DEMOCRATIC REPUBLIC OF CONGO COUNTRY ASSESSMENT

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IMMIGRATION AND NATIONALITY DIRECTORATE

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I SCOPE OF DOCUMENT

1.1 This assessment has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, from information obtained from a variety of sources.

1.2 The assessment has been prepared for background purposes for those involved in the asylum determination process. The information it contains is not exhaustive, nor is it intended to catalogue all human rights violations. It concentrates on the issues most commonly raised in asylum claims made in the United Kingdom.

1.3 The assessment is sourced throughout. It is intended to be used by caseworkers as a signpost to the source material which has been made available to them. The vast majority of the source material is readily available in the public domain.

1.4 It is intended to revise the assessment on a 6-monthly basis while the country remains within the top 35 asylum producing countries in the United Kingdom.

1.5 This country assessment has been placed on the Internet in the Home Office website: http://www.homeoffice.gov.uk. An electronic copy of the assessment has been made available to the following organisations:

Amnesty International UK

Immigration Advisory Service

Immigration Appellate Authority

Immigration Law Practitioners' Association

Joint Council for the Welfare of Immigrants

JUSTICE

Medical Foundation for the care of Victims of Torture

Refugee Council

Refugee Legal Centre

UN High Commissioner for Refugees

II GEOGRAPHY

2.1 Covering an area of 2,344,885 sq km (905,365 sq mi), the Democratic Republic of Congo (formerly Zaire) is, after Sudan, the largest country of sub-Saharan Africa. The country shares borders with the Republic of Congo to the north west, the Central African Republic and Sudan to the north, Uganda, Rwanda, Burundi and Tanzania to the east and Zambia and Angola to the south. There is a short coastline at the outlet of the River Congo. Lying across the Equator, the DRC has an equatorial climate in the whole of the central region. Rainfall is plentiful in all seasons. The only arid region is an extremely small area on the bank of the lower Congo **[1]**.

2.2 The DRC has a population of around 48 million. About 80% of the DRC's inhabitants reside in rural areas. The average density of population is low and the population is unevenly distributed. Kinshasa, the capital city, is the principal urban centre. Other major centres of population are Lubumbashi, Mbuji-Mayi, Kananga and Kisangani **[1]**.

2.3 More than 200 languages and dialects are spoken in the DRC. The national official language is French which is the language of education, business, administration and international communications. Four national languages are widely used throughout the country - Swahili, Tshiluba, Lingala and Kikongo. These four languages are used in local trading and radio broadcasting. Lingala is the official language of the military and is widely spoken in Kinshasa, where it is used in popular music **[6]**.

2.4 Politically, the country is divided into 11 administrative provinces: Bandundu, Bas-Congo, Equateur, Kasai Occidental, Kasai Oriental, Shaba, Kivu-Maniema, North Kivu, Province Oriental, South Kivu and Kinshasa **[1]**.

2.5 The country is richly endowed with natural resources and an abundance of mineral reserves, in particular, copper and cobalt in Shaba, diamonds in Kasai and offshore petroleum production. Agriculture and forestry employ over 60% of the population. Food can be easily grown but cannot be easily transported to the main population centres due to the poor road and rail infrastructure. Congo river traffic is the most significant means of transport but the journey between Kinshasa and Kisangani can take several weeks **[6]**.

2.6 Despite its natural riches, the economic history of the country has been one of decline, especially since the 1990s. Production and incomes have fallen steadily as the financial institutions have virtually collapsed. Many parts of the country have reverted to a barter system. The economy is characterised by subsistence activities, a large informal sector and widespread bartering. The public sector cannot provide basic public services and public sector employees, including most soldiers, are not paid on a regular basis. The rebel-held areas have been increasingly integrated into the Rwandan and Ugandan economies. The Rwandan and Uganda Governments have established commercial agreements, maintained cadres in key income-collecting agencies, levied and collected taxes and customs duties and systematically extracted hard currency from the regions they controlled **[4a]**.

III HISTORY

From Belgian Colonial Rule to the Mobutu Regime

3.1 Belgian interest in the area now comprising the Democratic Republic of Congo (former Zaire), dates from 1876, when the Association Internationale du Congo, under the control of King Leopold II of Belgium, began to establish a chain of trading stations along the River Congo. Economic exploitation rapidly expanded with the increasing demand for wild rubber, following the development of rubber tyres. The methods used in the collection of rubber frequently involved the inflicting of atrocities on the indigenous population. As a result of British and American diplomatic pressure, the administration of the territory was transferred form King Leopold to the Belgian Government in 1908. The Congo then became a Belgian colony **[1]**.

