neither controlled nor meaningfully commanded in the field, [police] personnel are left to themselves... often giving themselves over to abusing and harassing the populace”. GMRRR *Travaux de Reflexion...* section 2.4.1. For examples of the abuses regularly committed by police personnel see MONUC monthly human rights reports, available at [www.monuc.org](http://www.monuc.org).

<sup>16</sup> UNPOL officials, Kinshasa, June 2007.



the DRC, MONUC<sup>17</sup>, indicated that violations by police had begun to outnumber those by soldiers, with a high incidence of rape cases.<sup>18</sup> As a result there is now growing recognition, nationally and internationally, that DRC police reform is a priority for the long term stability of the DRC. This recognition is sharpened by the important public order role the police will play in the country's forthcoming but as yet unscheduled local elections. Since 2005, the UN and donor countries have instituted extensive training programmes for Congolese police, although these have suffered from a relative lack of coordination and, given the demands of the electoral period, were directed mainly at police units involved in crowd control and public order functions.<sup>19</sup>

A draft law on police reform -- the outcome of a two-year consultation between donors, international experts and the DRC authorities, brought together as a mixed working group (the *Groupe Mixte de Réflexion sur la Réforme et la Réorganisation de la Police Nationale Congolaise*, or GMRRR) to examine the present condition of the PNC and make proposals for reform -- has been prepared for submission to parliament.<sup>20</sup> The law is based on the provisions of Articles 182 to 186 of the Constitution that the PNC should function at the genuine service of the Congolese people, be apolitical, subject to the control of civil authority and not be diverted for personal ends. The key intentions of the draft law are the establishment of clearer, unitary lines of command and the progressive demilitarisation of the police. The draft includes in its provisions:

- The consolidation of the various police and civil law enforcement services, including some that currently operate independently of the PNC, under a unitary police command and Ministry of Interior control.
- A clear commitment by all PNC personnel to uphold human rights, including a specific prohibition on the use of torture or cruel inhuman and degrading treatment.
- A minimum age of 18 for recruitment into the PNC.
- The placing of army units seconded to policing and public order functions under police command, except in certain exceptional situations.<sup>21</sup>

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<sup>17</sup> *Mission de l'Organisation des Nations Unies en RD Congo*

<sup>18</sup> MONUC human rights and police training officials, May 2007. The proportion of sexual violence cases committed by the PNC rose from 7% of all cases in January-June 2006 to 23% in the July-December period. (*Human Rights Situation in the Democratic Republic of Congo (DRC), July to December 2006*, MONUC/OHCHR, 8 February 2007)

<sup>19</sup> AI interviews with MONUC, UNPOL and other international policing experts in Kinshasa.

<sup>20</sup> *Avant-projet de loi organique portant organisation générale et fonctionnement de la Police Nationale Congolaise*

<sup>21</sup> This would reverse the provision of the previous (2002) police law which placed the control of mixed army and police operations under the command of the armed forces.

The GMRRR has additionally made recommendations that could, if agreed by the government, form the basis of further legal and administrative measures. The process of reform is expected to take 10 years, but in its recommendations for reforms over the short-term the GMRRR identified the need for specialist units in the fields of child protection, sexual violence and corruption; revised salary and promotion structures; programmes of appropriate training for all levels of the PNC; the provision of adequate and appropriate non-lethal equipment; and the adoption of a code of ethics (*code de déontologie*) for police officers. The GMRRR also recommended revision of Article 156 of the Constitution which places police officers under the jurisdiction of the military justice system.

The draft law and the recommendations of the GMRRR, if implemented, could be a significant step forward in building respect for human rights and the establishment of the rule of law in the DRC, offering clearer lines of responsibility and accountability to the country's policing service.

### **Intelligence Services**

No progress has been made towards reforming the DRC's intelligence agencies, which operate outside effective state control. Both military and civilian agencies are directly answerable to the President's Office, operating outside the authority of the Ministers of Defence and Interior and established army or police chains of command.

The DRC has numerous intelligence services, some fulfilling broadly similar functions. Among them are the President's "*Maison militaire*"<sup>22</sup>, the *Etat-major des renseignements militaires*, Military Intelligence Headquarters, commonly known by its former acronym as ex-DEMIAP<sup>23</sup>, the *Agence Nationale de Renseignements* (ANR), National Intelligence Agency, and the *Direction des Renseignements Généraux et Services Spéciaux de la police* (DRGS).<sup>24</sup> Other security services, including the *Direction Générale de Migration* (DGM), Immigration Service, also reportedly have intelligence functions. The duplication and unclear division of responsibilities between these bodies has led to rivalry and poor coordination. All these agencies have been accused of serious human rights violations, including arbitrary arrests and

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<sup>22</sup> A powerful military and security body which advises the President on all matters involving national defence and security, and provided liaison between the Presidency and the DRC's security services, including the PNC, often going outside official ministerial and security force chains of communication and command. Its role is set out in *Décret n° 019/2003 du 02 mars 2003 portant organisation et fonctionnement de la Maison Militaire du Chef de l'Etat*.

<sup>23</sup> *Détection militaire des activités anti-patrie*, Military Detection of Anti-State Activities.

<sup>24</sup> The DRGS is officially a police unit, but acts on occasion as a form of intelligence agency and its work is reportedly directed by a "commission" comprising security advisors to the President and representatives of other intelligence agencies. See Chapter 3.

detention, acts of torture and other cruel, inhuman and degrading treatment, as well as enforced disappearance and extrajudicial executions.<sup>25</sup> The mandate of ANR, for example, is limited to investigating crimes against the security of the state, broadly corresponding to crimes listed in articles 181 – 220 of the Civil Penal Code such as treason, espionage, political crimes or conspiracies. However, the ANR routinely arrests and detains individuals suspected of common criminal offences such as theft, as well as making arbitrary arrests of opposition and civil society activists. Amnesty International continues to receive regular reports of torture and other ill-treatment in ANR detention. Congolese lawyers have reported that they are not permitted access to detainees in ANR detention. The ANR is under the direct authority of the President.<sup>26</sup>

On 8 March 2001, President Joseph Kabila ordered the closure of all detention centres that did not fall under the control of the public judicial authorities. However this decree was never fully implemented or respected and both the military and intelligence services continue to make use of secret and unofficial detention centres in which suspects are held, usually incommunicado, usually well beyond the 48-hour custody limit set in Congolese law.<sup>27</sup> Such detention sites include the private residences of senior officers. International and national human rights monitors are routinely denied access to these unofficial detention facilities and have also faced difficulties in accessing official detention centres.<sup>28</sup>

### **3 DRGS “SPECIAL SERVICES” POLICE: CASES OF ARBITRARY DETENTION, TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT**

According to the testimonies and reports received by the organization from victims of human rights violations and other sources, the DRGS “Special Services” police was one of the principal forces for political repression and persecution in Kinshasa during the 2006/07 electoral period. The DRGS, which is closely identified with its headquarters and detention centre of Kin-Mazière in central Kinshasa, made numerous arbitrary arrests of suspected opposition members and supporters and, according to MONUC, carried out most politically-

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<sup>25</sup> For a comprehensive account of the range of arrest- and detention-related violations committed by all branches of the Congolese security forces, see the MONUC Human Rights Division report, *Arrestations et détentions dans les prisons et cachots de la RDC* (March 2006).

<sup>26</sup> Article 2, *Décret-loi No. 003/2003 portant création et organisation de l’Agence nationale de renseignements*, 11 January 2003.

<sup>27</sup> Article 18 of the DRC Constitution.

<sup>28</sup> Despite a July 2005 directive from President Kabila ordering all security services to provide MONUC human rights officers with unhindered access to detention facilities, MONUC continues to encounter frequent problems in gaining access to detainees, even in officially recognized detention facilities.

sensitive arrests in the capital.<sup>29</sup> Such arrests are continuing, according to Congolese human rights NGOs.

The DRGS “Special Services” police is a division of the national police force. Former detainees, national human rights NGO staff and others interviewed by Amnesty International, however, reported that the work of the DRGS is directed by a “commission” comprising senior representatives of different branches of the security services including the President’s Office, Military Intelligence (ex-DEMIAP), the FARDC, the Kinshasa-Gombe Military Prosecutor’s Office, the ANR, the DRGS itself and the DGM Immigration Service.<sup>30</sup>

Among those arrested by the DRGS were high-profile figures such as **Marie-Thérèse Nlandu**, a lawyer and candidate for president in the first round of presidential elections who later switched her support to Jean-Pierre Bemba. Marie-Thérèse Nlandu acted as lawyer for Jean-Pierre Bemba at his appeal to the Supreme Court of Justice, in which he alleged widespread fraud in the second round of presidential elections and called for the results to be set aside.<sup>31</sup> On 21 November 2006, as the Supreme Court of Justice began to hear the appeal, shooting began outside the courthouse and in the ensuing disturbance part of the court was destroyed by fire. Later that day, Marie-Thérèse Nlandu was arrested by the DRGS and accused, with other members of her political party and household staff, of having organized the disturbances. The arrests were widely perceived as a round of political score-settling. Amnesty International adopted Marie-Thérèse Nlandu as a prisoner of conscience, believing that the arrest was unlawful because the charges were false, and that she had been arrested because of her work as a lawyer and her perceived or real support for Jean Pierre Bemba. On 22 December 2006 she appeared with nine co-defendants before a Kinshasa military court charged with organizing an insurrection. The trial was repeatedly delayed and Marie-Thérèse Nlandu’s health deteriorated badly in prison because of poor prison conditions and stress brought on by her detention. There were credible allegations that some of her co-detainees were subjected to torture or other cruel, inhuman and degrading treatment in DRGS detention. All the defendants were acquitted on 30 April 2007 and released.<sup>32</sup>

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<sup>29</sup> MONUC/OHCHR *The Human Rights Situation in the Democratic Republic of Congo (DRC)*, July to December 2006, 8 February 2007, para 45.

