

DEMOCRATIC REPUBLIC OF THE CONGO

2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Democratic Republic of the Congo (DRC) is a nominally centralized, constitutional republic. The president and the lower house of parliament (National Assembly) are popularly elected. Provincial assemblies choose the members of the upper house (Senate). In November 2011 the country held multi-party presidential and National Assembly elections, which many local and international observers characterized as lacking in credibility and seriously flawed. Authorities failed at times to maintain effective control over the security forces. Some security forces committed human rights abuses.

The conflict in the eastern part of the country, which intensified significantly in 2012, continued and challenged government control in the region. The conflict led to the displacement of large numbers of persons and significant human rights violations and abuses, including the recruitment and use of children by the 23 March Movement (M23) armed group.

The three most important human rights problems were: armed conflict in the East that exacerbated an already precarious human rights situation, particularly with regard to sexual- and gender-based violence (SGBV); lack of an independent and effective judiciary; and impunity throughout the country for many serious abuses, including unlawful killings, disappearances, torture, rapes, and arbitrary arrests and detention.

Other major human rights problems included: severe and life-threatening conditions in prison and detention facilities; prolonged pretrial detention; arbitrary interference with privacy, family, and home; abuse and obstruction of and threats against journalists, human rights advocates, and members of the political opposition by state security force (SSF) members; abuse of internally displaced persons (IDPs) by SSF and rebel and militia groups (RMGs); restrictions on the right to change the government peacefully; widespread corruption; SSF and RMG retention and recruitment of child soldiers; and use of forced civilian labor. Societal discrimination and abuse--particularly against women; children; persons with disabilities; ethnic minorities; indigenous persons; lesbian, gay, bisexual, and transgender (LGBT) persons; and persons with albinism, trafficking in persons, child labor, and lack of protection of worker rights also were major problems.

Despite continued modest improvements, impunity for human rights abuses remained a severe problem in the security services. Authorities did not prosecute or punish the majority of abusers.

RMGs, some of which were supported by foreign governments and militaries, committed violent abuses against civilians, particularly in North Kivu, South Kivu, Katanga, and Orientale provinces. The abuses--some of which may constitute war crimes--included unlawful killings, disappearances, torture, and SGBV. RMGs also recruited, abducted, and retained child soldiers and compelled forced labor. The Bakata Katanga rebel group recruited large numbers of children in Katanga Province. According to the UN Security Council Group of Experts on the DRC (UNGOE), RMGs and some army units engaged in the illegal exploitation of and trade in natural resources in the East. In a separate conflict in the Haut Uele and Bas Uele districts of Orientale Province, attacks by the Lord's Resistance Army (LRA) declined by more than 50 percent from 2012, although the LRA continued to commit serious human rights violations resulting in injuries, abductions, forced labor, looting, and general insecurity.

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

a. Arbitrary or Unlawful Deprivation of Life

On several occasions during the year, SSF members arbitrarily and unlawfully killed civilians, sometimes during apprehension or while holding them in custody. Military magistrates are responsible for the investigation and prosecution of all crimes committed by SSF members, whether or not committed in the line of duty.

On March 31, in the Tshilenge District of Kasai Oriental Province, a police officer killed a 46-year-old man who refused to give him 500 Congolese francs (\$0.54). The police officer was subsequently arrested and convicted of murder in a public trial in Tshilenge. The officer was imprisoned in Mbuji-Mayi at year's end.

Government agents, including the national army (FARDC), the National Police (PNC), and the intelligence service, as well as numerous RMGs, were responsible for killings, arbitrary arrests, temporary detentions, and the abduction and disappearance of many individuals.

Following clashes in August between FARDC soldiers and Front de Resistance Patriotique de l'Ituri combatants in South Irumu, Ituri District, and Orientale Province, the UN Joint Human Rights Office and other UN agencies reported

FARDC soldiers killed 10 civilian noncombatants, including two minors. RMGs in conflict zones committed unlawful killings (see section 1.g.).

b. Disappearance

There were reports of disappearances attributable to the SSF. Authorities often refused to acknowledge detentions of suspects and in some cases detained suspects in unofficial facilities.

For example, on February 19, FARDC soldiers abducted a woman affiliated with the People's Party for Reconstruction and Democracy (President Kabila's party) in Kinshasa, apparently for political reasons. Police opened an investigation into the disappearance but had not released information on the case by year's end.

RMGs – the M23 in particular – and some FARDC elements kidnapped numerous persons, generally for forced labor, military service, or sexual services. Many of these victims disappeared (see section 1.g.).

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

A 2011 law criminalizes torture, but several human rights organizations reported the SSF continued to torture civilians, particularly detainees and prisoners. For example, UN sources reported that personnel at a National Intelligence Agency (ANR) facility in Lubumbashi detained and tortured a suspected member of Bakata Katanga for three weeks in February and March. Authorities subsequently transferred the victim to a government prison with other suspected members of the Bakata Katanga group.

Government authorities sometimes took action against persons responsible for abuses. In February the Military Garrison Tribunal of Kananga, Kasai Occidental Province, sentenced two of four FARDC soldiers accused of the December 2012 torture of a woman in Katoka to fines and prison terms ranging from three to 10 years. The other two soldiers were released due to lack of evidence, and the two convicted soldiers filed appeals.

The government continued a campaign initiated in 2011 to educate SSF members and the population on the law criminalizing torture. In May the vice minister for human rights organized several awareness-raising events for participants from the national security and defense forces, the judiciary, and civil society.

On several occasions during the year, the SSF utilized cruel, inhuman, or degrading methods of punishment. For example, on July 18, authorities arrested Lieutenant Solomo Bangala of the 391st FARDC Battalion for the desecration of enemy corpses. No additional information on the case was available at year's end. On July 19, government spokesperson Lambert Mende confirmed FARDC elements desecrated the remains of fallen M23 fighters. There were continuing reports, including many from the UN's Joint Human Rights Office, of members of the SSF and RMGs raping civilians, both in the conflict zone in the East (see section 1.g.) and elsewhere.

Prison and Detention Center Conditions

Conditions in most prisons throughout the country remained harsh and life threatening. Serious threats to life and health were widespread and included violence (particularly rape), food shortages, and inadequate potable water, space, sanitation, ventilation, temperature control, lighting, and medical care. Most prisons were overcrowded, understaffed, undersupplied, and poorly maintained.

Even harsher conditions prevailed in small detention centers, which were often used for lengthy incarceration.

Physical Conditions: According to a joint prison coordination committee, which is composed of representatives from the Ministry of Justice, the Ministry of Defense, and the UN Stabilization Mission in the DRC (MONUSCO), the number of persons in pretrial detention in 2010 exceeded 18,000, including an estimated 500 women. The reported total number of sentenced prisoners did not exceed 4,000, including approximately 100 women. Facilities were severely overcrowded. For example, in September 2012 the Makala Central Prison in Kinshasa held 6,078 detainees, four times its capacity of 1,500. The Goma Central Prison held 1,208 detainees, eight times its capacity of 150. At the Bukavu Central Prison, more than 220 men slept in a room the size of a shipping container, on metal sheets without mattresses and with little ventilation.

Men and women generally were confined in separate areas, but juveniles frequently were held with adults, and pretrial detainees rarely were separated from convicted prisoners.

The United Nations reported that 211 inmates died in detention from starvation, illness, and mistreatment by detention center authorities between January 2010 and December 2012. Authorities often arbitrarily beat or tortured detainees.