3.2 As African political activity was not encouraged, radical Africans organised in "cultural associations", which included the Alliances des Ba-Kionho (ABAKO), led by Joseph Kasavubu. Following a violent demonstration organised by ABAKO in January 1959, the Belgian Government, alarmed at the prospect of involvement in a prolonged colonial war, adopted a policy of quickly granting the country independence. Belgium favoured the creation of a unitary state based on the centralised pattern of the colonial system. ABAKO and most other Congolese political groups were ethnically based and, with the exception of Patrice Lumumba's Mouvement Nationale Congolais (MNC), preferred a federal structure. The constitutional arrangements that eventually emerged represented a compromise, affirming the unitary character of the state but allowing each province to have its own government and legislature and equal national senate **[1]**.

3.3 The independence of the Republic of the Congo was proclaimed on 30 June 1960. Kasavubu became president and Lumumba became prime minister. Five days later, the armed forces mutinied. Their demands were partly satisfied by the replacement of the Belgian chief of staff by Colonel (later Marshal) Joseph-Desire Mobutu who was aligned with Lumumba's MNC. Belgian troops intervened to protect their nationals and at the same time the provinces of Katanga and South Kasai resolved to secede. Disagreement over Lumumba's response to the secession led to his dismissal by Kasavubu in September 1960. This was challenged by Lumumba who asked the legislature to remove Kasavubu. The political deadlock was resolved by the intervention of the armed forces. In September 1960, Colonel Mobutu assumed control of the country and restored power to Kasavubu in February 1961. A few days later, Lumumba was murdered. Following negotiations between Kasavubu and the MNC, a new government was formed in August 1961. A new constitution entered into force on 1 August 1964, establishing a presidential system of government and a federal structure **[1]**.

3.4 The movement for the secession of Katanga had collapsed in January 1963, when its leader, Tshombe, went into exile. In July 1964, Kasavubu invited Tshombe to become the interim Prime Minister, pending legislative elections. In August 1964, the country was renamed the Democratic Republic of Congo. In March and April 1965, the Tshombe Government organised legislative elections. The coalition, led by Tshombe, the Convention Nationale Congolaise, won 122 out of the 167 seats of the legislature. An opposition bloc soon emerged called the Front Democratique Congolais and a political deadlock ensued. At this point, the army led by Mobutu assumed full executive powers and on 24 November 1965, he declared himself the head of the Second Republic **[1]**.

The Mobutu Regime

3.5 Moving swiftly to consolidate his power, Mobutu imposed a five-year ban on party politics and in 1966 founded the Mouvement Populaire de la Revolution (MPR) to facilitate the concentration of power in the hands of the president who became the sole legislator and the head of government. The number of provinces was reduced from 21 to 8 and governors were appointed to administer the provinces and in turn were accountable to the president. In June 1966, a new constitution was approved establishing a presidential regime. The constitution allowed for a maximum of two officially approved political parties but the claims of existing political groups to official recognition were ignored. The constitution was amended to make the government,

legislature, judiciary, institutions of the MPR and all citizens party members. By 1970, Mobutu had eliminated all potential opposition **[1]**.

3.6 It was not until April 1990 that external and internal pressure obliged Mobutu to introduce political pluralism and declare an end to the one-party state although he retained a hold on his personal power. Nearly 400 political parties emerged following the announcement of 24 April 1990, notably the Union des Federalistes et Republicains Independants (UFERI), led by Nguza Karl-i-Bond, and the Parti Democrate et Social Christien (PDSC), as well as the UDPS. The Union Sacre de l'Opposition Radicale (USOR) organisation comprised 130 parties at July 1991 **[1]**.

3.7 A Sovereign National Conference (CNS) on a revised constitution, which was previously opened in 1991 and in abeyance during the political crises of the following months, was re-opened in 1992 under the chairmanship of Archbishop Monsengwo to act as an interim legislature. It was consistently at loggerheads with Mobutu in his attempt to retain power **[1]**.

3.8 A number of governments were formed in response to the various political and economic crises which beset the country over the following years. In September 1991, a number of violent demonstrations of civil unrest took place, with heavy casualties. These reflected the general frustration with the political situation and massive inflation. In 1991, the "government of crisis" headed by the leading UDPS opposition figure, Etienne Tshisekedi, was followed by another headed by Karl-I-Bond (UFERI). In December 1992, the CNS was succeeded by a High Council of the Republic (HCR) which acted as a parliament. During 1993, power struggles between Mobutu and the HCR led to the establishment of two competing governments, headed respectively by Tshisekedi and Faustin Birindwa (ex-UDPS) **[1]**.