<sup>30</sup> According to one international source who had questioned the then commander of the DRGS, Colonel Raus Chalwe, on this issue during a 2007 visit to Kin-Mazière, the Colonel, after some hesitation, had stated that the work of DRGS was directed by the President’s Chief Advisor on Security Matters and the *Conseil National de Sécurité*. AI interview, Kinshasa, May 2007.

<sup>31</sup> The Supreme Court rejected the appeal and confirmed Joseph Kabila as President on 27 November 2006.

<sup>32</sup> For further details see Amnesty International Urgent Actions AFR 62/022/2006, AFR 62/003/2007, AFR 62/008/2007 and AFR 62/009/2007, 27 November 2006 - 1 May 2007, and public statement *Democratic Republic of Congo (DRC): Marie-Thérèse Nlandu case demonstrates need for urgent reform of police and security sector* (AFR 62/010/2007, 1 May 2007).

Another high-profile figure is **Pastor Kutino**, a popular evangelist church leader who was arrested by DRGS police on 14 May 2006 shortly after making a televised sermon critical of Joseph Kabila. On 16 June 2006, after a summary and unfair trial by a military court, he was sentenced to 20 years' imprisonment for attempted murder, criminal conspiracy and illegal possession of firearms. Two co-defendants, **Pastor Timothée Bompere** and **Junior Nganda**, also received heavy prison terms. Some of the evidence presented by the prosecution was allegedly extracted under torture. The men remain in prison. Amnesty International has called for the case to be reopened before a civilian court respecting international fair trial standards, or for the imprisoned men to be released.<sup>33</sup>

The DRGS also reportedly engaged in intimidation of opposition politicians and parliamentarians. One such case concerned **Pitchou Bolenge Yoma**, a deputy in the National Assembly representing a district of Kinshasa, who received night visits by DRGS officers who searched his house without search warrants.<sup>34</sup> On 25 March 2007, two days after the end of fighting in the city, two DRGS jeeps pulled up at his house and a detachment of DRGS commanded by a captain again searched his house. Pitchou Bolenge Yoma advised AI that he complained to the authorities about the harassment, but was threatened by a DRGS officer.

The cases documented below were investigated by Amnesty International during a visit by the organization to Kinshasa in May and June 2007 to research reports of increasing human rights violations often within the context of political repression by state authorities. In all cases, the arrests by DRGS police were executed without arrest warrants and those arrested were not informed of their rights. In some cases, including those highlighted below, the individuals were arrested apparently on the basis of their peaceful political affiliations or their ethnic and geographic origin in Equateur province. In most cases, detainees were held well beyond the maximum 48-hour limit for police custody (*garde à vue*) laid down in national law, after which time they should have been released or transferred to the custody of the judicial authorities.<sup>35</sup> Some detainees were held incommunicado and police officers reportedly concealed them from visiting national and international human rights or humanitarian monitors. Many of the detainees interviewed had been subjected to torture, including by being raped in custody, or other forms of cruel, inhuman or degrading treatment. Medical care was not provided to detainees suffering injury or illness.

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<sup>33</sup> For further details see AI Public Statement *DRC: Acts of political repression on the increase* (AI Index: AFR 62/014/2006, 4 July 2006).

<sup>34</sup> Under Congolese law (Article 22 of the *Code de procédure pénale* and Article 52 of the *Dispositions complémentaires au Code de procédure pénale*) police visits to and searches of private homes should only take place between 5am and 9pm unless on the written authorization of a High Court judge.

<sup>35</sup> DRC Constitution, Article 18.

In some cases, the individuals are still held in pre-trial detention in Kinshasa's central prison, the CPRK (*Centre Pénitentiaire et de Rééducation de Kinshasa*) several months after their arrest, and have not been given the opportunity to challenge the lawfulness of their detention before a judge or other judicial official, in violation of their right to prompt appearance before an authorized judicial authority or the right to trial within a reasonable time or to release. Detainees at the CPRK whose cases are documented below are detained on charges falling under military jurisdiction, meaning that they – civilians and soldiers alike – will face a military trial. The trial of civilians by military court, and of military personnel accused of offences not purely military in nature, is a violation of international fair trial standards.<sup>36</sup> The trial of civilians by military court is also unconstitutional, since the DRC's 2006 Constitution (Article 156) states that military tribunals have jurisdiction only over army and police personnel. The DRC Military Penal Code, which predates the new Constitution, does, however, allow military trial of civilians for certain offences, including firearms offences.<sup>37</sup>

**Coquette Nsinga**, aged 25, a student, and her mother, **Anne-Marie Lisasi**, were members of Jean-Pierre Bemba's *Mouvement de Libération du Congo* (MLC) political party and served as MLC election workers. Both are from Equateur province and members of the Ngbaka ethnic group, to which Jean-Pierre Bemba also belongs. On 31 October 2006, two days after the second round of presidential elections, they were arrested by a group of DRGS police outside a restaurant in Gombe, central Kinshasa, and taken to DRGS headquarters at Kin-Mazière police station. Here, they were beaten and the police took their money, MLC party cards, mobile telephones and jewellery. Coquette Nsinga was interviewed first by a major and a commander of the DRGS. Pointing to her identity card, which showed she was from Equateur, the colonel said to her, "*You see, you're an assassin!*" During the night of 14/15 November 2006, five police officers removed Coquette from the cells, led her to another room and raped her.

**Chantal Wantami**, an MLC party activist and mother of five living in Barumbu commune, was arrested by DRGS police on 31 October at the same time as Coquette Nsinga and her mother. After her arrest, she told AI, DRGS officers seized her mobile telephone and began systematically to go through the numbers seeking to identify other presumed MLC activists and supporters. She believes this was the reason for the arrest of her husband, Michel Eboma and her brother-in-law, Max Kifunda, both FARDC army officers (see below). She told

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<sup>36</sup> The African Commission on Human and People's Rights, in its 2003 *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, notes that "The only purpose of Military Courts shall be to determine offences of a purely military nature committed by military personnel" and that "Military courts should not in any circumstances whatsoever have jurisdiction over civilians" (Principle L, Right of Civilians Not To Be Tried by Military Court).

<sup>37</sup> There are frequent allegations that the security services plant weapons evidence against supposed opposition figures in order to ensure trial by military court.

Amnesty International that during her detention, DRGS officers threatened to torture her using electric-shocks.

The women spent three weeks in DRGS detention, incommunicado, accused of espionage. During their detention at Kin-Mazière police station, both Coquette Nsinga and Chantal Wantami reported that they and other political detainees were hidden by DRGS officers from visiting representatives of the United Nations Mission in the DRC (MONUC) Human Rights Section and of the International Committee of the Red Cross (ICRC).<sup>38</sup>

On 22 November the women were transferred to Kinshasa's, CPRK central prison, where they were denied visits for several further days. In June 2007, Coquette Nsinga was continuing to suffer ill-health as a result of the rape but has received no medical examination or treatment. The only medicines she was able to acquire were antibiotics and vitamins brought to the prison by a friend.<sup>39</sup>

On 5 July 2007 Coquette Nsinga, Anne-Marie Lisasi, Chantal Wantami appeared before a Kinshasa military tribunal on charges of "incitement [of military personnel] to commit acts contrary to duty or discipline" (« *incitation [aux militaires] à commettre des actes contraires au devoir ou à la discipline* ») under Article 88 of the Military Penal Code, which carries a sentence of between five and 20 years' imprisonment. Army lieutenants Max Kifunda, Michel Eboma and Luwawu were co-defendants. The trial was ongoing in September 2007.

In July 2007, Amnesty International wrote in connection with this and another case to the DRC Ministries of Justice and Human Rights, the CPRK prison authorities and the FARDC chief military prosecutor insisting that Coquette Nsinga urgently receive the medical treatment she requires, calling the women's release unless they were to be tried promptly by civilian court and according to international fair trial standards, and urging that a judicial investigation be launched into the allegations of rape, arbitrary arrest and detention. No reply had been received by the time of publication of this report, although the Ministry of Justice undertook to look into the cases.<sup>40</sup>

**Théophile Bizezila Bi Komba** was an election worker for Dr Matusila Malungeni ne Kongo, a candidate in the first round of presidential elections who, in the second round, urged his supporters to switch their votes to Jean-Pierre Bemba's *Union pour la Nation* (UN) coalition.

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<sup>38</sup> The Congolese security services routinely hide detainees from visiting international monitors.

<sup>39</sup> Other rapes of women from Equateur province held in DRGS detention at around the same time as Coquette Nsinga have also been alleged. See *Après enlèvements, viol, dix-neuf femmes en détention au CPRK*, *La Voix des Sans Voix* press release no. 024/RDC/VSV/CD/2007, 31 May 2007.

<sup>40</sup> E-mail from Ministry of Justice, 27 July 2007. The other case referred to is that of Col. Paul Ndokayi, also in need of urgent medical treatment for injuries inflicted by torture.

After the arrest of Marie-Thérèse Nlandu (see above), he was given the task of collecting signatures for a petition condemning her arrest and urging her release. On 26 November 2006 he went to the CPRK prison to visit Marie-Thérèse Nlandu and deliver a copy of the petition to her. When he got to the prison he was arrested and transferred to Kin-Mazière police station. There he was threatened, “*On Tuesday, we’ll kill you*”. He was held at Kin-Mazière for 13 days, during which time he endured inhumane conditions of detention. “*They didn’t give enough food for everyone and I didn’t eat for five days,*” he told AI. In Kin-Mazière he was questioned twice by a colonel about his links to Nlandu and his campaigning for Bemba. He was accused of possessing a seditious document and attempting to incite a prison revolt, but was finally charged with “*attempted participation in an insurrectionary movement*”, (“*tentative à participation à un mouvement insurrectionnel*”). On 9 December 2006 he was transferred to the CPRK and eventually released without trial on 14 May 2007.