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

Administration: Recordkeeping on detainees was inadequate and irregular. Some prison directors could only estimate the numbers of detainees in their facilities. The law does not provide for alternatives to incarceration for nonviolent offenders. There were no ombudsmen available to respond to complaints. Authorities denied some inmates access to visitors and often did not permit them to contact or submit complaints to judicial authorities. Directors and staff generally ran prisons for profit, selling sleeping arrangements to the highest bidder and requiring payment for family visits to prisoners. There were no reports of authorities preventing prisoners or detainees from practicing their religion.

Independent Monitoring: The government regularly allowed the International Committee of the Red Cross, MONUSCO, and nongovernmental organizations (NGOs) access to official detention facilities. It did not, however, allow these organizations access to extralegal government-run detention facilities.

Improvements: On January 28, the government enacted a decree creating local management committees to oversee the budgets of provincial prisons and detention camps, in particular to provide for transparency in the management of funds allocated for feeding detainees.

Government-conducted audits of prison facilities and prison management began in 2012 and continued during the year. As a result a number of civil servants, including several prison directors and senior government officials, were arrested for the misappropriation of funds. For example, on February 1, the Mbandaka tribunal convicted the acting director of Mbandaka Central Prison – who was arrested in August 2012 – of misappropriation of public funds and sentenced him to two years' forced labor and a fine of seven million Congolese francs (\$7,600).

In an attempt to relieve overcrowding, the government issued an August 31 decree ordering the release of 1,205 convicted prisoners (approximately 5 percent of the total prison population). Authorities released prisoners convicted of minor infractions who had served at least three-quarters of their sentences and had not posed disciplinary problems.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest or detention, but the SSF routinely arrested and detained persons arbitrarily.

Role of the Police and Security Apparatus

The PNC operates under the Ministry of Interior and has primary responsibility for law enforcement and public order. The PNC includes the Rapid Intervention Police and the Integrated Police Unit. The ANR, overseen by the president's national security adviser, is responsible for internal and external intelligence. The FARDC and the military intelligence service operate under the control of the Ministry of Defense and primarily are responsible for external security but also fulfill an internal security role. The presidency oversees the Republican Guard (RG), and the minister of interior oversees the Direction Generale de Migration, which is responsible for border control.

Elements of the SSF were undisciplined and corrupt. The FARDC suffered from weak command and control, poor operational planning, low administrative and logistical capacity, lack of training, and the questionable loyalty of some of its soldiers, particularly those in the East. PNC and FARDC units throughout the country regularly engaged in illegal taxation and extortion of civilians. They set up checkpoints to collect "taxes," often stealing food and money and arresting individuals who could not pay bribes.

In November the PNC and elements of the military police conducted Operation Likofi, a nationwide operation to combat organized banditry, which terrorized the public. In Kinshasa, 669 individuals were arrested and 349 were sent to pretrial detention. Of 28 minors arrested, the PNC referred 23 to juvenile courts and released five. Five police were also arrested on charges related to the operation, but no information on the nature of the charges or disposition of their cases was available at year's end. There were reports from the United Nations and NGOs of extrajudicial security force killings, sometimes involving children.

Impunity was a serious problem. Some mechanisms existed to investigate SSF abuses and address internal discipline problems, and the government increasingly used these mechanisms to prosecute and discipline security force personnel for abusing civilians. For example, on September 3, the Bukavu military court convicted and sentenced FARDC officers for murder and rape committed in Fizi and Mwenga territories. Sentences ranged from five to 20 years' imprisonment. Magistrates, prosecutors, and investigators were poorly trained and had few or no resources for investigations. The government updated the Judicial Code during the

year and distributed 1,500 copies and electronic versions to magistrates and bar associations across the country, but incomplete dissemination impeded effective court operations. The military justice system often was subjected to political and command interference, and security arrangements for magistrates in areas affected by conflict were inadequate.

Justice mechanisms particularly were ineffective at addressing misconduct by mid- and high-ranking officials. For example, the FARDC general headquarters recalled Colonel Richard Bisamaza, commander of the 807th regiment and the interim commander of the FARDC's 81st military sector in Beni, to Kinshasa to investigate allegations of disloyalty and waste of ammunition. Upon being summoned to Kinshasa, he defected from the FARDC, presumably to the M23. On September 3, Bisamaza and 11 other deserters were arrested by the Ugandan Army in Uganda.

In June the government presented a revision of the 2009 military reform plan that focused on urgent 12-month reforms but included the original 10-year goals as well. The plan also envisioned restructuring the FARDC and creating rapid reaction brigades to replace MONUSCO's Intervention Brigade. The reform plan requires the adoption of four pieces of legislation, three of which were promulgated during the year.

The government continued to maintain human rights committees with MONUSCO in several provinces. While there was some variation across provinces, the committees generally were composed of military and police officers, judicial authorities, military prosecutors, MONUSCO human rights officers, and MONUSCO child protection officers. Committees met at regular intervals, generally monthly, to monitor, investigate, and develop strategies to combat human rights abuses. According to some observers, the committees produced weak results overall.

Arrest Procedures and Treatment of Detainees

By law arrests for offenses punishable by more than six months' imprisonment require warrants. Detainees must appear before a magistrate within 48 hours. Authorities must inform those arrested of their rights and the reason(s) for their arrest, and they may not arrest a family member instead of the individual being sought. Authorities must allow arrested individuals to contact their families and consult with attorneys. Local NGOs reported that security officials routinely violated all of these requirements. Many detainees were not granted court hearings

within the required 48 hours. While the law provides for a bail system, it generally did not function. Detainees who were unable to pay rarely were able to access legal counsel. Authorities often held suspects incommunicado, including in facilities run by the ANR and the RG, and refused to acknowledge these detentions.

Arbitrary Arrest: Security personnel sometimes arrested and detained perceived opponents and critics of the government, occasionally under the pretext of state security, and often denied due process, such as access to an attorney (see sections 1.a., 2.a., and 5). For example, in May the PNC arbitrarily arrested five individuals in Nyamilima, Rutshuru Territory, North Kivu, reportedly on the orders of Popular Front for Democracy Mai-Mai combatants. They were later abducted from their prison cells by members of the Auto-Defense Movement Mai-Mai group.

Police sometimes arbitrarily arrested and detained persons without filing charges to extort money from family members or because administrative systems were not well established.

According to the Congolese Association for Justice, the Military Detection of Anti-Patriotic Activities agency arbitrarily arrested individuals and subjected them to prolonged arbitrary detention.

Pretrial Detention: Prolonged pretrial detention, often ranging from months to years, remained a problem. Judicial inefficiency, administrative obstacles, corruption, financial constraints, and staff shortages caused trial delays. Prison officials often held individuals longer than their sentences due to disorganization, inadequate records, judicial inefficiency, or corruption. Prisoners unable to pay their fines remained indefinitely in prison.

e. Denial of Fair Public Trial

Although the law provides for an independent judiciary, the judiciary was corrupt and subject to influence. The government instituted a salary payment system for civil servants during the year and paid salaries more regularly, yet judges often remained subject to influence and coercion by officials and other influential individuals. A shortage of judges hindered the government's ability to provide expeditious trials, and judges occasionally refused to be transferred to remote areas of the country where shortages were most acute. Authorities routinely did not respect court orders. Disciplinary boards created under the High Council of Magistrates continued to rule on numerous cases of corruption and malpractice

each month. Many of these rulings included the firing, suspension, or fining of judges and magistrates.