3.9 In January 1994, the HCR was reconstituted as a transitional legislature (HCR-PT) which endorsed the organisation of a constitutional referendum and presidential and legislative elections and elected Leon Kengo Wa Dondo as prime minister in June of that year **[1]**.

3.10 In August 1996, Mobutu left the country for cancer treatment in Switzerland and remained there for four months. Although he remained nominally in control, his prolonged absence led to a significant decline in his authority. The caretaker government of Kengo wa Dondo was left to confront a rapid escalation of violence in the east. What initially appeared to be a regional movement seeking to protect the Tutsi population in South Kivu soon gathered momentum and emerged as a national rebellion with the support of Rwanda seeking to overthrow the Mobutu regime. Tutsi rebels were joined by other dissidents to form the Alliance des forces democratiques pour le liberation du Congo-Zaire (AFDL) led by Laurent Kabila. By November 1996, AFDL forces occupied a substantial area of the east of the country **[1]**.

3.11 Mobutu returned to Kinshasa in December 1996 and ordered the formation of a crisis government still headed by Kengo wa Dondo but including some opposition members. It excluded the UDPS which prompted the faction headed by Tshisekedi to mount a campaign of civil disobedience and, in January 1997, to declare its support for the AFDL. In February 1997, Mobutu banned all demonstrations and industrial action. In the ensuing three months, further territory fell to AFDL troops with little opposition from

government forces. In March 1997, following the fall of the strategic town of Kisangani, the HCR-PT voted to dismiss Kengo wa Dondo. He was replaced briefly at the beginning of April 1997 by Tshisekedi. On 8 April, Mobutu declared a national state of emergency, dismissing the government and appointing General Likulia Bolongo as the head of a further government of national salvation **[1]**.

3.12 Following inconclusive peace talks between Mobutu and Kabila mediated by President Mandela, Mobutu refused to resign and Kabila reiterated his intention to seize Kinshasa by force. A hastily assembled regional initiative to transfer interim power to Archbishop Monsengwo, chairman of the HCR-PT, was rejected by the rebels as a procedural device designed to afford Mobutu a dignified withdrawal from office **[1]**.

3.13 On 16 May 1997, Mobutu and his entourage left Kinshasa travelling to Togo and then to Morocco. Many of his family and supporters fled to the neighbouring Republic of Congo. Mobutu died in Morocco in September 1997 **[1]**.

The Laurent Kabila Regime

3.14 On 17 May 1997, power was seized by the Alliance des Forces Democratiques pour la Liberation du Congo-Zaire (AFDL), under the leadership of Laurent Kabila. The AFDL force was said to be assisted by other countries such as Rwanda, Zambia, Zimbabwe and Angola **[1]**.

3.15 In May 1997, the country was renamed the Democratic Republic of the Congo and a transitional government was appointed with Kabila at its head holding executive, legislative and military power. The new government announced on 23 May 1997 was dominated by AFDL members but also included members of the UDPS and the Front Patriotique and avoided a potentially unpopular large preponderance of ethnic Tutsis. Following several demonstrations, on 26 May, Kabila issued a decree banning all political parties and public demonstrations. To consolidate his power, on 28 May Kabila issued a constitutional decree, which accorded him legislative and executive power as well as control over the army and the Treasury. On 29 May 1997, at a ceremony attended by foreign heads of state, Kabila was sworn in as President of the DRC **[1]**.

3.16 In August 1998, a rebellion began in the east of the country when a group calling itself the Rassamblement Congolais pour la Democratie (RCD) announced its intention to oust Kabila. The rebels were a disparate group of disaffected ex-Kabila civilian and military and opposition figures from outside and inside the country. The first political leader emerged as Ernest Wamba dia Wamba, a former lecturer at Dar-es-Salaam University **[1]**.

3.17 The RCD rebels, assisted by Rwandan and Ugandan forces captured a large area comprising most of the east of the country. Their initial attempt, however, to take Kinshasa was stalled after military support to Kabila was provided by Zimbabwe, Namibia and Angola and later Chad. Internal disagreements later emerged within the RCD which subsequently led the RCD being split into two factions: one headed by Ernest Wamba dia Wamba (RCD-ML), and the other by Dr Emile Ilunga (RCD-Goma). In November 1998, a new rebel group emerged called the Mouvement pour la Liberation du Congo (MLC) led by Jean-Pierre Bemba. The MLC based itself in the Equateur Province and has large numbers of former Zairean soldiers in its ranks. The

MLC developed close ties with the Ugandan Government **[2]**. In 2001, the RCD-ML rebel group merged with Jean-Pierre Bemba's MLC rebel group to form the Congo Liberation Front (CLF). Later in 2001, however, the CLF was disbanded and the RCD-ML and MLC became independent rebel groups again. The current leader of RCD-ML is Mbusa Nyamwisi and the current leader of RCD-Goma is Adolphe Onosumba **[4b]**.