A large group of FARDC army officers from Equateur province were arbitrarily detained by military order in Kinshasa in December 2006. They include Colonels **Jean-Pierre Tokwa**, **Paul Ndokayi** and **Demberi**; Majors **Yawa Gomonza** and **Ejambo**; Captains **Jean-Rémy Demodelo**, **Gode Loyangu**, **Nambozi Gbamor**, **Alain Badibanga**, **Bwenda**, **Samba** and **Ezinga**; Lieutenants **Michel Eboma Ngboko**, **Max Kifunda**, **Ilo**, **Lana Demogo**, **Jimmy Nguelo**, **Luwawu** and Adjutant **Gombari**. Most of the arrests appear to have been made by the DRGS police acting without arrest warrants. Many of these individuals were of the Ngbaka ethnic group, the same group as Jean-Pierre Bemba. Some were longstanding FARDC army officers who had served on the government side throughout the conflict. All were apparently suspected of plotting a coup d’état. Further arbitrary arrests of Equateur military officers have followed, according to Congolese human rights organizations. These include captains **Wani**, **Igbula**, **Dalago**, **Akolomoko** and lieutenant **Binga**, all members of the FARDC 7<sup>th</sup> Integrated Brigade stationed in Kinshasa, who were arrested in late August 2007 according to reports and were still held in ex-DEMIAP military intelligence detention in early September.

According to testimonies gathered by Amnesty International, a number of these detainees spent several weeks in arbitrary detention in Kin-Maziere. Some suffered torture or other forms of ill-treatment there and were kept chained by their legs. On their transfer to the CPRK prison, the DRGS delivered a collective warrant for around 50 people including the officers. The military clerk of court dealing with the cases reportedly protested this abuse of procedure.<sup>41</sup> All the officers were reportedly classed as DPP armed group fighters and kept locked in their cells in *Pavillons* (Blocks) 1 and 2 for two months before being allowed freedom of movement in prison. Little or no medical treatment has been given to those who suffered torture or other forms of ill-treatment. To date, with the exception of the three

<sup>41</sup> Interview with detainee’s legal representative, Kinshasa, May 2007.



lieutenants referred to above in the cases of Coquette Nsinga, Anne-Marie Lisasi and Chantal Wantami, none of the detainees is believed to have been tried or to have appeared before a judge to determine the legality of their arrest or continued detention.

**Colonel Paul Ndokayi**, aged 61, a professional soldier since 1972 who served with the government forces throughout the DRC conflict, was head of a FARDC demobilization programme in the north-eastern Ituri district. In late November 2006 he was in Kinshasa on leave. On 27 November, at around 8pm, he was surrounded on a street in the Kingabwa area of the city by a group of *Police d'Intervention Rapide* (PIR), forced into a vehicle and taken to the PIR detention centre. In the morning he was interviewed by a colonel who beat him, calling him "a brother of Bemba". The same afternoon the colonel returned with five police officers, handcuffed him, took him outside, and again began beating him. Towards 4pm a cameraman arrived and the officers tried to get him to pick up weapons for the camera. He protested, loudly, and the cameraman left without filming.<sup>42</sup>

At around 5pm he was transferred to DRGS detention at Kin-Mazière. On the afternoon of the next day, 29 November, he was removed from his cell, beaten and tortured without interruption for five hours, almost, as his lawyer put it, "to the point of death". In an interview with Amnesty International in Kinshasa's CPRK prison, Colonel Ndokayi told AI:

"They took me down to what they called their *Golgotha* on the ground floor. They told me to get down on the floor. I refused. I told them, '*I'm a colonel. I don't get down!*'. They tied me up, put chains on my ankles and forced me down. Then they beat me without interruption, with lengths of rope, wooden batons and kicks to my head. They kept saying, '*Tell the truth!*'. They stabbed me in the foot with a knife. During the beating I lost consciousness and they had to revive me. They remarked, '*He's not dead yet.*' They forced a piece of wood between my fingers and struck my hand, hard, with a baton. After the beating, I was left in chains."

After around a month in DRGS detention, he was transferred to the CPRK charged with "terrorism". He spent a month locked incommunicado in his cell in Block ("*Pavillon*") 1. His lawyer was refused access to see him on three occasions. He was then transferred to Block 8 and the restrictions were lifted, but between March 2007 and early May, in common with the other arrested Equateur army officers, he was again locked day and night in the cell he shared with five or six others.<sup>43</sup> In late September 2007, 10 months after his arrest,

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<sup>42</sup> AI knows of other cases where the security services have attempted to engineer incriminating video evidence, which is then sometimes broadcast on television.

<sup>43</sup> In general, prisoners are permitted freedom of movement within the prison compound during the day.

Colonel Ndokayi remained in detention without trial. He has never been seen by any judicial authority to have the legality of his arrest and detention determined.

When Amnesty International representatives met Colonel Ndokayi in the CPRK prison, his right hand was broken and he reported pain across his body and poor mobility in his arms and hands. He complained of pain and bleeding from his ears, and had difficulty hearing. At no stage during his detention or in prison was he given medical care for the serious injuries he received. On 5 July AI wrote to the DRC authorities insisting that he receive immediate appropriate medical care, urging that he be tried promptly according to international fair trial standards or be released, and that a judicial investigation be launched into the allegations of torture and other human rights violations. No reply had been received by the time of publication of this report.

**Major Yawa Gomonza** has served in the national army since 1964. On 1 December 2006 at around 6am a group of police officers forced their way into his home, tied his arms behind his back and chained him by the feet. His house was searched and his uniform, camera, mobile telephone and other objects were seized. He was taken to Kin-Mazière, where he was reportedly seriously beaten and accused of holding meetings with DPP fighters. Major Yawa was held in DRGS custody for more than 40 days. According to his lawyer, some interrogations were conducted in the presence of representatives of up to seven security services. During one interrogation, a colonel reportedly held a revolver to him and threatened, “*Do you know how the Kimba were killed?*”, a reference to a group of political opposition members who were executed after summary trial in 1966 for allegedly plotting a coup d’état against former President Mobutu Sese Seko.<sup>44</sup> Major Yawa was transferred to the CPRK on 14 January 2007, charged with “attempted participation in an insurrectionary movement (*“tentative de participation à un mouvement insurrectionnel”*)”. He has not to date been tried or appeared before any judicial officer to determine the legality of his arrest and detention. (See also the case of **Papy Tembe Moroni**, a journalist who was detained with Major Yawa, page 29).

As a division of the police force the DRGS will, Amnesty International understands, be included in the eventual police reform programme which may lead to an improvement in the accountability and conduct of this unit. However, more immediate measures are needed to address the human rights violations committed by this force and to ensure effective independent oversight of its activities. In particular, the authorities should launch prompt, impartial and independent investigations into the above allegations of human rights violations by DRGS personnel. Any officer against whom there are reasonable suspicions of having

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<sup>44</sup> Also known as the “Pentecost martyrs” (*les martyrs de la Pentecôte*), this group of four were executed by hanging on 1 June 1966. Their trial lasted little more than two hours.

committed human rights violations should be immediately suspended from duty, pending investigation and possible trial.

#### **4 THE GARDE REPUBLICAINE: CASES OF SUSPECTED EXTRAJUDICIAL EXECUTIONS, ARBITRARY DETENTION AND TORTURE**

The *Garde Républicaine* (GR) falls under the direct control of the President and its supposed role is limited to protection of the President and presidential facilities.<sup>45</sup> The GR is garrisoned throughout the country, guards airports, national border posts, and other strategic sites and has arguably assumed security functions that go well beyond its declared role.

The GR was responsible for numerous violations of human rights across the DRC during the electoral period.<sup>46</sup> MONUC Human Rights Division reported that the GR was responsible for more than 100 cases of torture and cruel, inhuman and degrading treatment of civilians accused of being political opposition supporters in the second half of 2006. The abuses were particularly evident in Kinshasa, where the unit reportedly committed many arbitrary detentions, acts of torture and other cruel, inhuman or degrading treatment, enforced disappearance and extrajudicial executions.

Among these allegations is the suspected enforced disappearance of **Dr Faustin Sosso**, a 43-year-old medical doctor and father of two young children who worked as medical adviser to Jean-Pierre Bemba.<sup>47</sup> Dr Faustin Sosso was abducted reportedly by GR soldiers from a street in central Kinshasa in the early evening of 20 August 2006 and driven away by jeep to an unknown destination. Some reports suggest that he was taken to Camp Tshatshi, the main base of the GR, and held there for several days, where he was allegedly subjected to cruel,

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<sup>45</sup> Articles 136 – 140 of the 2004 defence law, *Loi No. 04/023 portant organisation générale de la défense et des forces armées*.

<sup>46</sup> MONUC/OHCHR *The Human Rights Situation in the Democratic Republic of Congo (DRC), July to December 2006*, 8 February 2007, para 35. For other examples of politically-motivated human rights violations by the GR, see AI's report *DRC: Disarmament, Demobilization and Reintegration (DDR) and the Reform of the Army* (AI Index: AFR 62/001/2007, January 2007), pages 56-60.

<sup>47</sup> The term "enforced disappearance" is used to describe the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law. (International Convention for the Protection of All Persons from Enforced Disappearance, Article 2). This Convention, which has yet to come into force, also places obligations on the State to investigate and hold criminally responsible the perpetrators of disappearance.

inhuman and degrading treatment.<sup>48</sup> He may at some point have been transferred to the custody of military intelligence. Two reports received by AI suggest that Dr Sosso was extrajudicially executed or that he died as a result of torture in security force custody, and that his body was secretly disposed of. Dr Sosso's family, however, continues to believe that he is alive and held in secret detention. For a time after his enforced disappearance, family members received phone calls from individuals presenting themselves as GR officers demanding money for Dr Sosso's release. No official investigation has been launched into his disappearance.