Trial Procedures

The constitution provides for a presumption of innocence, but authorities assumed most defendants were guilty unless they could prove their innocence. Authorities are required to inform defendants promptly and in detail of the charges against them, with free interpretation as necessary. The public may attend trials at the discretion of the presiding judge. Defendants have the right to a trial within 15 days of being charged. This time period may be extended to a maximum of 45 days. Authorities only occasionally abided by this requirement. Counsel is not required to be provided in most cases, with the exception of murder trials. While the government regularly provided free legal counsel to indigent defendants in capital cases, lawyers often did not have adequate access to their clients. During trials defendants have the right to be present and to be represented by a defense attorney. These rights were occasionally disregarded. Adequate time was generally provided to prepare a defense. The country does not use a jury system. The law requires that defendants have access to government-held evidence, but this right was irregularly observed. Defendants have the right to confront witnesses against them and to present evidence and witnesses in their own defense but did not regularly do so. Witnesses often were reluctant to testify due to fear of retaliation. Defendants are not compelled to testify or confess guilt. Defendants have the right to appeal, except in cases involving national security, armed robbery, and smuggling, which the Court of State Security usually adjudicates.

Political Prisoners and Detainees

There were reports of political prisoners and detainees. The NGO Voix des Sans-Voix reported 213 political detainees, approximately the same number as in 2011. While the government permitted access to some of these prisoners by international human rights organization and MONUSCO representatives, authorities consistently denied access to detention facilities run by the RG and the ANR (see section 1.c.).

On April 8, police arrested Eugene Diomi, a former national deputy in the National Assembly, and charged him with the repeated rape of two minor girls. He was arrested on the same charges in June 2012 and claimed he was abducted by the ANR and detained secretly until October 2012, when he was released due to pressure from France. According to the government, Diomi disappeared

voluntarily to escape prosecution. Diomi claimed the government targeted him as an outspoken member of the opposition after he boycotted parliamentary debates in 2011 to protest presidential election results, a claim supported by local human rights NGOs. Diomi remained in prison awaiting trial at year's end, despite three Supreme Court orders to hold him under house arrest. The National Assembly waived Diomi's immunities and privileges on January 8, and his mandate was invalidated on June 15 due to his prolonged absence from parliament.

Civil Judicial Procedures and Remedies

Individuals may seek civil remedies for human rights violations within the civil court system. Most individuals, however, preferred to seek redress in the criminal courts and rarely utilized civil courts to address human rights violations.

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

Although the law prohibits arbitrary interference with privacy, family, home, or correspondence, the SSF routinely ignored these provisions. The SSF harassed and robbed civilians, entered and searched homes and vehicles without warrants, and looted homes, businesses, and schools. For example, after clashes between the FARDC and the Alliance des Patriotes pour un Congo Libre et Souverain (APCLS) in February and March, FARDC elements looted, burned homes, and destroyed property in Kitchanga. Both the governor of North Kivu and the military opened investigations into these incidents. Many SSF members responsible for abuses remained unidentified and unpunished.

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

Both local and foreign-influenced conflicts continued in mineral-rich parts of the East, particularly in North Kivu and South Kivu, Katanga, and the Bas Uele, Haut Uele, and Ituri districts of Orientale Province. Conflict continued between government and M23 forces in Rutshuru and Nyiragongo territories in North Kivu. An SSF focus on North Kivu created a security vacuum in areas from which FARDC elements had withdrawn. The M23 continued to receive external support from Rwanda.

Foreign RMGs--including Forces Democratiques de Liberation du Rwanda (FDLR), Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU), and the LRA; indigenous RMGs that were supported by foreign governments, such as the M23; and some Mai-Mai (local militia) groups--

increasingly formed loose coalitions during the year and continued to battle government forces and each other, and to attack civilian populations. Alliances frequently changed among local militias in apparent attempts to profit from a dynamic situation. Many Mai-Mai groups took advantage of the security vacuum resulting from the SSF focus on the M23. The fighting in the East exacerbated an already severe humanitarian crisis by impeding humanitarian aid and development assistance in some areas and increasing the total number of displaced persons in the country to more than 2.7 million by October.

There were credible reports the following armed groups perpetrated serious human rights abuses in the country during the year: APCLS; ADF/NALU; Bakata Katanga; Coalition of Ituri Armed Groups; FDLR; Forces Nationales de Liberation; Forces de la Defense Congolaise; Forces de Resistance Patriotique d'Ituri; LRA; M23; Nyatura; Patriotes Resistants Congolaise; Raia Mutomboki; and the following Mai-Mai groups: Cheka, Gedeon, Kifuafua, Morgan/Simba/Lumumba/Manu/Luc, Pareco, Shetani, and Yakutumba.

While the number of LRA incidents decreased, the LRA continued to commit serious abuses. The UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that as of October, there were 112 LRA attacks, 26 related deaths, and 81 abductions.

MONUSCO continued to assist the government in seeking to establish and maintain peace and security, particularly in the East. In March the UN Security Council extended MONUSCO's mandate for 12 months and created an intervention brigade to neutralize armed groups. At year's end MONUSCO was comprised of approximately 19,000 peacekeepers, military observers, and police.

Killings: According to reports by UN agencies and NGOs, the SSF summarily executed or otherwise killed civilians. The UNGOE reported fighting between the FARDC and the APCLS in February and March in Kitchanga resulted in at least 90 deaths. According to the UNGOE, FARDC Colonel Mudahunga issued orders to attack civilians in Kitchanga, targeting ethnic Hundes in particular.

The United Nations reported that from August to September, FARDC forces summarily executed at least 19 civilians, raped at least five women, and pillaged the Ituri district of Orientale Province. Evidence suggested civilians were targeted for their perceived collaboration with RMGs.

Human Rights Watch reported M23 rebels summarily executed at least 44 persons and raped at least 61 women and girls between March and early July.

Abductions: UN agencies and NGOs reported RMGs and some SSF units abducted individuals. Generally, individuals were abducted to serve as porters, guides, or in some other capacity.

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

Physical Abuse, Punishment, and Torture: UN agencies and NGOs also reported the SSF arrested, illegally detained, raped, and tortured civilians.

Investigation continued into the November 2012 killings, rapes, and pillaging in and around the town of Minova, South Kivu. The United Nations reported at least 126 women and girls were raped in the incident. Eleven individuals were arrested, including two for rape. In November the Military Operational Court in North Kivu began the trial of 39 FARDC officers, including four lieutenant colonels, on charges of rape, pillage, and murder in Minova and its environs. The trial continued at year's end.

RMGs committed abuses in rural areas of North Kivu, South Kivu, Katanga, and Orientale – killing, raping, and torturing civilians. Increasingly during the year, RMGs forcibly recruited individuals, including children, to serve as porters, guides, and combatants. In certain areas in the East, RMGs looted, extorted, and illegally taxed and detained civilians, often for ransom. For example, the United Nations reported Mai-Mai Simba/Lumumba, led by Paul Sadala (aka Morgan), abducted 31 women and girls in Mambasa Territory, Orientale Province, and raped them during a three-week period in February. No progress was made in the investigation into the June 2012 attack on the Okapi Wildlife Reserve in Mambasa Territory. In this attack Sadala and the Mai-Mai Simba/Lumumba reportedly killed at least six civilians and six wardens, raped at least 51 women and girls, and abducted more than 100 individuals, who were forced to be porters or in the case of 22 women, sex slaves. Despite an arrest warrant, Sadala remained at large at year's end.

During the year men, women, and minors were raped as part of the violence among RMGs and between them and the FARDC. Statistics for rape, especially rape of males, were difficult to compile.

Child Soldiers: The recruitment and use of children in North Kivu, South Kivu, Katanga, and Orientale provinces by RMGs and the FARDC continued, particularly within poorly integrated elements or among FARDC units outside of central government control. The government took steps to reduce and limit the use of child soldiers, including by partial implementation of the UN-backed Action Plan to end the recruitment and use of child soldiers, by starting awareness campaigns for FARDC personnel, and by working with partner organizations to develop training programs to prevent child recruitment. In addition FARDC commanders increased efforts to remove child soldiers. In multiple instances incoming FARDC commanders requested assistance from MONUSCO, the UN Children's Fund (UNICEF), or other humanitarian organizations and transferred children to their care.