3.18 International diplomatic efforts to promote a ceasefire and a negotiated settlement which meets the security concerns of neighbouring countries resulted in a ceasefire agreement which was signed by all belligerent countries on 10 July 1999. The rebel groups - MLC and RCD - signed up to the ceasefire agreement in August 1999. The ceasefire agreement, called the Lusaka Peace Accord, sets out arrangements for an end to the fighting and the start of an inter-Congolese dialogue **[2]**.

3.19 In January 2000, peace talks were held at the UN Headquarters in New York to discuss the political impasse which has protracted the conflict between the rebels and the government forces. President Kabila was in attendance as well as representatives of the other African nations involved in the conflict **[18]**. The leaders re-confirmed their commitment to the Lusaka ceasefire agreement and called for the rapid deployment of a United Nations peacekeeping force to be deployed to the country **[3]**.

3.20 Following the peace talks at the UN Headquarters in January 2000, the UN decided to send 5,037 troops to the DRC to support the work of the 500 ceasefire monitors. The UN decided to suspend the deployment of this peacekeeping force until the security situation throughout the country improved. The Laurent Kabila Government hampered the deployment of UN forces by employing obstructionist tactics **[9]**.

3.21 In August 2000, representatives of the warring parties attended peace talks in Lusaka in Zambia to try and break the military and political deadlock the conflict is currently in but this failed. Laurent Kabila was largely blamed for the failure of this summit by independent observers. No further peace talks took place in 2000 **[14a][19]**.

3.22 On 16 January 2001, the former president Laurent Kabila was assassinated in the Presidential Palace in Kinshasa, reportedly by one of his soldiers, during or after a meeting with some of his generals **[13]**. A government public announcement was made on 18 January confirming that Laurent Kabila had been assassinated. The country's airports and borders were temporarily closed for security reasons but were soon re-opened. There were no reports of widespread civil unrest **[15a]**. Laurent Kabila's funeral took place a few days later which was attended by foreign leaders and thousands of Congolese people. He was buried in a mausoleum outside the old parliament building in Kinshasa **[15b]**.

3.23 Laurent Kabila's son, Joseph Kabila, was sworn in as President of the DRC on 26 January 2001 in a formal ceremony. The Supreme Court of the DRC confirmed Joseph Kabila as the fourth president of the DRC since the country's independence in 1960 **[16]**. The new president visited heads of states in various countries in order to consolidate his legitimacy both internationally and within the DRC **[15c]**.

3.24 Many soldiers and civilians were arrested in connection with the assassination, including the late President Laurent Kabila's aide-de-camp, Colonel Eddy Kapend and General Nawej Yav, a close associate of Colonel Kapend **[15d]**. In March 2002, a

military tribunal formally charged Colonel Kapend and General Nawej Yav with conspiracy and the murder of the late Laurent Kabila **[21]**.

3.25 The Government set up a Commission of Enquiry to investigate the Laurent Kabila assassination. The Commission was made up of representatives from legal, military and human rights groups from Angola, Zimbabwe, Namibia and the DRC. The Commission produced a report in May 2001 which alleged that the Rwandan and Ugandan Governments and the RCD (one of the rebel groups) were responsible for the assassination. Investigators alleged that the assassination was part of a larger coup attempt. Both the Rwandan and Ugandan Governments and the RCD dismissed the claims that they were behind the assassination **[14b][15e]**.

IV STATE STRUCTURES

The Constitution

4.1 The DRC does not currently have a written constitution in force. The Laurent Kabila regime came to power in May 1997 and abolished the previous constitution and all institutions of the state except the judiciary. A constitutional decree declared the institutions of the country to be the president, the government and the courts and tribunals. All power was to be vested in the head of state, pending the adoption of a new constitution. In October 1997, President Laurent Kabila appointed a 42-member Constitutional Commission, which was to draft a new constitution. The draft constitution was referred to a 300-member Constituent Assembly in March 1998, which was to review the document and submit it to a national referendum. The Assembly, however, was unable to convene, owing to the outbreak of the current conflict. Work on the new constitution has not continued since then and the current Joseph Kabila regime functions without a written constitution **[1]**.

The Political System

4.2 The DRC is a republic with a president as the head of state. The president exercises legislative power by decree following consultation with the Cabinet. The president is the chief of the executive and of the armed forces and has the authority to issue currency. The president also has the power to appoint and dismiss members of the Government, ambassadors, provincial governors, senior army officers, senior civil servants and magistrates **[2]**.