The majority of human rights violations by GR soldiers reported to Amnesty International during its visit to Kinshasa in May 2007, however, were committed during and in the aftermath of fighting in the city on 22/23 March 2007 between government forces and Jean-Pierre Bemba's DPP. There are credible allegations, detailed below, of extrajudicial executions and acts of torture and other ill-treatment committed by the GR at Camp Tshatshi, the GR's main base in the city, and in Jean-Pierre Bemba's residence in central Kinshasa after this had been captured by government forces.

The fighting embraced Kinshasa's central area of Gombe during the middle of the working week and spread quickly outwards through densely populated residential areas. Tanks and other heavy weaponry were used in the heart of the city with thousands of civilians trapped by the fighting in their homes, workplaces and schools. There was no attempt to warn civilians and no effort by government forces to remove them from places of danger. MONUC peacekeepers did manage to rescue a number of civilians, including children trapped in schools, but they were severely hampered by the scale of the fighting which raged directly around MONUC buildings in the city centre.

The initial assault by the government FARDC 7<sup>th</sup> Integrated Brigade on 22 March was halted by the DPP, who gained early control of a large area of central Kinshasa.<sup>49</sup> FARDC reinforcements and the deployment of the *Garde Républicaine*, which became the main government fighting force, began to reverse this situation. By the morning of 23 March, they had captured Bemba's residence in the city centre, forced the DPP out of the central district and through residential areas towards the Beach area, where a remnant DPP force congregated to escape across the river to neighbouring Republic of Congo. Around 140 other DPP fighters surrendered to MONUC with around 300 of their family members. They were still being sheltered at MONUC's Western Brigade HQ in the city in September 2007. Negotiations

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<sup>48</sup> MONUC/OHCHR *The Human Rights Situation in the Democratic Republic of Congo (DRC)*, July to December 2006, 8 February 2007, para 36

<sup>49</sup> Among the sites taken by the DPP was the DRGS Kin-Mazière police station, which was ransacked. The detainees there were released by the DPP.

were continuing between the UN and the government for their handover to the authorities or their release.<sup>50</sup>

By the time the fighting died down, up to 600 people had been killed and many wounded, including a large but unknown number of civilians.<sup>51</sup> The government faced criticism for having failed to negotiate sufficiently and for failing to take adequate measures to warn and protect the civilian population. There were reports of widespread indiscriminate use of force and looting by both government and DPP forces.

Civilian victims of the violence included people such as **Hugo Tanzembi**, who was severely injured after being hit by shrapnel from a government tank shell fired into a bank on the *Boulevard 30 juin* where he and other civilians had taken shelter. He lay bleeding from his injuries for many hours before rescue. He died of his injuries one month later. Despite government promises, there has been no compensation for the civilian victims of the fighting who, in many cases, cannot afford the medical bills to treat their injuries. **Marie-Jeanne Masengo Batubenga**, for example, a street vendor and single mother of six children, was injured in the chest by a bullet on 23 March in Barumbu commune. The hospital required payment to extract the bullet which she cannot afford to perform an operation. The bullet remains lodged in her chest. She suffers from coughing and breathlessness, cannot work because of her poor health and faces eviction from her home.<sup>52</sup>

Civilians living in districts through which the DPP retreated were particularly affected. In these areas fire from tanks, artillery, machine guns and assault rifle ripped through thin wooden walls. Government troops also forced their way into hospitals and schools where there was no suggestion of enemy forces, according to local sources. It is also alleged that government forces singled out for attack and subsequent looting neighbourhoods where popular support for Jean-Pierre Bemba was high. During the fighting the Governor of Kinshasa reportedly announced on the radio that three communes – Barumbu, Lingwala and Kinshasa – contained DPP fighters dressed in civilian clothes.

These neighbourhoods became the focus of repressive government cordon and search operations in the course of which many arbitrary arrests were made and extensive damage to property and looting reported. Residents of some of these areas interviewed by Amnesty International spoke of security force raids on their houses in search of hidden weapons or

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<sup>50</sup> AI interviews, MONUC officials, Kinshasa.

<sup>51</sup> There is no reliable record of the number of killed. NGO sources in Kinshasa, basing their estimates on surveys conducted in hospitals and morgues, put the figure at around 500. MONUC officials estimated around 400, while diplomatic sources say up to 600.

<sup>52</sup> Interview, 31 May, Barumbu commune

fugitive DPP fighters, in which property was stolen or smashed and the residents themselves threatened, in some cases at gunpoint, and insulted as “brothers of Bemba”.<sup>53</sup> The authorities allegedly took other reprisals against some neighbourhoods, including by cutting off supplies of water and electricity.

Scores of people were arrested across the city in late March 2007 on suspicion of being DPP fighters or of having sheltered or otherwise aided them. Some appear to have been arrested arbitrarily, on the basis of identity documents which showed them as *originaires* of Equateur province. Of nearly 200 people arrested in connection with the March events and held in pre-trial detention in Kinshasa’s central CPRK prison at the time of Amnesty International’s visit in May 2007, it was reported that at least 150 were civilians. Among these were six children aged between 13 and 17 (four boys, **Mapole**, **Kazangani**, **Mvunu** and **Vivi**, and two girls, **Kumbe** and **Shekinah**) who were arrested on 23 March on suspicion of involvement in the March fighting and who were still held in the CPRK in mid-September, without having appeared before a judge. The children were reportedly accused under the military penal code of “insurrection” (“*participation à un mouvement insurrectionnel*”), despite the fact that military law does not apply to individuals aged under 18. Local human rights organizations have appealed for their release.<sup>54</sup>

**Floribert M.** (not his real name)<sup>55</sup>, a civil servant, was trapped by the fighting in central Kinshasa on the morning of 22 March as he made his way to work. Heavy gunfire forced him and a group of 15 other civilians, including two women and a child, to take shelter behind a low wall. They spent the rest of the day there, in the sun and without food or water, unable to move as the fighting continued around them. One of the group was wounded in the leg by a stray round, another killed by a bullet to the head.

As evening fell, a voice ordered them to cross the boulevard and to take shelter in a trench. Dropping into the trench, the group found themselves in a DPP position with 10 fighters who demanded to see their identity cards. Among his papers, the fighters found Floribert’s PPRD<sup>56</sup> party card (Floribert was a PPRD official for his commune) and immediately threatened to shoot him. They relented only because his identity card showed him as being from the same district in Equateur as Jean-Pierre Bemba. They nevertheless told him that

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<sup>53</sup> Interviews with local residents 25 May – 5 June, Kinshasa.

<sup>54</sup> Association Africaine de Défense des Droits de l’Homme (ASADHO), *SOS : Six mineurs détenus politiques au CPRK : Pour quelle justice ?*, 17 September 2007

<sup>55</sup> All of the victims of violations by GR forces interviewed by Amnesty International for this report expressed deep fear of reprisals. For this reason, AI declines to name them.

<sup>56</sup> President Kabila’s political party, the *Parti du Peuple pour la Reconstruction et le Démocratie*, People’s Party for Reconstruction and Democracy. Floribert was a PPRD official in his commune.

they considered him a spy and used him as a lookout, forcing him to put his head out of the trench whenever the firing dropped briefly “to see where the bullets were coming from”.

They spent the night there until 4am when a government attack started and the DPP fighters ran off. Surrounded by GR soldiers, they were taken to Jean-Pierre Bemba’s residence which the GR had captured and was using as a forward HQ. Here they joined a larger group of detainees, including eight women, were told they were considered as “prisoners of war” and confined under a *paillotte* (open-sided straw shelter) in the compound, visible to GR soldiers returning from the fighting who threatened them repeatedly.

While there, Floribert was witness to the beating with a machete of “a boy from Gbadolite”, a town in northern Equateur province. The boy was led away after the beating and he does not know what finally happened to him. Floribert told AI that:

“Other captives arriving at the residence were put inside a freight container. At around 9am two men were brought in under arrest, dressed only in their underclothes. The soldiers were beating them. The soldiers were complaining they had run out of bullets. They were taken somewhere we couldn’t see, but some soldiers told us later they had had their arteries cut open with a knife to their wrists and the soldiers watched them bleed to death.”

Towards midnight, a GR major arrived and began interrogating the detainees one by one. When Floribert’s turn came, he was made to lie face down on the ground, surrounded by around 30 GR soldiers, while questions were fired at him. They accepted neither that he was a PPRD party member (the DPP had destroyed his party card) nor that he was a civil servant, taunting him that “*the civil service doesn’t pay enough for your fat stomach.*” So, Floribert told AI:

“I found myself described as a “*colonel of Bemba*”. I was ordered to stand up and then I was beaten on the shoulders with the flat of a machete blade. It still hurts now. By 1am we had all been “judged” and only two people were released. We believed that the women among us would be set free, but the soldiers found some photos of women in the DPP positions and refused to let them go. The rest of us, around 35, were lined up against a wall. We thought we were going to be shot.”

Instead they were taken by truck to the GR base at Camp Tshatshi and put in a room. Floribert remained there all night, while other detainees were taken out one by one to be questioned or to be taken to other cells. He heard several shots that night, but could not be sure they were from inside the camp. However, the sounds of people being beaten and the

cries of pain he could hear through the wall from the room next door were very clear, lasting “to at least five in the morning”. Of the detainees with him in the room, he recognized a street beggar, who he used to see regularly on his way to work. He hasn’t seen this man since.