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

Other Conflict-related Abuses: Fighting between the FARDC and RMGs continued to displace populations and limit humanitarian access, particularly in Rutshuru and Nyiragongo territories in North Kivu. According to OCHA, as of October there were 177 security incidents involving humanitarian agency personnel.

In North Kivu and South Kivu, RMGs and elements of the FARDC continued to illegally exploit and trade natural resources for revenue and power. Clandestine trade in minerals and other natural resources facilitated the purchase of weapons and reduced government revenues. The natural resources most exploited were the minerals cassiterite (tin ore), coltan (tantalum ore), wolframite (tungsten ore), and gold, followed by timber, charcoal, and fish. According to the media and civil society, the LRA trafficked in elephant ivory from Garamba National Park to finance its operations, likely by smuggling ivory through the Central African Republic and South Sudan to China.

The illegal trade in minerals was both a symptom and cause of the conflict in the Kivu provinces. Despite enhanced government regulation of the mining and trade of cassiterite and coltan, however, little legal exportation from North Kivu and South Kivu took place during the year. RMGs continued to control and threaten remote mining areas in North Kivu and South Kivu. The M23 and other armed groups imposed illegal taxation on trade in parts of North Kivu.

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

The UNGOE again reported several RMGs, Raia Mutomboki in particular, profited from illegal trade and exploitation in the mineral sector. The UNGOE also reported smuggling of minerals continued within the East of the country and from there to Rwanda, Uganda, and Burundi. Some SSF units reportedly profited from the trade in gold and were complicit in smuggling minerals.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and press. Generally, individuals could criticize the government, its officials, and other citizens in private without being subject to official reprisals. Public criticism, however, of government officials and government conduct or decisions regarding matters such as conflict and insurgencies, management of natural resources, and corruption sometimes resulted in harsh responses, often from the ANR, and, less frequently, from provincial authorities. Certain regulating bodies restricted freedom of the press and intimidated journalists and publishers into practicing self-censorship.

Freedom of Speech: The law prohibits insulting the head of state, malicious and public slander, and language presumed to threaten national security. Journalists, activists, and politicians sometimes were detained when they publicly criticized the government or the SSF.

For example, after appearing on a radio program in Goma on August 11, national deputy Muhindo Nzangi of the Social Movement for the Republic party was arrested and charged with insulting the president and threatening national security. On August 13, after a brief trial, the Supreme Court found Nzangi guilty of threatening national security and sentenced him to three years in prison. The court

found Nzangi innocent, however, of insulting the president, a charge that carries a sentence of 20 years.

Press Freedoms: The High Council for the Audiovisual and Communications (CSAC) is mandated to provide for freedom and protection of the press and equal access to communications media and information for political parties, associations, and citizens. Media, human rights, and other organizations regularly questioned the CSAC's power, independence, neutrality, and capacity to function effectively.

A large and active private press (both pro- and anti-government) functioned throughout the country, and the government licensed a large number of daily newspapers. According to the Ministry of Communications, 134 television stations, 463 radio stations, and 445 newspapers were registered in 2012. Only two media outlets had quasi-national coverage. The government required newspapers to pay a one-time license fee of 250,000 Congolese francs (\$270) and complete several administrative requirements before publishing. Many journalists lacked professional training, received little or no set salary, and worked for individuals, government officials, and politicians who paid for specific articles.

Radio remained the principal medium of public information due to limited literacy and the relatively high cost of newspapers and television. The state owned three radio stations and three television stations, and the president's family owned two television stations. The majority of media outlets were owned or operated by government officials, politicians, and, to a lesser extent, church leaders.

In 2010 government authorities added a provision in foreign journalists' letters of accreditation that applied the military code of justice (concerning criminal penalties, including imprisonment) to them. In response foreign journalists expressed concern about their ability to report on sensitive subjects, such as the conflict in the East and corruption. At year's end there were no known cases in which this policy was applied.

Violence and Harassment: In June 2012 the CSAC issued a directive urging journalists to report responsibly on the conflict in the East and to commit to promoting national unity. The directive warned media organizations whose reports might be construed as attempts to demoralize the military or the population that they could face charges of treason. While the order primarily was directed at deterring hate speech and ethnic attacks (which are illegal under both the 1996 law on the press and the 2011 law that established the CSAC), many journalists

considered the order an indirect way to undermine the ability of independent media to report on the conflict.

The SSF beat, arbitrarily arrested, harassed, and intimidated local journalists because of their reporting. No journalists were killed or disappeared during the year, however. According to Journaliste en Danger (JED), 18 journalists were assaulted and 21 were threatened or harassed during the year. JED reported a decrease in press freedom violations from 175 in 2012 to 119 in 2013. Other incidents included detentions or questioning of journalists and efforts to subject them to administrative, judicial, or economic pressure or to interpose obstacles to the free circulation of information. At year's end no perpetrators of press freedom violations had been punished.

Censorship or Content Restrictions: While the CSAC is the only institution with legal authority to restrict broadcasts, the government, including SSF and provincial officials, also exercised this power.

Libel Laws/National Security: The national and provincial governments continued to use criminal defamation laws to intimidate and punish those critical of the government.

Nongovernmental Impact: RMGs and their political wings regularly restricted press freedom in the areas in which they operated.

Internet Freedom

There were no government restrictions on access to the internet or credible reports the government monitored e-mail or internet chat rooms without appropriate legal authority. The law stipulates bloggers must obtain CSAC authorization. At year's end the CSAC had not refused authorization to any bloggers. Private entrepreneurs made internet access available at moderate prices through internet cafes in large cities throughout the country. Data-enabled mobile telephones were an increasingly popular way to access the internet. According to the International Telecommunication Union, 1.7 percent of individuals used the internet in 2012.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of peaceful assembly, but the government sometimes restricted this right. The government requires organizers of public events to register with local authorities in advance. If authorities deny authorization, they must do so in writing within five days of registration. The SSF occasionally beat, detained, or arrested participants in unauthorized protests, marches, or meetings.

Authorities sometimes denied permission for demonstrations by opposition parties and civil society groups and arrested protest leaders. For example, on March 25 and April 2, authorities arrested 12 members of the Association for the Defense of the Interests of Bandundu after they announced a planned march to criticize Governor Jean Kamisendu. The 12 individuals were sentenced to 20 years in prison for “tribalism,” attempted escape, and criminal conspiracy. The Appeals Court reduced the sentences to between five and 12 months, and on August 24, three of the 12 individuals were released after five months’ incarceration. On October 9, the remaining nine individuals were released following payment of approximately 450,000 Congolese francs (\$500) each. On April 19, the judge who presided over the case was suspended. He was reinstated in June and reappointed to the commercial court in Lubumbashi.

Freedom of Association

The constitution provides for freedom of association. The government generally respected this right.

c. Freedom of Religion

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

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

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

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

Local authorities continued to collect illegal taxes and fees for boats to travel on many parts of the Congo River. There also were widespread reports of FARDC soldiers and RMG combatants extorting fees from persons taking goods to market or traveling between towns (see section 1.g.).

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

Foreign Travel: As a result of inadequate administrative systems, passport issuance often was irregular. Officials regularly accepted bribes to expedite passport issuance.