4.3 The country is not a democracy despite its name as citizens do not have the right to change their government in free and fair democratic elections. On 26 January 2001, the Government installed Laurent Kabila's son, Joseph Kabila as President of the DRC. Joseph Kabila rules by decree and the Government continues to operate without a constitution. Political parties are allowed to exist and registered political parties can engage in political activities although some political activists have been subject to arrest and detention. Political parties have to be registered with the Government to be officially recognised **[4b]**.

The Judiciary

4.4 The law provides for an independent judiciary but in practice the judiciary is not independent of the Government and is ineffective and corrupt. The Government has

failed to establish mechanisms to ensure the independence of the judiciary. A judicial reform decree, reportedly awaiting presidential approval since 1997, has not been promulgated. The civil judiciary, including the lower courts, appellate courts, the Supreme Court and the Court of State Security are largely dysfunctional **[4b]**.

4.5 Military courts, which are headed by a military judge and apply military law inherited from Belgium, try military and civilian defendants as directed by the Government and tried nearly all cases during 2001. There is no appeals process in the military courts and the accused do not have a right to legal counsel although counsel may be provided at the discretion of the military judge. Sentencing guidelines are also inherited from Belgian military law, however, in practice military courts have broad discretion to go outside of these guidelines. Military courts, which are located in all military installations and in most urban areas, may be open to the public at the discretion of the military judge **[4b]**.

4.6 During 2001, military courts sentenced civilians as well as military personnel to death after summary trials, however, death sentences from military trials were less frequent than in previous years and the use of military courts to sentence civilians decreased. Military courts sentenced to death for crimes against national security, however, unlike previous years, civilians were not sentenced to death for non-violent offences. No civilian who received death sentences were executed in 2001. Military courts also sentenced to death military defendants charged with armed robbery, murder, inciting mutiny, espionage and looting while in a state of mutiny. Human rights NGOs reported that six military defendants who received death sentences for violent crimes were executed in 2001. The Government has claimed that its use of military courts rather than civilian courts are a result of the ongoing conflict with the rebel groups **[4b]**.

4.7 In the rebel-held areas, particularly in the area controlled by RCD-Goma, the system of justice is essentially dysfunctional. Judges and other public servants are not paid their salaries. There have been credible reports of judges accepting bribes in return for favourable decisions. RCD-Goma officials and others with influence reportedly use the judicial system to arrest individuals in false charges to extract money and property from these individuals. There have also been documented cases of indiscriminate military justice in which persons suspected of treason were executed without a trial **[4b]**.

Military Service

4.8 There is no compulsory military service scheme in the Democratic Republic of Congo. Recruitment into the armed forces is voluntary. A soldier has no legal right to refuse to fight on moral or conscientious grounds. Such an act is considered as desertion or high treason **[28]**. Desertion in peacetime and in wartime is dealt with under the Code of Military Justice. The punishment of penal servitude under the Code can mean imprisonment as well as forced labour in a camp. **[29]**.

4.9 In peacetime, desertion is punishable by two months to ten years' penal servitude; up to life-long penal servitude or even the death penalty in wartime, during a state of emergency, or during a police operation to maintain public order. If two soldiers desert together, this is considered as desertion with conspiracy and may be punished by two to twenty years' penal servitude in peacetime; up to life-long penal servitude or even the

death penalty in wartime. Desertion abroad is punishable by six months to ten years' penal servitude in peacetime; up to life-long penal servitude or even the death penalty in wartime. In aggravating circumstances, such as desertion during active service, desertion with the taking of arms or desertion with conspiracy, the punishment may be from three to ten years' penal servitude. Desertion and fighting with another armed group is punishable by ten to twenty years' penal servitude in peacetime and execution in wartime **[29]**.

Internal Security

4.10 The Government's security forces consist of a national police force under the Ministry of Interior, a National Security Council (CNS), the National Intelligence Agency (ANR), and the Congolese Armed Forces (FAC), which includes an Office for the Military Detection of Unpatriotic Activities (DEMIAP). The Presidential Guard was integrated into forces of the 7th Military District to form the Forces d'Intervention Rapide (FIC) during 2000. The Immigration Service, Direction Generale de Migrations (DGM) and the Autodefence Forces (FAP) and CPPs (People's Power Committees) also function as security forces. There is also a security force called the Special Intervention Force for the Defence of the Capital (FIS). During 1999, Kabila gave Mai Mai leaders commissions in the FAC and co-ordinated operations with the Mai Mai and Hutu militias; the Government also formed People's Defence Committees (CPDs), which are armed elements of the CPPs and operate outside the formal structure of the Government. The police force was re-organised in 1997 and handles basic criminal cases. The CNS shares responsibility for internal and external security with the ANR which includes border security. Military police have jurisdiction over armed forces personnel. The security forces have reportedly committed numerous serious human rights abuses **[4b]**.