Two white men were in the same room, apparently arrested while taking photographs of the fighting. At around 6am the guards told the white men to leave. Floribert was beside them, “So I took a chance and followed them. When we got to the barrier at the entrance to the camp, they turned back to ask how they were supposed to get back to the city centre. I just kept walking slowly ahead.” From there he joined people on the street heading for work, and hitched a lift home.

**Oscar X**, a superintendent (“*commissaire*”) in the Kinshasa police, originally from Equateur, was arrested at around 7pm on 24 March by a group of GR soldiers as he sat with a friend on a hotel terrace in the city’s Bandalungwa district. He was accused of organizing the violence of 22-23 March. Despite his protests that he was a serving police officer who had been on duty the two previous days, he was taken to Camp Tshatshi in a vehicle that already contained other detainees. He told AI that on arrival in the camp:

“A soldier pointed a firearm at my head and there was a discussion among the soldiers. Some wanted to kill us straight away and push us into the river; others argued to wait for orders. Then they stripped me and beat me with branches cut directly from the trees in the camp. I was beaten everywhere: around my head and eyes, on my back and across my body. Then I was interrogated by a lieutenant who told me to confess to being one of Bemba’s men. I denied this. He asked me, ‘*What province are you from?*’ I told him, ‘*Equateur*’. He said, ‘*There you are, then!*’”

At around 1am Oscar was taken to a cell which he said contained around 60 people, where he spent the remainder of the day on the floor with nothing to eat or drink. On the morning of 29 March he was transferred to Military Intelligence (ex-DEMIAP) custody, where he was interrogated again. The officers there confirmed his story with his police commander and that afternoon he was set free, “*with no clothes and with my wounds undressed*”. He continues to suffer pains in his neck from the beatings around his head and doctors diagnosed a possible spinal injury. He resumed work in mid-May but told AI that he still feels “very nervous”. He adds: “One of the guards in the camp told me that on the night of 22/23 March, 40 people were killed in Camp Tshatshi. He told me, “*This is not a good place*’.”

**Cyrille K.**, aged 32, is the younger brother of a Kinshasa hospital doctor. Both are originally from Equateur. He was at home in the apartment he shares with his brother and other family



members in the Gombe area of the city when, at around midnight on 23 March, a man in civilian clothes and two GR soldiers forced their way into the apartment. They demanded to see his brother. Cyrille explained that he was attending a seminar and had been unable to return home because of the fighting. The men then told Cyrille he would be detained in place of his brother. There was no explanation of why his brother was sought, or why he was being arrested.

“They made me remove my t-shirt and took me down to the building entrance, where around 20 *Garde Républicaine* soldiers with automatic weapons and RPGs were waiting. I was taken to a nearby jeep where they began to beat me, demanding to know where the doctor was.”

Cyrille was driven to Camp Tshatshi. An officer there asked the soldiers why they’d brought him instead of the doctor, then said, “*You should throw him in the river! Give him a military send-off.*” He was forced to the ground and beaten with planks of wood on his back, buttocks and around his head. “*I was ordered not to cry,*” Cyrille said, “*but I couldn’t help it. Another soldier was stood over me, sharpening his machete, threatening to kill me if I made any more noise. Then he started to beat me on my back and buttocks with the flat of the blade.*”

Cyrille was put in a room with three other detainees, all dressed in civilian clothes. At around 3am the next day (Sunday) they were taken out and told that they were going to be given some “peanuts” (“*arachides*”). “*What peanuts?*” the detainees asked. “*You’ll find out when the moment comes.*” Then the four men were made to strap heavy wheel hubs (“*jantes*”) from a car to their backs and marched off towards the bottom of the camp, which overlooks the River Congo. As they walked through the camp, Cyrille was ordered out of the line by the officer, who said “*We haven’t finished with him*”. He never saw the three others again. He didn’t know their names, but he believed that they were all civilians and that one had just returned from Europe to visit his family. He later learned that *arachides* was slang for bullets. The wheel hubs he believes were intended to weigh down their bodies in the river.

He was returned to a larger cell, full of captured DPP fighters, one of whom told him that a group of 20 had earlier been taken from the cell and shot. The next day, he was taken out, tied up, forced to his knees and beaten again with planks of wood. Then, on orders from an officer, a soldier forced his penis into his mouth. He was led to the camp latrines and made to clean them on his knees. As they stood over him, they repeated that his brother was “Bemba’s doctor” and a member of Bemba’s militia. That day he was fed for the first time since his arrest. The next day, Tuesday, he was interrogated again, with more questions about his brother. In the afternoon, he was released. An officer’s parting words to him were, “*Tell your brother to forget medicine and to go back to his village in Equateur.*” Since his release, Cyrille has not been able to return to his work because of ill-health. The wounds he received

from the beatings became infected, he believes from faecal matter from the camp latrine. He suffers recurrent headaches and dizzy spells.

The doctor, Cyrille's brother, told AI that he had no political affiliations and that he suspected the GR operation was based on a false denunciation made for personal gain by someone who lived in the same apartment block. Through an intermediary, Cyrille's family made contact with the GR captain who led the operation, to find out why he was being sought. This captain reportedly told the doctor that the accusations against him were that he was doctor for Jean-Pierre Bemba, that he had organized subversive meetings, and that he had appeared on television where he had insulted the President, all of which the doctor maintained was untrue. The captain reportedly told the doctor: "*The God you pray to is powerful. I had orders to come to your house and take you. If you resisted, I was to kill you. If you didn't resist, it was still possible that you wouldn't be coming back. I've received my orders. Be careful of the people in your building.*"

On 18 April 2007 the family submitted a legal complaint against the captain to the Military Prosecutor for Ngaliema garrison, where the captain is based, alleging arbitrary arrest, illegal entry ("*violation de domicile*"), death threats and attempted murder. On 19 May, having had no response, the doctor telephoned the military justice official in charge of his case who reportedly told him, "*You should go home and forget this matter. You are no longer in danger.*" The official said that the GR operation at his home was not officially sanctioned and that his complaint had been classed as "*sans suite*" ("no further action"). The family has since submitted a second complaint to the Senior Military Prosecutor's Office (*Auditorat Supérieur Militaire*). The family is determined to pursue justice, but lives in fear of reprisals.

The accounts of probable GR extrajudicial executions given by former detainees in Camp Tshatshi and at other locations is supported by international sources interviewed by Amnesty International, who confirmed that after the fighting at least 27 bodies, showing signs of having been tied up and blindfolded, were recovered from the River Congo, where they had become trapped in rapids at Kinsuka a few kilometres downstream from Kinshasa. "The presumption," one of these sources told AI, "is that they were killed near the river". Camp Tshatshi, which overlooks the river, is a possible site of entry for the bodies into the water. National NGO workers reported that a stretch of shore and beauty spot known as *Chez Tintin*, just below Camp Tshatshi, which has bars and restaurants but also a military facility jutting out over the water, was one area where people had been executed and pushed into the river. Reports received by Amnesty International suggested that people were executed in two ways. Those suspected of being DPP fighters had their throats cut with knives, because soldiers believed they were protected by *gris-gris*, a supernatural charm which made them immune to bullets. Other victims were shot. Some bodies were allegedly placed in sacks weighted down with stones. Among these victims may have been a group of fishermen accused of having

transported fleeing DPP fighters across the river. The NGO reported widespread fear amongst local residents and fishermen who discovered the bodies. When Amnesty International visited the *Chez Tintin* area, they were prevented from accessing the shoreline by armed soldiers.

To date, no GR officer has been brought to justice for the human rights violations documented above and the authorities have obstructed independent investigations. MONUC investigators encountered “aggressive refusals” by the GR when they asked to have access to Camp Tshatshi to investigate reports of abuses there and received similar refusals by the military and some police services to allow investigators access to other sites, including Camp SETA (a GR base near Ndjili international airport), Jean-Pierre Bemba’s residence and the MLC party headquarters.

Amnesty International calls on the Congolese authorities to fulfil their international human rights obligations and launch prompt, independent and impartial judicial investigations into the violations recorded above and other alleged violations committed during or in connection with the March fighting, and to bring to justice the individual military and police personnel and armed group members responsible for perpetrating or ordering these crimes in trials in accordance with international standards of fairness that do not attract the death penalty. The authorities should also provide adequate reparation, including compensation for the victims or their families.

Amnesty International additionally calls on the DRC’s judicial authorities to immediately release the detainees arrested in connection with the March fighting unless they are to be promptly tried according to international fair trial standards on recognizable criminal charges for which admissible supporting evidence exists. In no circumstances should civilians face trial by military court.

## **5 HUMAN RIGHTS ABUSES BY THE DPP**

The DPP was also responsible for human rights abuses during the electoral period and had become a major source of insecurity in Kinshasa. In the period before the second round of presidential elections in October 2006 DPP fighters in central Kinshasa unlawfully detained a number of people they suspected of supporting Joseph Kabila and subjected them to torture and ill-treatment in illegal detention centres, including in the MLC’s party offices or in houses around Jean-Pierre Bemba’s residence. DPP abuses include the abduction and probable killing of **Ntiara Podos Nsey**, a 48-year-old ANR (National Intelligence Agency) official agent who was reportedly detained by DPP fighters on a street in central Kinshasa on 19 August 2006 and taken for interrogation at the MLC party headquarters. He has not been seen since.