Internally Displaced Persons (IDPs)

Due to heightened conflict in the East, the number of IDPs increased in September to more than 2.7 million throughout the country, according to the Office of the UN High Commissioner for Refugees (UNHCR). According to OCHA, 88 percent of the country's IDPs cited armed conflict as the primary cause of their displacement. Approximately 59 percent of the country's IDPs were located in North and South Kivu. Displacement also remained a problem in Orientale, Equateur, Katanga, and Maniema provinces. The government was unable to protect or assist IDPs adequately. The government generally allowed domestic and international humanitarian organizations to provide assistance to IDPs. Fighting and a general lack of security impeded humanitarian efforts.

As of September approximately 400,000 IDPs lived at 37 sites and 31 camps managed by international NGOs and coordinated by the UNHCR. Those residing outside camps stayed with host families, friends, or relatives; found shelter in schools or other buildings; or took refuge in forests. According to OCHA, 77 percent of IDPs lived with host families as of September.

Some IDPs were victims of abuse, including sexual exploitation of women and children, abduction, forced conscription, looting, illegal taxation, and general harassment by combatants and other civilians. For example, in South Kivu, the UNHCR and its partners documented 3,405 protection incidents between January and April. These incidents included administrative impediments by government institutions, illegal taxation, rape, killing, and looting. Insecurity also directly affected IDP populations living in camps around Goma. In August shelling close to the Mugunga III camp caused panic among the more than 13,000 inhabitants, mostly women and children, and injured six individuals.

Protection of Refugees

As of October 31, the UNHCR reported 202,200 refugees in the country from seven adjacent countries, the majority from Rwanda and an increased number from the Central African Republic. In addition there were 438,869 Congolese refugees recorded as residing in other African countries, the majority of whom were in Uganda, the Republic of the Congo, Rwanda, Tanzania, and Burundi.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government established a rudimentary system for providing protection to refugees. The system granted refugee and asylum status and provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government cooperated with the UNHCR and other humanitarian organizations assisting refugees and asylum seekers with welfare and safety needs. The government provided assistance in the safe, voluntary return of refugees to their homes by allowing their entry into the country and facilitating immigration processing. In establishing security mechanisms, government authorities did not treat refugees differently than citizens.

Durable Solutions: Through the application of the cessation clauses of the 1951 Convention and the 1969 Organization of African Unity Convention, Angolans who fled the Angolan civil war (which ended in 2002) ceased to be refugees in June 2012. With the UNHCR, the Angolan and Congolese governments continued to determine the modalities of return for 22,000 individuals who wished to return to Angola as well as the mechanisms for local integration into the DRC for 48,000 other individuals.

The UNHCR recommended invocation of the cessation clause – effective June 30 – for Rwandan refugees who fled Rwanda before December 31, 1998. As of October the government declined to implement the clause, but, at their third tripartite meeting held June 20-21 in Kigali, the governments of the DRC and Rwanda and the UNHCR agreed to continue to work towards its application for Rwandan refugees residing in the country. As of April 30, a total of 2,031 refugees had returned voluntarily to Rwanda. As of that same date, approximately 25,822 refugees voluntarily returned to the DRC from the Republic of the Congo, and 283 returned from Burundi.

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

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

The constitution provides citizens the right to change their government peacefully, but the right was restricted.

Elections and Political Participation

Recent Elections: Presidential and parliamentary elections were held in 2011, and Joseph Kabila was declared the winner of the presidential election. Several international observer missions stated the results of the elections “lacked credibility,” due largely to irregularities and a lack of transparency in the vote tabulation process. NGOs, including Human Rights Watch, reported security forces killed or arbitrarily detained dozens of citizens prior to the voting. The election results for approximately 340 of the 500 parliamentary seats were contested at the Supreme Court. Many of the cases reportedly had little merit. In April 2012 the Supreme Court certified the results of 482 parliamentary electoral contests.

On April 16, President Kabila promulgated a bill establishing a new Independent National Election Commission responsible for the planning, implementation, and oversight of local, provincial, and national elections. By year’s end a date for provincial and local elections, originally scheduled for early 2012, was not rescheduled.

Political Parties: The law on the status and rights of the political opposition recognizes opposition parties represented as well as those not represented in

parliament. The law also details the various “sacred” rights and obligations of opposition parties. Although political parties were able to operate most of the time without restriction or outside interference, opposition members were sometimes arbitrarily arrested, harassed, and prevented from holding public rallies.

Participation of Women and Minorities: Women held approximately 10 percent of the seats in the National Assembly (50 of 493) and 6 percent in the provincial assemblies (43 of 690). Four of 108 senators were women. Among the 37 government ministers and vice ministers, six were women, a significant proportional increase in women from that of the government formed in 2012 (from 9 percent to 16 percent).

The country is home to 18 ethnic groups and more than 480 tribes. Some groups, including Pygmies, were not represented in the Senate, the National Assembly, or provincial assemblies. This lack of universal representation of tribes may result from the vast number of tribes but may also reflect societal discrimination. The enslavement of and discrimination against Pygmies continued in some areas, such as Equateur and Orientale provinces, and contributed to their lack of political participation (see section 5).

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

Corruption: On October 25, the ANR arrested Ludjwera Birindwa, chief executive officer of the state-owned petroleum company Cohydro, on charges of embezzlement. Birindwa allegedly embezzled \$10 million allocated to pay for a shipment of oil from a South African company, Labolhano Trading Investment.

Weak financial controls and a poorly functioning judicial system encouraged officials to engage in corruption with impunity. In an effort to combat corruption, the government sometimes suspended officials for the misuse of funds, including donor funds for the national immunization program. The government also initiated a program to pay many civil servants and security forces in major cities by direct deposit, eliminating an important means of graft. Previously the government utilized a cascading cash payment system in which salaries were disbursed to senior officials for payment to subordinate officials who in turn paid their staffs.

Corruption remained endemic throughout the government and the SSF. Bribery was routine in public and private business transactions, especially in the areas of government procurement, dispute settlement, administration of justice, mining, land ownership, and taxation.

The government has a watchdog agency for the enforcement of the code of professional ethics for civil servants. The Court of Accounts and the NGO Congolese Anti-Corruption League worked closely on corruption matters. The Ministry of Justice and Human Rights has an internal anticorruption team. According to a high-level internal source, this structure lacked independence and, therefore, the power to fight corruption.

The law criminalizes money laundering and terrorist financing. Limited resources and a weak judicial system hampered the ability of the Financial Intelligence Unit to enforce anti-money-laundering regulations. Furthermore, local institutions and personnel lacked the training and capacity to enforce the law and its attendant regulations fully.

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

Whistleblower Protection: No law exists to provide protection to public and private employees for making internal disclosures or lawful public disclosures of evidence of illegality.

Financial Disclosure: The law requires the president and ministers to disclose their assets to a government committee. President Kabila and all ministers and vice ministers reportedly did so during the year. The information was not made public.

Public Access to Information: The law does not provide for public access to government-held information. The government did not grant access either to citizens or noncitizens, including foreign media.

Illicit Trade in Natural Resources: Reports, including a UNGOE report, indicated the mining sector continued to lose millions of dollars because of corruption by officials at all levels. Additional revenue losses were due to illegal exploitation of minerals in the East by the FARDC, and to a greater extent, illegal exploitation by RMGs (see section 1.g.).

The International Monetary Fund (IMF) raised concerns about the lack of transparency of mining contracts entered into by the state-owned mining company Gecamines. The IMF and the World Bank noted Gecamines appeared to be concluding the sale of public assets without adherence to transparency principles. The IMF allowed its Extended Credit Facility program to expire without successful conclusion because the government failed to publish the terms of a controversial mining contract and did not adhere to the New York convention on arbitration.