Legal Rights/Detention

4.11 Civil and criminal codes are based on Belgian and customary law. The legal code provides for the right to a public trial, the presumption of innocence and legal counsel at all stages of proceedings, however, the Government does not respect these rights in practice. Defendants have the right to appeal in all cases except those involving national security, armed robbery and smuggling, all of which are ajudicated in theory by the Court of State Security, and except those cases adjudicated by the special military tribunals, whose jurisdiction is ill-defined. The law provides for court-appointed counsel at state expense in capital cases, in all proceedings before the Supreme Court and in other cases when requested by the court. In practice, the Government does not fully respect these provisions **[4b]**.

4.12 Despite legal provisions governing arrest and detention procedures, the security forces have reportedly been responsible for numerous cases of arbitrary arrest and detention. Under the law, serious offences do not require a warrant for a suspect's arrest. Only a law enforcement officer with judicial police officer status is empowered to authorise arrest. This status is also vested in senior officers of the security services. The law instructs security forces to bring detainees to the police within 24 hours and be brought before a magistrate within 48 hours, who may authorise provisional detention for varying periods. In practice, these provisions have been violated systematically. Security forces, especially those carrying out the orders of any official who could claim authority, use arbitrary arrest to intimidate outspoken opponents and journalists.

Charges are rarely filed and the legal basis for such detentions are often obscure. When the judicial authorities have pressed charges, the claims that they filed sometimes were contrived or recitations of archaic colonial regulations **[4b]**.

4.13 Detention without charge was a problem under the previous Laurent Kabila regime and continues to a problem under the Joseph Kabila regime. There are many secret or unofficial detention centres in Kinshasa, some of which are reportedly run by the Office of the President. On 8 March 2001, President Joseph Kabila announced the closure of all of the country's unofficial detention facilities, which the security forces use in part to keep secret the indentities and whereabouts of detainees. There have been numerous, credible reports during 2001 that DEMIAP, ANR, the Marble (Presidential) Palace, Camp Kokolo, Ouagadougou and other unofficial detention facilities continue to be used by the security forces **[4b]**.

Prisons and Prison Conditions

4.14 The present regime operates 220 known prisons and other places of detention, and in all such facilities, conditions are harsh, unsanitary and life-threatening. The Government provides food at some prisons but not in sufficient quantities to ensure adequate nutrition for all inmates. The penal system suffers from serious shortages of money, medical facilities, food and trained personnel. Overcrowding and corruption in prisons are widespread. Prisoners reportedly are beaten to death, tortured, deprived of food and water and die of starvation. Prisoners are wholly dependent on their families for their survival **[4a]**.

4.15 The Government has exacerbated the overcrowding of civilian prisons by incarcerating numerous soldiers believed to have been part of the alleged Masasu coup plot in 2000 or involved in the assassination of Laurent Kabila. Security forces detained around 85 suspects involved in the assassination at Makala Prison's Pavillion One, where they have been guarded by Zimbabwean soldiers to reduce the chance of escape **[4b]**.

4.16 The Government allows some international humanitarian organisations to visit political prisoners on a regular basis but when the detainees are held in official prisons. The Government does not allow these organisations to visit the numerous unpublicised and unofficial detention sites throughout the country where most newly arrested detainees are held, questioned and sometimes subjected to abuse **[4a]**.

4.17 The main prison in Kinshasa is the Centre Penitentaire et de reeducation de Kinshasa (CPRK). The CPRK prison was renovated soon after President Laurent Kabila came to power but conditions there remain harsh and life-threatening. The prison's normal capacity is 1,000 inmates but its actual population is often around 2,500. Inmates at this prison often depend on their relatives for food but many of these relatives are too poor to provide sufficient food on a regular basis. As a result of overcrowding at this prison, many detainees have become seriously ill, with little or no access to medical attention or treatment, which has led to high rates of mortality among the prison population **[27]**.

4.18 As well as the ten official blocks (pavillons), there have been reports of unofficial cells where inmates are sometimes incarcerated as a form of punishment. There are

reportedly as many as twenty cells (cachots) on the first floor of Block 6 which are little more than boxes, measuring about one cubic metre. In Block 2, there are also said to be a number of unofficial cells, which are bigger than those in Block 6 but do not have enough room to allow prisoners to lie down. In addition, an unofficial block known by inmates as “pavillon 11” is, despite denials by the prison authorities, sometimes used to hold detainees incommunicado **[27]**.