There are also credible allegations that the DPP also indiscriminately targeted civilians during the fighting in Kinshasa and may have used civilians as human shields. As illustrated above, in the case of **Floribert M.** (page 22), during the March 2007 fighting DPP fighters failed to treat humanely and to protect civilians trapped by the fighting, in violation of international humanitarian law. There were also credible allegations that DPP used children as fighters and distributed arms to street children in Kinshasa.<sup>57</sup> The recruitment and use of children under the age of 15 in armed conflict is a war crime under international law.<sup>58</sup>

In the wake of the March 2007 fighting, large numbers of fighters loyal to Jean-Pierre Bemba in Equateur province surrendered their weapons and agreed to be integrated into the national army.<sup>59</sup> In Amnesty International's view, it is imperative that the DRC authorities and the international community make every effort to ensure that all remaining fighters loyal to Jean-Pierre Bemba are disarmed and either integrated into the FARDC or demobilised. Amnesty International also calls on the DRC authorities to launch independent judicial investigations into the allegations of human rights abuses by DPP fighters, bringing the perpetrators to justice where possible in fair trials which exclude the possibility of the death penalty. The MLC political leadership should cooperate with any such investigation.

## 6 ATTACKS ON MEDIA WORKERS

Many journalists were targets of intimidation, arbitrary detention and cruel, inhuman or degrading treatment by state security agents for their reporting on political developments during the elections and afterwards. Many were forced into hiding because of death threats. A number of media offices and transmitters were subject to arson and vandalism by unidentified attackers.<sup>60</sup> In Kinshasa, such incidents particularly involved journalists working for media owned by Jean-Pierre Bemba, including Canal Congo TV (CCTV), Canal Kin TV (CKTV) and Radio Liberté (RALIK). Around 12 journalists working for these stations were victims of death threats and intimidation following the clashes on 20-22 August 2006 between the GR and DPP, and were forced into hiding. Broadcasting by these three stations was

<sup>57</sup> NGO and UN sources, Kinshasa.

<sup>58</sup> Additional Protocol II, Article 9, to the Geneva Conventions of 1949, and the Rome Statute of the International Criminal Court, Article 8(2)(e)(vii).

<sup>59</sup> *DRC: Opposition militias join army in Equateur province*, 29 March 2007, [www.irinnews.org/Report.aspx?ReportId=71075](http://www.irinnews.org/Report.aspx?ReportId=71075)

<sup>60</sup> For a full description of attacks and other intimidation directed against the media during the electoral period see *Journalistes en Danger* (JED) report, *La Liberté de la Presse en Période Electorale*, November 2006, as well as the MONUC/OHCHR report, *The Human Rights Situation in the Democratic Republic of Congo (DRC), July to December 2006*, Chapter V(I), 8 February 2007, [http://www.monuc.org/downloads/HRR\\_6Month\\_Eng.pdf](http://www.monuc.org/downloads/HRR_6Month_Eng.pdf)

arbitrarily suspended by the authorities on 21 August for several days and on 18 September disrupted again by a fire whose cause has not been established.<sup>61</sup> The stations were further removed from the air a few hours before the outbreak of fighting on 22 March 2007.<sup>62</sup> During and after the fighting the stations were looted by government soldiers and CCTV/CKTV journalists were again intimidated, including a woman journalist for Canal Kin. On 22 March 2007 she received a phone call from someone presenting himself as a major in the GR, warning her that her name was on a list of “targets” and that she should leave the country. At the time of her interview with Amnesty International in late May she was still in hiding and felt too insecure to return to work.

**Papy Tembe Yunago Moroni** is a cameraman and reporter for CCTV and RALIK who comes from Equateur and is a member of the Ngbaka ethnic group. During the electoral period he reported extensively on Jean-Pierre Bemba’s campaign. From May 2006, he felt under increasing pressure from the security services and had started sleeping away from home, but after the second round of presidential voting he made the decision to return to his house. On 1 December 2006, however, a GR soldier broke down the door of his home at around 6am while he was still sleeping and forced him downstairs at gunpoint. There, he found his landlord, army major Yawa, also under arrest.<sup>63</sup> The two men were driven off by police jeep to Kin-Mazière where they were tortured. “*I was tied up and beaten with lengths of wood and clubs as if they were killing a snake,*” Papy Tembe Moroni told AI. He was held in DRGS custody at Kin-Mazière for 27 days and reported that he was interrogated by representatives of different security services while held there. “*I was afraid they would kill me,*” he said. On 27 December he was transferred to the CPRK as part of the large group of suspects from Equateur which included Major Kawa and other army officers and soldiers. Here he learned for the first time that he was charged with “threatening state security” (“*atteinte à la sûreté de l’état*”) but this was later changed to suit his profession as journalist to “inciting hatred” (“*incitation à la haine*”) and “spreading false news” (“*propagation de faux bruits*”). On 12 April 2007 he was granted provisional release after 132 days in detention, but was forbidden to leave Kinshasa and ordered to report to the authorities twice weekly. At the time of his interview with Amnesty International in late May, he was still living in hiding. His ankles bore scars of where he had been tied up in detention, and he reported continuing poor health as a result of the beatings he received.

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<sup>61</sup> Similar attacks on media outlets close to Kabila also took place in other areas of the DRC.

<sup>62</sup> The government denied responsibility, claiming that the shutdown was arranged by a commercial company providing satellite services to the channels, because of unpaid bills. This is disputed, however. See Radio Okapi, *Polémique autour de la fermeture de CKTV et CCTV*, 30 March 2007. <http://www.radiookapi.net>

<sup>63</sup> See page 18.

**Bosange Mbaka**, a journalist with a Kinshasa periodical newspaper, *Mambenga*, also from Equateur province, was arrested on 21 November 2006 after violent disturbances between police and demonstrators outside the Supreme Court of Justice, where he had been sent by his newspaper to cover a legal appeal Jean-Pierre Bemba's against the second-round presidential election results. According to his account, as the disturbances began outside the building, he picked up a mobile phone which had been dropped by a soldier inside the court. When he went to the guard post outside the court to hand in the phone, he was arrested and taken to Kin-Mazière police station where he was accused of "theft of military effects" (*vol d'effets militaires*). He spent 36 days in DRGS detention, during which time he was reportedly beaten to force him to confess to being a member of the political opposition, before transfer to the CPRK on 26 December. After trial by military tribunal, he was acquitted of the charges against him and released on 7 September 2007, nearly 10 months after his arrest.

Other journalists who recorded interviews with Bemba or hosted talk shows in which Bemba appeared were also targeted, especially those journalists, presenters and other media personnel involved in one of the last and most controversial television interviews with Bemba before the outbreak of fighting in Kinshasa on 22 March 2007.<sup>64</sup> Many of the journalists present later received threatening phone calls and text messages. Among these was **Basile Olongo**, Director of Programming at Radio Lisanga Television (RLTV) in Kinshasa, who received a number of threatening calls in which the unidentified caller told him "You've made an arrangement with Bemba to insult the President, to insult the Head of the Armed Forces. We will deal with you."

Journalists continue routinely to be harassed or arrested for covering important social, political and economic stories, even when the journalists or editors have made every effort to ensure the factual accuracy of their reporting. Journalists who publish articles that legitimately allege abuse of power by state officials are especially likely to find themselves arbitrarily summonsed or arrested by the security services. For example, **Pierre Sosthène Kambidi** was sentenced to three months in prison for a radio broadcast he made in June 2006 exposing the arbitrary arrest and beating by police of a lawyer in Tshikapa, Kasai-Occidental, and calling for police reform. **Rigobert Kwakala** was sentenced to 11 months' imprisonment in January 2007 for an article carried by his newspaper which alleged embezzlement of state funds by the then-Governor of Bas-Congo province. Both men were granted provisional release, but only after having spent days or weeks in custody. On 26 July 2007, three

<sup>64</sup> In this interview, broadcast on 18 March, Bemba accused the government of having made three attempts on his life, criticized levels of corruption which he claimed had reached the "summit of the State", accused the presidency of "high treason" for "selling Congolese territory" (a reference to Kahemba, a diamond-rich area of Bandundu province which had been occupied by Angolan forces since February 2007), and accused the then Chief of the Armed Forces of embezzling 500 million Congolese francs (around US \$1 million) per month intended for the army.

journalists and trade union activists, **Vincent Hata**, **Michel Shango**, and **Eugène Risasi Tambwe**, who work for the DRC's main, state-owned channel, *Radio-Télévision Nationale Congolaise* (RTNC), were arbitrarily detained by GR soldiers guarding the RTNC premises in Kinshasa.<sup>65</sup> They were taken to Camp Tshatshi where they were reportedly whipped and severely beaten. They were transferred on 28 July to DRGS detention at Kin-Mazière, where they were accused of “insulting behaviour towards the Head of State, attempting to destabilize the RTNC and to discredit the government”. These accusations appear to have been prompted by a trade union meeting the journalists had been attempting to organize at the RTNC. Eugène Risasi Tambwe was released on 31 July, and the two others released on 11 August after payment of a \$US 120 “fine”.

The Kinshasa-based human rights organization, *Journalistes en Danger* (JED) which campaigns on behalf of detained or threatened journalists and for greater press freedom in the Central Africa region, has also been the target of increasing intimidation. Staff members working for the organization have received a number of death threats in the last two years, apparently from military and other state officials, by anonymous phone call, text message, e-mail and fax. Some threats related to JED's campaign for a thorough investigation into the November 2005 murder of journalist **Franck Ngyke**. Others followed JED's denunciation of the beating of journalist **Ernest Mukuli** by GR soldiers in the city of Kisangani on 30 June 2007 and the organization's call for a proper investigation into the murder on 13 June 2007 of another journalist, **Serge Maheshe**, in the eastern city of Bukavu, including reports that Serge Maheshe had been threatened by GR soldiers outside his home in the weeks before his death. In early July, a contact warned JED that the authorities considered that the organization was “going too far” and advised senior JED staff to “lay low” and to “leave the country for a while”. On 31 July 2007, after JED publicly challenged the re-drafting by government officials of a proposed law aimed at strengthening press freedoms, which reportedly had the effect of curtailing those freedoms still further, the Minister of Press and Information, Toussaint Tshilombo, accused JED on television of being an “anti-patriotic organization” which was tarnishing the image of the DRC abroad. The Minister threatened to withdraw the organization's legal status. Shortly afterwards, increasingly concerned for their safety, senior JED staff temporarily left the country.