In 2008 the country was accepted as a candidate in the Extractive Industries Transparency Initiative (EITI), an international voluntary initiative designed to increase transparency in transactions between governments and companies in the extractive industries. Despite being an EITI candidate, fiscal evasion remained rampant in the country's extractive industries. On April 18, the international EITI Board suspended the country's candidacy for failure to meet its requirements for full disclosure and reliability of figures. The EITI chair noted, "The DRC still receives shockingly little for its mineral resources." The government had until year's end to submit a certified EITI report for 2011. Failure to do so risked the country's removal from the program.

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

Elements of the SSF continued to harass, beat, intimidate, and arbitrarily arrest and detain domestic human rights advocates and domestic NGO workers, particularly when the NGOs reported on or supported victims of abuses by the SSF or reported on the illegal exploitation of natural resources in the East. Officials from the Ministry of Justice and Human Rights met with domestic NGOs and sometimes responded to their inquiries.

In September the PNC allegedly arrested a human rights activist and radio station director in Kayna, Lubero Territory, North Kivu. The human rights activist was found tied to a tree in the bush four days after being abducted. Also in September the FDLR/Forces Combattantes Abacunguzi allegedly abducted a human rights worker in Miriki, Lubero Territory, North Kivu.

UN and Other International Bodies: The government generally allowed the United Nations and international NGOs access to conflict zones, permitted many UN human rights officers to investigate abuses, and invited UN special rapporteurs and representatives to visit the country to assess the human rights situation and provide

technical assistance. In contrast to 2012, the United Nations did not report any incidents of obstruction of UN human rights monitors and special rapporteurs.

Human rights activists and humanitarian aid workers who operated in unstable environments where RMGs were actively engaged were sometimes attacked. OCHA documented 123 incidents (almost 60 percent of all such incidents) against humanitarian workers during the year in North Kivu. Authorities denied humanitarian agencies access to prisons run by the ANR and the RG (see section 1.g.).

The government cooperated with the International Criminal Court (ICC). On March 23, Bosco Ntaganda--who was subject to two arrest warrants for crimes against humanity, including murder, rape, and persecution, in Ituri, Orientale Province--surrendered in Kigali and was transferred to the ICC shortly thereafter.

Government Human Rights Bodies: An interministerial human rights committee met on an *ad hoc* basis to address high-profile problems, but its effectiveness was limited. On March 21, President Kabila promulgated a law to create a human rights commission. Since its members are to be determined by the government, observers raised questions about the independence of the commission, which had not been established by year's end. In an October 23 speech, President Kabila called on the legislature to fund the commission adequately.

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

The constitution prohibits discrimination based on race, ethnicity, gender, language, culture, or religion but does not address disability or sexual orientation. The government did not enforce prohibitions against discrimination effectively.

Women

Rape and Domestic Violence: The law on sexual violence criminalizes rape, but the government did not effectively enforce this law, and rape was common throughout the country. The law defines rape to include male survivors, sexual slavery, sexual harassment, forced pregnancy, and other sexual crimes but not spousal rape. It also prohibits compromise fines and forced marriage, allows survivors of sexual violence to waive appearance in court, and permits closed hearings to protect confidentiality. The minimum penalty prescribed for rape is a prison sentence of five years.

The SSF, RMGs, and civilians perpetrated widespread sexual violence (see section 1.g.). Between December 2010 and November 2011, the United Nations reported a total of 625 cases of sexual violence perpetrated by parties to the conflict in North Kivu, South Kivu, and Orientale provinces. Of these, 602 were against women and girls and 23 against men and boys. The United Nations reported almost half of the incidents were attributed to the FARDC and the PNC, noting this high proportion could be explained by the greater access human rights monitors had to areas under SSF control. Separately the government reported 18,729 cases of sexual violence in 2012.

Some prosecutions occurred for rape and other types of sexual violence. Most survivors, however, did not pursue formal legal action due to insufficient resources, lack of confidence in the justice system, fear of subjecting themselves to humiliation and possible reprisal, or family pressure.

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

Domestic violence was common throughout the country. A 2012 study found 64 percent of girls and women age 14 and above had suffered physical violence; of that number 49 percent experienced physical violence again within 12 months of being interviewed for the study. Although the law considers assault a crime, there is no law that specifically addresses domestic violence, and police rarely intervened in domestic disputes. There were no reports of judicial authorities taking action in cases of domestic or spousal abuse.

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

Reproductive Rights: The government respected the right of couples to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and

violence. The law does not require a husband's permission before providing family planning services to married women, but providers generally required it. Women's access to contraception remained extremely low. According to the 2010 Multiple Indicator Cluster Survey (MICS), 17.5 percent of women used a family planning method and 5.4 percent of women used modern contraceptive methods. According to MICS, total unmet need for family planning was 24 percent. According to UN estimates, the adjusted maternal mortality ratio was 670 deaths per 100,000 live births, and a woman's lifetime risk of maternal death was 1 in 24.

The extent of women's access to treatment for sexually transmitted diseases was not known. Recent studies did not disaggregate data by gender.

Discrimination: The constitution prohibits discrimination based on gender, but the law does not provide women the same rights as men. For example, the 1981 Family Code requires a married woman to obtain her husband's consent before engaging in legal transactions, including selling or renting real estate, opening a bank account, or applying for a passport. According to UNICEF, many widows were dispossessed of their property because the law states the husband's nieces and nephews, rather than his widow and children, have precedence with regard to inheritance. Women found guilty of adultery may be sentenced to up to one year in prison, while adultery by men is punishable only if judged to have "an injurious quality." In their 2009 report to the UN Human Rights Commission, seven UN special rapporteurs and representatives expressed concern that, while the family code recognizes equality between spouses, it "effectively renders a married woman a minor under the guardianship of her husband" by stating that the wife must obey her husband.

Women experienced economic discrimination. The law forbids a woman from working at night or accepting employment without her husband's consent. Although the Labor Code stipulates men and women must receive equal pay for equivalent work, this provision was not enforced effectively. According to the International Labor Organization (ILO), women often received less pay in the private sector than did men doing the same job and rarely occupied positions of authority or high responsibility.

Various laws require political parties to consider gender when presenting candidates at all levels.

Children

Birth Registration: The law provides for the acquisition of citizenship through birth within the country or from either parent being of an ethnic group documented as having been located in the country in 1960. The constitution does not allow for Congolese nationals to hold the citizenship of another country. According to UNICEF, 50.6 percent of children whose births were observed in some form of medical facility were registered with the state. Birth registration was lowest among ethnic minorities, such as Pygmies. Lack of registration rarely affected access to government services.

Education: The constitution and law provide for free and compulsory primary education to age 16. Primary school education, however, was not compulsory, tuition-free, or universal. Public schools generally expected parents to contribute to teachers' salaries, and parents typically funded 60 percent or more of school expenses with an average of 11 percent of family spending going to education costs. These expenses, combined with the potential loss of income from their children's labor while they attended class, rendered many parents unable or unwilling to enroll their children.

Primary and secondary school attendance rates for girls were lower than for boys due to financial, cultural, or security reasons. The World Bank reported in 2012 that 72 percent of females and 78 percent of males between ages 15 and 24 attended school.

Many of the schools in the East were dilapidated and closed due to chronic insecurity. Others were used as housing for IDPs. Parents in some areas kept their children from attending school due to fear of RMG forcible recruitment of child soldiers.

Child Abuse: Although the law prohibits all forms of child abuse, it regularly occurred.

The constitution prohibits parental abandonment of children accused of sorcery. Nevertheless, parents or other care providers sometimes abandoned or abused such children, frequently invoking "witchcraft" as a rationale. The law provides for the imprisonment of parents and other adults convicted of accusing children of witchcraft. Authorities did not implement the law.