4.19 The situation in security service detention centres is reportedly worse than the main prisons. Detainees are held incommunicado for long periods and are often subjected to torture and other forms of cruel, inhuman or degrading treatment. The detainees also lack medical facilities for ordinary illnesses or the effects of torture. Detainees are very often held in congested, dark and poorly ventilated cells. The cells lack toilets and inmates use either open containers which are rarely emptied or plastic bags as toilets. Detainees spend days or even weeks without being allowed to wash themselves or change clothes. Beatings of detainees is a regular occurrence and some detainees have their hands and legs bound, often as a punishment **[27]**.

Medical Services

4.20 Prior to the conflict that started in 1998, available health data showed that the existing infrastructure was already failing to deliver quality, affordable medical care to the majority of the country’s population. The conflict has made this situation even worse. Hospitals, clinics and health posts have been destroyed, medication cannot be delivered and routine vaccination programmes have been disrupted. Many people struggle to pay for health services and some cannot pay at all. One of the main problems with the health system is its infrastructure. The lack of investment has resulted in hospitals, clinics and health posts falling into an increasingly dilapidated state. Many lack essential medical equipment, sanitation and even clean water. This is the case in the major towns as well as in the more remote rural areas. The hospitals and health centres are often places where disease is spread **[7]**.

4.21 A dearth of recent statistical date from across the country makes a full assessment of the population’s access to health services difficult. Conservative estimates, however, of the coverage of health facilities show that at least 37% of the population, or approximately 18.5 million people, have no access to any form of formal health care. In government-held areas, the share of central government expenditure allocated to the health sector is less than 1% and has been barely more than this since the country’s independence in 1960. As a result of state underfunding, the health system has always been run more or less as a private health care system, with patients required to pay for medical care. In rebel-held areas, there is no budget for health services. Additional support to the 307 Health Zones into which the country is divided comes mainly from churches and other organisations. In 2000, 100 Health Zones received no external assistance, either from the Government or from outside agencies. In addition, there is a serious lack of human resources. In 1998, there were only 2,056 doctors for a population of around 50 million people. 930 of these doctors are in Kinshasa **[7]**.

4.22 In the west of the country, state salaries when paid for the few well-qualified medical practitioners are so low (4,700 Congolese Francs or US$14 per month) that they charge their patients for treatment. To earn extra income, many doctors also work in unregulated private health institutions alongside their jobs in the state health service.

The increase in poverty has meant that a big percentage of people cannot afford essential medicines. Many people have resorted to treating themselves **[7]**.

4.23 As a result of difficult living conditions and lack of access to health care, diseases which had almost been eradicated, such as bubonic plague and whooping cough, are now being recorded. There have also been numerous epidemics of measles and cholera and reported cases of haemorragic fever, monkey pox and meningitis. The prevalence of tuberculosis, already a serious problem before the conflict, has risen. The increase in the number of cases of tuberculosis can be attributed to malnutrition, a lack of access to drugs, HIV/AIDS, and cramped living conditions which promote disease transmission amongst the urban population, the displaced and refugees. The number of people with tuberculosis in Kinshasa has risen from 7,000 in 1996 to 20,000 in 2001 **[7]**.

4.24 The DRC was one of the first African countries to acknowledge the HIV/AIDS epidemic and began conducting awareness-raising campaigns as early as the late 1980s. Although these initiatives stopped when structural aid was suspended in 1992, they contributed to the DRC being spared the extremely high prevalence rates seen in neighbouring countries. The effects of the conflict have significantly increased the population's vulnerability to the HIV virus **[7]**.

4.25 For cultural reasons, Congolese people do not as a rule consult psychiatric specialists. If a person exhibits mood or personality disorder problems, his relations will firstly believe that he is the victim of a spell and that someone is trying to harm the family. Sorcery or prayers are used to cure the person's mental illness. It is only as a last recourse that a psychiatrist is consulted **[10]**.

4.26 In Kinshasa, there is also a small centre specialising in neuropsychiatry, the Kakuambi Centre. Some other hospitals, clinics and medical centres offer, along with general medicine, some beds for psychiatric and psychological treatment. Public facilities that treat mental illnesses are few and far between and those that exist are dilapidated. Kinshasa's principal psychiatric unit is the Neuro/Psycho/Pathological Centre (CNPP). This public facility is connected with the University of Kinshasa. It contains three departments: psychiatry, neurology and paedopsychiatry. The CNPP is in a dilapidated state and has no more than 40-50 patients. For four years, the Government has not financed this institution. The hospital provides the initial consultation, diagnosis and therapy free of charge. The rest is chargeable to the patients and their families **[10]**.