The continuing pattern of intimidation and arbitrary arrests of journalists, which has shown no sign of abating since the elections and continuing impunity for these violations, contribute greatly to a climate which places media workers at much greater risk of physical attack. Four Congolese journalists have been murdered in the last two years in circumstances that - despite

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<sup>65</sup> The GR has no authority to make such arrests.

official investigations and, in some cases, prosecutions - have yet to be satisfactorily explained, and some of which may have been politically-motivated.<sup>66</sup>

## 7 A DENIAL OF BASIC HUMAN RIGHTS

The human rights violations documented in this report, including arbitrary arrest, detention without trial, torture and ill-treatment, extrajudicial and disproportionate use of force are clear breaches of the DRC's own national constitution, as well as its obligations under international human rights standards, in particular the International Covenant on Civil and Political Rights (ICCPR), which the DRC ratified in 1976, and the African Charter on Human and People's Rights (ACHPR), ratified in 1987.

Article 9, paragraph 1, of the ICCPR states that:

"Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

Article 6 of the ACHPR similarly prohibits arbitrary or unlawful arrest or detention. The ICCPR goes on to provide the right of anyone who is arrested to be informed, at the time of arrest, of the reasons for arrest and to be promptly informed of any charges against him (Article 9(2)); the right to prompt appearance before a judge or authorized judicial authority and the right to trial within a reasonable time or to release (Article 9(3)); at the right to legal counsel (Article 14(3)). These provisions are reflected in the *Principles and Guidelines on the Right to Fair Trial and Legal Assistance in Africa*, adopted by the African Commission on Human and Peoples' Rights in May 2003.

The *Body of Principles for the protection of all persons under any form of detention or imprisonment*, adopted by the UN in 1988, also enshrines these rights. The *Body of Principles* seeks to prevent cases in which prisoners are held for long periods by branches of the security forces without having their cases reviewed by an independent authority. Principle 4 states:

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<sup>66</sup> **Franck Ngyke**, political editor for *La Référence Plus* and his wife **Helen Mpaka**, murdered at their home in Kinshasa, 2 November 2005; **Louis Mwamba Bapuwa**, murdered at his home in Kinshasa, 8 July 2006; **Serge Maheshe**, journalist for the UN-sponsored *Radio Okapi*, murdered in Bukavu, South-Kivu province, 13 June 2007; **Patrick Kikuku Ilungula**, photo-journalist for the *Agence congolaise de presse* (ACP), shot dead in Goma, North-Kivu, on 9 August 2007.



"Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority."

The *Body of Principles* states that the words "a judicial or other authority" mean a judicial or other authority under the law whose status and tenure should afford the strongest possible guarantees of competence, impartiality and independence.

The *Body of Principles* upholds a prohibition on incommunicado detention. An arrested person has the right to notify family members without delay of the arrest and place of custody (Principle 16), the right to be visited by and to consult, without delay, with legal counsel (Principle 18)<sup>67</sup>, the right to receive visits and to communicate with the outside world subject only to reasonable conditions and restrictions as specified by law (Principle 19), and to prompt and proper medical care in detention (Principles 24 and 25).

There is a clear prohibition in all circumstances on torture and other cruel inhuman or degrading treatment or punishment in the ICCPR (Article 7), the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by the DRC in 1996, and the ACHPR (Article 5).<sup>68</sup>

Extrajudicial executions are unlawful as are deliberate killings carried out by order of a government or with its complicity or acquiescence. ICCPR Article 6(1) states that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." In 1989 the UN adopted the *Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions* which, among other things, calls for investigations, prosecutions of alleged perpetrators and compensation for families in all cases of extrajudicial executions.

The UN *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* state that law enforcement officials, including military and other security personnel exercising

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<sup>67</sup> This right "may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order".

<sup>68</sup> 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." CAT Article 1(1).

police powers, shall “not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury... and only when less extreme means are insufficient to achieve these objectives” and that “In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life” (Principle 9).

The violations documented in this report are also in breach of the DRC’s February 2006 Constitution. Article 16 upholds the right to life and the right not to be subjected to cruel, inhuman or degrading treatment. Article 18 states that all arrested persons must be immediately informed of the reasons for arrest and the charges against them, and be immediately informed of their rights. Detained persons have the right to enter into immediate contact with their family or legal counsel and must not be held in police investigative custody for longer than 48 hours, after which time they must be released or placed before the competent judicial authority. All detainees must benefit from treatment which preserves their life, physical and mental health and dignity. Article 19 states that every individual has the right to trial before a competent judge within a reasonable time.

Arbitrary arrest is also a crime under Article 67 of the DRC’s Civil Penal Code, punishable by between one and five years’ imprisonment, rising to up to 20 years’ imprisonment where the arrest is accompanied by physical ill-treatment or torture (“*tortures corporelles*”) and by life imprisonment or sentence of death where such injuries result in the death of the victim.<sup>69</sup>

## **CONCLUSION**

There have been some welcome recent developments in building greater respect for human rights in the DRC. In May 2007, the Minister of the Interior, Decentralisation and Security ordered the establishment of provincial committees to monitor human rights violations committed by the security services. Each committee will be presided over by a senior police officer and include a military justice official, a civil society representative, a MONUC Human Rights Division officer and a MONUC civilian policing officer. A police headquarters unit has reportedly been established to monitor and follow such cases. In June 2006, the DRC government authorized the country’s ratification of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>70</sup>

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<sup>69</sup> Death sentences are routinely passed in the DRC, in the vast majority of cases by military courts, although no state executions have taken place since 2003. Amnesty International opposes the application of the death penalty in all circumstances.

<sup>70</sup> *Loi No.06/016 du 12 juin 2006.*

Important legal reforms are also in process. A landmark law on sexual violence was adopted in July 2006 to bring DRC's criminal code in line with international standards. The new law includes a clear definition of rape and establishes, *inter alia*, sexual slavery, sexual mutilation and child trafficking as criminal offences.<sup>71</sup> A draft law incorporating the Rome Statute of the International Criminal Court into national legislation has been awaiting parliamentary approval since September 2005, although in July 2007 the DRC ratified the Agreement on Privileges and Immunities of the International Criminal Court (APIC). The Ministry of Human Rights has also reportedly in the process of submitting a draft law for the criminalization of torture for discussion and adoption by the Council of Ministers. Amnesty International supports the prompt introduction of such legislation and urges that it should reflect and be entirely consistent with relevant international standards.

Such steps, however, will not on their own lead to substantial improvement in the respect of human rights in the DRC unless and until the new government commits itself in practice to delivering full reform of the security services and to eradicating entrenched impunity for human rights violations. These two objectives need to be clear post-transition priorities for the government and international community if the DRC is finally to overcome years of conflict and mass human rights abuse, establish a state based on the rule of law, and develop professional, politically and ethnically neutral security services which have the confidence of the population.

Security Sector Reform (SSR) therefore needs to be delivered promptly across the spectrum of Congolese military, intelligence and police services *without exception*, ensuring that all branches of the security services are brought under accountable state control. As long as key security forces remain beyond effective state and public oversight, the human rights and political situation in the DRC is likely to worsen still further. It is essential that forces and units such as the *Garde Républicaine*, as well as other government and armed group forces that have not so far undergone integration are included in the SSR programme without further delay. Police reform should be taken forward by the early adoption of the relevant legislation and implementation of the recommendations of the Mixed Working Group on Police Reform (GMRRR). Reform of the intelligence services must also begin quickly, with an explicit objective to reduce the number of intelligence agencies operating in the DRC and to clarify the mandates and powers of those that remain. Equally important is to ensure that the security services emerge from the SSR programme with a genuine ethnic mix and balance, and that SSR enshrines human rights principles and safeguards, including extensive training programmes for all ranks in international human rights and humanitarian law.

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<sup>71</sup> *Loi No. 06/018 du 20 juillet 2006.*

Firm action is also needed to end impunity. Donor governments continue to devote considerable financial and technical resources to the SSR programme, yet reform that leads to genuine improvement in the conduct of the Congolese army, police and intelligence services is unlikely as long as no action is taken to bring to justice those suspected of involvement in human rights violations, including in the higher echelons of the security services. As one Congolese human rights activist commented when asked about his hopes for the introduction of a more accountable policing service in the DRC, “*C’est la même famille*” – It’s still the same family.

Amnesty International believes that international donors, as part of their continued engagement in the SSR programme, must insist that the DRC government immediately suspend from duty in the security services any individual against whom there are credible allegations of involvement in serious human rights abuses, until the allegations against them can be independently and impartially investigated. The DRC government, with international assistance, should also establish an independent vetting mechanism to exclude such individuals from entering the reformed security forces pending further investigation, although this should not delay suspension from duty and judicial action against those individuals already named by UN and other independent investigations. The international community should also support calls for further International Criminal Court (ICC) investigations and prosecutions for crimes committed in the DRC that fall within the ICC’s mandate.

Reform of the security services also needs to be accompanied by other measures, including especially the ending of military jurisdiction over civilians and the reinforcement of the civilian judicial system so that it is able to exercise effective control over detention centres and itself become fully capable of combating impunity for human rights violations. Urgent steps are also needed to empty the DRC prisons of political detainees and others who, according to Congolese law and international human rights standards, simply should not be there.