Many churches conducted exorcisms of children accused of witchcraft, which involved isolation, beating and whipping, starvation, and forced ingestion of purgatives. According to UNICEF, children with disabilities or speech

impediments sometimes were branded as witches. This practice sometimes resulted in parents abandoning their children. In addition UNICEF stated that as many as 70 percent of the street children it assisted claimed to have been accused of witchcraft.

In 2009 a group of seven UN special rapporteurs and representatives mandated by the UNHRC to assess human rights in the country deemed it “alarming” that a significant percentage of the survivors of sexual violence were girls and in some cases boys. The Ministry of Gender reported that of 4,464 survivors of SGBV reporting their age in 2011, 1,214 were between ages 10 and 17, and 249 were under age 10. Of the overall number, 33 percent were children.

Forced and Early Marriage: While the law prohibits the marriage of boys and girls under age 18, some marriages of underage children took place. Bridewealth payment made by a groom or his kin to the kin of the bride to ratify a marriage greatly contributed to underage marriage, as parents forcibly married daughters to collect bridewealth or to finance bridewealth for a son. The law criminalizes forced marriage. Parents convicted of forcing a child to marry may be sentenced to up to 12 years’ hard labor and a fine of 92,500 Congolese francs (\$100). The penalty doubles when the child is under age 15. There were no reports of prosecutions for forced marriage.

Sexual Exploitation of Children: The minimum age of consensual sex is 18 for both males and females, and the law prohibits prostitution by anyone under age 18. The penal code prohibits child pornography, with imprisonment of 10 to 20 years for those convicted. According to a 2010 World Bank report, 26 percent of children living on the streets were girls, of whom 70 percent had been raped and 90 percent forced into prostitution. The NGO Heal Africa reported sexual abuse of children was more prevalent in rural areas.

Child Soldiers: (See section 1.g.)

Displaced Children: According to the most current data available, there were an estimated 8.2 million orphans and other vulnerable children in the country. Ninety-one percent received no external support of any kind, and only 3 percent received medical support. An estimated 30,000 to 40,000 children lived on the streets, with the highest concentration in Kinshasa. Many of these children were forced out of their homes when their families accused them of witchcraft and bringing misfortune to their families.

The government was not equipped to deal with such large numbers of homeless children. The SSF abused and arbitrarily arrested street children (see sections 1.c. and 1.d.).

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

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

Trafficking in Persons

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

Persons with Disabilities

The constitution prohibits discrimination against persons with physical, intellectual, or mental disabilities; stipulates that all citizens regardless of disability have access to public services, including education; and provides that persons with disabilities be afforded specific government protection. The constitution and law do not address sensory disabilities. The law states that private, public, and semipublic companies may not discriminate against qualified candidates based on intellectual, sensorial, and physical disabilities. The government did not enforce these provisions effectively, and persons with disabilities often found it difficult to obtain employment, education, and government services.

The law does not mandate access to government buildings or services for persons with disabilities. While persons with disabilities may attend public primary and secondary schools and have access to higher education, no special provisions are required of educational facilities to accommodate their special needs. Some schools for persons with disabilities, including persons with visual disabilities, received private and limited public funds to provide education and vocational training. There were no reported patterns of abuse of children with disabilities. Persons with disabilities have the right to vote; there were no reports of any being restricted from doing so.

The Ministry of Social Affairs, in cooperation with other applicable ministries (labor, education, justice, health), had the lead in seeking to provide for the equitable treatment of persons with disabilities. According to UNICEF, children with disabilities or speech impediments were sometimes branded as witches.

National/Racial/Ethnic Minorities

Societal discrimination based on ethnicity was practiced, including in hiring patterns in some cities. There were no reports of government action to correct this problem.

Retaliatory and ethnic-based violence occurred, particularly in North Kivu and South Kivu. International observers reported the M23 spread rumors about ethnic violence to incite retaliation. National and provincial government authorities attempted to reduce tensions through public outreach, including appearances and media announcements.

Indigenous People

The country had a population of between 200,000 and 500,000 Pygmies (Twa, Baka, Mbuti, Aka, and others), believed to be the country's original inhabitants. Societal discrimination against them was widespread, and the government did not effectively protect their civil and political rights. Most Pygmies took no part in the political process, and many lived in remote areas. Fighting in the East between RMGs and the SSF, expansion by farmers, and increased trading and excavation activities caused displacement of some Pygmy populations. While the law stipulates that indigenous populations receive 10 percent of the profits gained from use of their land, this provision was not enforced. In some areas Pygmies were kidnapped and forced into slavery. Pygmy populations also reported high instances of rape.

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

No antidiscrimination laws benefit LGBT persons. While there are no laws specifically prohibiting consensual same-sex sexual conduct between adults, individuals engaging in public displays of same-sex sexual conduct were subject to prosecution under public indecency provisions in the law on sexual violence. Same-sex sexual orientation remained a cultural taboo, and harassment by the SSF

continued. The Ministry of Health actively worked with LGBT groups to reduce stigma.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination based on HIV/AIDS status. The Ministry of Health worked with LGBT groups to prevent new HIV infections among men who have sex with men.

Discrimination against persons with albinism was widespread and limited their ability to marry and to obtain employment, health care, and education. Families and communities frequently ostracized persons with albinism.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The constitution and the law provide all workers, except government officials and SSF members, the right to form and join trade unions without prior authorization or excessive requirements, to conduct legal strikes, and to bargain collectively. The law provides unions the right to conduct activities without interference, although it does not define specific acts of interference. In the private sector a minimum of 10 employees is required to form a union within a business, and more than one union may be represented within a single business. Collective bargaining requires a minimum of 10 union committee members plus one employer representative. Union committee members report to the rest of the workforce. Foreigners may not hold union office unless they have lived in the country for at least 20 years. The union committee is required to notify the company's management of a planned strike but does not need authorization to strike. The law, however, stipulates unions and employers shall adhere to lengthy mandatory arbitration and appeal procedures before unions initiate a strike. In general the committee delivers notice to strike to the employer. If the employer does not reply within 48 hours, the union may strike immediately. If the employer chooses to reply, negotiations--which may take up to three months--begin with a labor inspector and ultimately, the Peace Court. Sometimes employees provide minimum services during negotiations, but this is not a requirement.

By law police, army, and domestic workers may not strike. Directors in public and private enterprises also are prohibited from striking. Unless employers are notified of a planned strike, workers are not allowed to occupy the workplace during a

strike, and an infraction of the rules on strikes may lead to incarceration of up to six months.

The law prohibits discrimination against union employees and requires employers to reinstate workers fired for union activities. The government lacked the capacity to enforce the law effectively, and the extent to which the government provided oversight was limited.

For the first time, the government authorized civil service labor union elections, and elections were held from July through September.

The government recognized 12 unions at the national level, and employees in the private sector were free to join these unions. The largest unions, such as the Confederation Syndicale du Congo and the Union Nationale des Travailleurs Congolais, expanded into rural areas, particularly near major mines.

In March the regional deputy secretary of the Confederation Democratique du Travail was dismissed for his union activities. The case was pending trial before the Supreme Court at year's end. In addition the Union Nationale des Travailleurs du Congo reported public authorities failed to respond to antiunion discrimination. Independent workers such as artisanal miners and truck drivers formed unofficial unions independent of the government or political parties. Some of these unions were affiliated with larger official unions and therefore were required to abide by the labor code, which governs both official and unofficial unions.

In small and medium-sized businesses, workers could not effectively exercise the right to strike. With an enormous unemployed labor pool, companies and shops could immediately replace any workers attempting to unionize, bargain collectively, or strike.