Efforts by the DRC parliament to investigate human rights violations by state agents, as it did in response to the killings in Bas-Congo province on 31 January and 1 February 2007, are also encouraging. Amnesty International urges parliament to establish an independent parliamentary human rights sub-commission to investigate and make recommendations on systemic human rights and justice issues.<sup>72</sup> Areas where parliamentary scrutiny would be particularly effective would be an examination of the question of political prisoners in DRC’s gaols and, in relation to the March 2007 fighting in Kinshasa, an examination of the failure by the state to protect civilian life and to prevent the use of disproportionate force by the security

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<sup>72</sup> Human rights sub-commissions, AI understands, have been created in some provincial parliamentary assemblies.

forces. In the interests of preventing a repeat of such incidents, any enquiry should focus on what, if any, instructions were given to the military and police units involved to prevent unnecessary loss of life and damage to property. Parliament should also press the government on the question of reparation, including compensation to the victims of human rights violations, including the March fighting.

## **RECOMMENDATIONS**

To the DRC GOVERNMENT

- A) Address detention-related violations
- Provide unrestricted and unhindered access to all detention facilities to national human rights NGOs and international human rights monitors.
  - Establish an independent national monitoring mechanism for all detention centres.
  - End incommunicado detention and ensure that detainees have access to lawyers, doctors and family members.
  - Ensure that all detainees are transferred promptly and in any case within 48 hours before a competent judicial authority to determine the legality of their arrest and detention.
  - Close all unofficial military, police and intelligence detention centres falling outside the supervision of a competent and legally-established judicial authority.
  - Demonstrate that arbitrary arrest and detention and acts of torture and other cruel, inhuman or degrading treatment or punishment will not be tolerated by prosecuting any individual suspected of having committed such acts.
- B) Address impunity
- Suspend from duty, investigate and if sufficient admissible evidence is found bring to trial individuals suspected of committing violations of human rights, including those documented in this report. This includes commanders who may have ordered, condoned or failed to take adequate measures to prevent such violations.
  - Launch an independent judicial investigation into allegations of disproportionate use of force, extrajudicial executions and other unlawful killings, acts of torture and other cruel, inhuman or degrading treatment and other serious human rights violations committed during and in the aftermath the March 2007 fighting in Kinshasa, by both government and DPP forces.
  - Take action to protect human rights defenders by publicly denouncing and investigating threats and other attacks against these activists.

- Ensure that victims of human rights violations have prompt and adequate reparation from the state including restitution, fair and financial compensation and appropriate medical care and rehabilitation.
  - Introduce an independent vetting mechanism to exclude from the reformed security services any individual against whom there are reasonable suspicions of having committed serious human rights violations, pending further independent judicial investigation.
- C) Strengthen the accountability of the security services
- Clarify and make public the mandates of all security services, especially the *Garde Républicaine* (GR), the DRGS “Special Services” police, the ANR and Military Intelligence, setting out their roles, responsibilities and limits to their powers.
  - Prioritize police reform, including by adopting and implementing the police reform bill as quickly as possible. Give priority, too, to the recruitment of more women police officers and the creation of specialist police units for child protection, witness protection, and the investigation of crimes of sexual violence and official corruption.
  - Instruct all security service officers in their lawful powers. No intelligence service officer should detain individuals accused of common criminal offences. No military or military judicial officer should make premeditated arrests of civilians. The absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, allowing for no exception under any circumstances, should be clearly stated in all disciplinary regulations and codes of conduct.
  - Bring the GR under effective state control and FARDC chain of command, ensuring that all GR units enter the army integration programme promptly. Reduce the GR substantially, confining its activities to clearly defined presidential protection duties.
  - Ensure that all remaining military forces, armed group forces and militia, including those loyal to Jean-Pierre Bemba and Laurent Nkunda, enter the official process of integration into the army or the demobilization (DDR) process without further delay.
  - Reduce the number of intelligence services. Bring their detention facilities under the control of the public judicial authorities or close them.
  - Introduce independent bodies, such as a police complaints commission or Ombudsperson, to investigate complaints against the security services, including allegations of human rights violations and failure by law enforcement agencies to investigate human rights abuses. Such bodies must be genuinely independent, have the powers and resources to conduct their own investigations, to require witnesses to appear, and be able to report publicly

- D) Uphold rights to prompt and fair trial
- Bring detainees to trial promptly before courts meeting international standards of minimum fairness and without recourse to the death penalty or release them pending trial.
  - Pending the necessary amendment of the military justice code, instruct all military jurisdictions to end trial of civilians and to transfer all such cases to civil jurisdictions.
  - Provide guarantees that the human rights of DPP members and their families currently being protected by MONUC in Kinshasa in the wake of the March fighting will not be violated. These individuals should either be released or, where the State considers it has sufficient admissible evidence to bring criminal charges against them, be brought promptly to trial in proceedings meeting international fair trial standards and excluding the possibility of death sentences.

**To the DRC GOVERNMENT AND PARLIAMENT**

- Ensure prompt passage and adoption of the police reform bill.
- Amend the military justice code to prohibit trial by military courts of civilians and of military personnel accused of non-military offences.
- Promptly enact legislation implementing the Rome Statute of the International Criminal Court, as recommended in Amnesty International's comments and recommendations on the draft legislation (AI Index: AFR 62/008/2004).
- Introduce legislation criminalizing acts of torture and other cruel, inhuman and degrading treatment or punishment. Legislation should also include a provision guaranteeing unrestricted, unannounced access by independent human rights monitors to all places of detention.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance at the earliest opportunity.
- Amend the Constitution to remove the police from military judicial jurisdiction.

**To the DRC PARLIAMENT**

- Conduct a national parliamentary enquiry into the March fighting in Kinshasa, focussing especially on whether adequate measures were taken by the authorities to protect civilians and prevent disproportionate use of force.
- Establish parliamentary human rights sub-commissions, at national and provincial levels, composed of genuinely independent persons, to enquire into human rights violations by the security forces, monitor judicial proceedings against perpetrators, formulate recommendations to the government and provide public reports of their enquiries and findings.

**To the INTERNATIONAL COMMUNITY**

- As part of continued donor support for and engagement in the DRC's Security Sector Reform programmes, insist that the DRC government addresses impunity, particularly among the senior command positions of the security forces.
- Support the creation of an independent vetting mechanism for the army, police and intelligence services, and assist the government in its design and implementation.
- Help provide the PNC with training in professional policing and human rights to enable them to deal with crowd control and civil disturbances in accordance with international standards.
- Urge the DRC government to bring all military forces, including the GR and armed group forces and militia loyal to Jean-Pierre Bemba and Laurent Nkunda, into the official national process of integration into the army or the demobilization (DDR) process without further delay.
- Support the introduction of genuinely independent national bodies, such as a police complaints commission or Ombudsperson, or parliamentary commissions, to investigate complaints against the security services, including allegations of human rights violations and failure by law enforcement agencies to investigate human rights abuses.



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**GLOSSARY OF ACRONYMS AND TERMS USED IN THIS REPORT**

AI	Amnesty International
AMP	<i>Alliance pour la Majorité Présidentielle</i> (Alliance for a Presidential Majority), coalition of political parties supporting Joseph Kabila's election as president and which forms the present government
ANR	<i>Agence Nationale de Renseignements</i> (National Intelligence Agency)
BDK	<i>Bunda Dia Kongo</i> (Association of the Kongo People), an ethno-political and religious movement based in Bas-Congo province
Camp Tshatshi	Main base and headquarters in Kinshasa of the <i>Garde Républicaine</i> (GR)
CCTV/ CKTV	<i>Canal Congo Télévision / Canal Kin Télévision</i> Jean-Pierre Bemba's TV channels
CPRK	<i>Centre Pénitentiaire et de Rééducation de Kinshasa</i> (Kinshasa Penitentiary and Reeducation Centre), Kinshasa's central prison
DPP	<i>Division de Protection Présidentielle</i> (Presidential Protection Division), the armed guard of opposition leader Jean-Pierre Bemba
DRC	Democratic Republic of Congo
DRGS	<i>Direction des renseignements généraux et services spéciaux de la police</i> (Police General Intelligence and Special Services Department), known commonly as the "Special Services" police,
ex-DEMIAP	Officially the <i>Etat-major des renseignements militaires</i> , (Military Intelligence Headquarters), ex-DEMIAP is the common term for the military intelligence service
ex-FAZ	<i>ex-Forces armées zairoises</i> (former Zairian Armed Forces), government army of former President Mobutu, many of whose members are now in exile in DRC's neighbour state, the Republic of Congo
FARDC	<i>Forces Armées de la République Démocratique du Congo</i> (DRC Armed Forces), the government army
GMRRR	<i>Groupe Mixte de Réflexion sur la Réforme et la Réorganisation de la Police Nationale Congolaise</i> (Mixed Working Group on Reform and Reorganization of Congolese National Police force) – a mixed national/international group of experts charged with examining the present condition of the PNC and making proposals for its reform
GR	<i>Garde Républicaine</i> (Republican Guard), Joseph Kabila's presidential guard
ICCPR	International Covenant on Civil and Political Rights
Kin-Mazière	DRGS "Special Services" police headquarters and detention centre in central Kinshasa
MLC	<i>Mouvement de Libération du Congo</i> (Congo Freedom Movement), political party of opposition leader Jean-Pierre Bemba
MONUC	<i>Mission de l'Organisation des Nations Unies en RD Congo</i> (UN Mission in the DRC), UN peacekeeping force
PNC	<i>Police Nationale Congolaise</i> , national police force

PPRD	<i>Parti du Peuple pour la Reconstruction et la Démocratie</i> (People's Party for Reconstruction and Democracy), President Joseph Kabila's political party. The core member party of the AMP.
SSR	Security Sector Reform, a national programme to integrate the former government and armed group forces into unified army, police and intelligence services
UN coalition	<i>Union pour la Nation</i> (Union for the Nation), coalition of political parties which supported Jean-Pierre Bemba in his bid for the presidency and which now forms the core of the parliamentary opposition (distinguished in the text from the <i>United Nations</i> )