Collective bargaining was at times effective. For example, the Association des Chauffeurs du Congo, which is the largest private transport syndicate in Kinshasa, declared a two-week strike of heavy truck drivers in February and another strike from March 20 through April 10. The strike was enforced uniformly on the Kinshasa-Matadi road, leading to shortages in Kinshasa and paralyzing business at the ports of Matadi and Boma. The drivers demanded a salary increase and accommodation benefits during long distance trips. After negotiations the government increased driver and assistant driver salaries by 428 and 900 percent, respectively, and approved hotel accommodations benefits during long-distance trips for both categories. As a result of a 2012 strike by the public transport

drivers, the government purchased 200 buses and effectively expanded public transportation system services throughout Kinshasa.

There were reports employers who agreed to bargain pressured unions to replace bargaining agents. Despite collective agreements on union dues, employers often did not remit union dues or did so only partially.

The secretary general of the National Union of Teachers in Registered Schools, whom the government suspended following a strike in 2009, was not reinstated during the year. On July 13, an ILO delegation visited Kinshasa with regard to the alleged harassment and intimidation of members of the CCT/Land Affairs Committee by the secretary general for land affairs. No action had been taken in the case by year's end. Information on the complaint – lodged with the ILO by 13 trade unions and alleging mass dismissal of trade union officials, managers, and employees following a strike in 2010 – remained unavailable.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits all forms of forced or compulsory labor. The law allows, however, for the exaction of work for the purpose of national development as a means of levying taxes and by persons in preventive detention. Under the labor code, forced labor is punishable by a maximum of six months' imprisonment plus a fine. The law also provides for a penalty of 10 to 20 years' imprisonment for the enrollment or use of children under age 18 in the armed forces or the police. The government did not effectively enforce the law.

Although no statistics were available, forced labor, including forced child labor, regularly occurred throughout the country. Violations included bonded labor, domestic servitude, and slavery. In the mining sector, individuals took on debt from intermediaries and dealers to acquire food, supplies, and mining tools and equipment. Miners who failed to provide sufficient ore to pay off debt became debt slaves, forced to work to pay off arrears. The government did not attempt to regulate this practice. In the East, some FARDC elements and many RMGs continued to abduct and forcibly recruit men, women, and children to serve as laborers, porters, domestics, combatants, and sex slaves (see section 1.g.). In the Kivus, FARDC units and RMGs forced civilians to work for them in gold, coltan (tantalum ore), wolframite (tungsten ore), and cassiterite (tin ore) mines or relinquish their mineral production.

Some police officers arrested individuals arbitrarily to extort money from them. Police forced those who could not pay to work until they “earned” their freedom.

The SSF forced men, women, and children – including IDPs and prisoners – to serve as porters, miners, and domestic laborers (see sections 1.c., 1.g., 6, and 7.c.). According to a 2011 report by Free the Slaves, an international NGO, elements of the SSF and several RMGs in conflict-affected areas in the East used children, including child soldiers, for forced labor in mines (see section 1.g.). Separately, the United Nations reported a decline in the use of children by the SSF, noting a decrease in children separated from the SSF and increased access to SSF encampments. At the same time, the United Nations and other international organizations reported a significant increase in 2012 in the number of children being recruited and used by armed groups, most notably by the M23. In 2012 a total of 587 children were separated from armed forces or armed groups. Of those, 21 were released from the FARDC, 66 were from the M23, and the remaining from various RMGs. The majority of these children were used as escorts, cooks, or porters.

The government did not effectively enforce laws prohibiting forced or compulsory labor and took no action against those who used forced labor and abducted civilians for forced labor. No official child labor investigations were reported. Little if any information existed on the removal of victims from forced labor. By year’s end there was no effective government effort underway to limit child labor in mines.

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

c. Prohibition of Child Labor and Minimum Age for Employment

The Child Protection Law of 2009 sets the minimum age for full-time employment without parental consent at age 18. Employers legally may hire minors between ages 15 and 18 with the consent of a parent or guardian. The law also stipulates children may not work for more than four hours per day and restricts all minors from transporting heavy items.

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

The Ministry of Labor has responsibility for investigating child labor abuses but has no dedicated child labor inspection service. Although the government approved a national action plan to combat the worst forms of child labor in 2011, it had not been implemented by year's end. Other government agencies responsible for combating child labor included the Ministry of Gender, Family and Children; the Ministry of Justice and Human Rights; the Ministry of Social Affairs; and the National Committee to Combat the Worst Forms of Child Labor. These agencies had no budgets for inspections and conducted no child labor investigations.

The government did not undertake any measures to reinforce the capacities of the labor inspectors to prevent children under age 18 from engaging in hazardous work in mines.

Child labor, including forced child labor, was a problem throughout the country (see section 7.b.). Child labor was most common in the informal sector, particularly in mining and subsistence agriculture. For economic survival, families often encouraged children to work. According to the Ministry of Labor, children worked in mines and stone quarries and as child soldiers, water sellers, domestic servants, and entertainers in bars and restaurants.

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

Children were also exploited in the worst forms of child labor, many of them in agriculture, street vending, water selling, and domestic service. By some estimates tens of thousands of children worked in the mining sector, most often in extremely dangerous conditions as artisanal miners. Children made up as much as 30 percent of the work force in the artisanal mining sector. Children mined diamonds, gold, cobalt, coltan, wolframite, copper, and cassiterite under hazardous conditions. In the mining regions of the provinces of Katanga, Kasai Oriental, Kasai Occidental, Orientale, North Kivu, and South Kivu, children sifted, cleaned, sorted, and transported heavy loads, and dug for minerals underground. In many areas of the country, children ages five to 12 broke rocks to make gravel.

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

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

d. Acceptable Conditions of Work

The government sets regional minimum wages for all workers in private enterprise, with the highest pay scales applied to the cities of Kinshasa and Lubumbashi. The 2009 government-established minimum wage of 1,680 Congolese francs (\$1.83) per day remained unadjusted despite continued devaluation of the currency and increases in the cost of living. In the public sector, the government sets wages annually by decree and permits unions to act only in an advisory capacity. As of August the government had not set wages.

The law defines different standard workweeks, ranging from 45 to 72 hours, for various jobs and prescribes rest periods and premium pay for overtime. The law establishes no monitoring or enforcement mechanism, however, and employers in both the formal and informal sectors often did not respect these provisions. The law does not prohibit compulsory overtime.

The average monthly wage did not provide a decent standard of living for a worker and family. Government salaries remained low, ranging from 45,000 to 75,000 Congolese francs (\$49 to \$82) per month (not including bonuses, which were considerably larger), and salary arrears were common in both the civil service and public enterprises (parastatals). In 2012 the government began paying some civil servant salaries through the banking system in an effort to stop the practice in which supervisors created fake employees and skimmed off some of their subordinates' salaries.

The 2002 Labor Code specifies health and safety standards. Such standards were not enforced effectively in the informal sector, and enforcement was uneven in the formal sector. Major international mining companies effectively observed health and safety standards. More than 90 percent of laborers worked in subsistence agriculture, informal commerce or mining, or other informal pursuits, where they were subjected to hazardous or exploitive working conditions. According to the

World Bank, between 500,000 and two million miners worked in the informal sector nationwide and up to 16 percent of the population indirectly relied on artisanal mining. In August 2012 approximately 60 gold miners died in the collapse of an artisanal gold mine in Orientale Province. Overall estimates were notoriously challenging to verify, and determining the number of miners working in the conflict areas was difficult. In 2010 the international NGO Pact estimated that between 200,000 to 250,000 miners worked in North Kivu and South Kivu. Assaults by security guards and the SSF on artisanal miners for illegally entering mining concessions were common.