4.27 The most widespread mental illnesses in the Democratic Republic of Congo are those of infectious origin, schizophrenia and illnesses connected with drug addiction. Mental illnesses can generally be treated in Kinshasa. This is particularly the case with depression, war trauma, post-traumatic stress syndrome and schizophrenia. Competent doctors practice on the spot and medicines are normally available. According to the Director of the CNPP, all the medicines on the list of the World Health Organisation are available in Kinshasa except preparations with a heroine base **[10]**.

The Education System

4.28 Primary education begins at age 6 and ends at 12 years and secondary education begins at age 12 and ends at 18 **[1]**. Primary school education is not compulsory, free

or universal and many children do not have access to education due to a lack of facilities and a lack of teachers. In public schools, parents are formally required to pay a fee and are often expected informally to pay teachers' salaries. Many parents cannot afford these fees resulting in their children being denied a basic education. Most schools only function where parents have formed co-operatives **[4a]**. The country has 4 universities, situated in Kinshasa, Kinshasa/Limete, Kisangani and Lumbumbashi **[1]**.

4.29 Government spending on children's programmes is virtually non-existent. Primary school education is not compulsory, free or universal. Primary school enrolment rates dropped to less than 70 percent during 2000. Most schools function only in areas where parents have formed co-operatives. The Government's economic policies have resulted in massive unemployment, inflation, and a devaluation of the currency, putting basic education out of reach of many families. There have been reports of economic circumstances forcing children to hunt or fish for their family's livelihood instead of attending school. In both the government/rebel-controlled areas, poverty brought on by the war has led to greatly diminished educational opportunities for girls. Parents under severe economic hardship no longer can afford to educate both their sons and their daughters, resulting in the withdrawal of many girls from school **[4b]**.

Congolese Nationality Law

4.30 Congolese nationality is governed by the provisions of Decree 197 which modified the Nationality Law 81-002 of 1981. Congolese nationality may be acquired through naturalisation, application or adoption. Foreign residents or immigrants may obtain Congolese nationality provided that they meet the legal requirements **[23]**.

4.31 Article 5 of Decree No 197 defines entitlement to Congolese nationality by filial descent when a child has a father who is Congolese and/or a child has a mother who is Congolese **[23]**.

4.32 Article 7 of Decree No 197 also stipulates that a new-born child in the DRC is Congolese but a minor is not regarded as Congolese if he/she is descended from a foreigner **[23]**.

4.33 Article 4 of Decree No 7 stipulates that with effect from 30 June 1960, any person whose ancestor is or was a member of one of the ethnic groups established on DRC territory, as defined on 1 August 1885, and modified by subsequent conventions, is regarded as Congolese. Tutsis, or persons whose ancestors were members of the Tutsi ethnic group, as defined on 1 August 1885, are Congolese, as is the case for any member of an ethnic group who fulfils the terms of Article 4 **[23]**.

V.A HUMAN RIGHTS ISSUES

Overview of Human Rights in the Government-Held Area

5.1 The Government controls mainly the west and south west of the country (Lower Congo, Kinshasa, Bandundu, part of East Kasai, part of West Kasai, part of Equator and most of Shaba). This area as a whole covers roughly one half of the country - the other half is in the control of rebel forces. The Government's human rights record is poor. Citizens do not have the right to change their government peacefully. Security forces have reportedly been responsible for numerous extrajudicial killings,

disappearances, torture, beatings, rape and other abuses, however, there have been fewer reported cases in 2001 compared with previous years. In general, security forces committed these abuses with impunity. Prolonged pre-trial detention remains a problem and citizens are often denied fair public trials. The judiciary remains subject to government influence and suffers from a lack of resources, inefficiency and corruption. Security forces have reportedly used excessive force and committed violations of international law in the conflict that started in August 1998. The Government continues to restrict freedom of speech and of the press by harassing, arresting and detaining newspaper editors and journalists and by seizing individual issues of publications. Private radio broadcasting is also subject to restrictions. Freedom of movement, assembly and association are severely restricted by the Government. Political activity is severely restricted. Active members of opposition political parties and human rights workers working for NGOs are subject to harassment and imprisonment by the security forces **[4b]**.

5.2 President Joseph Kabila, chosen by consensus among leading domestic and foreign players rather than by any constitutional mechanism, inherited autocratic powers from his father. According to Decree Law No 3 of 1997, all executive, legislative and judicial powers rests in his hands. President Kabila promised human rights reforms but has delivered relatively little. He imposed a moratorium on the execution of death sentences in March 2001 and in May 2001, he began demobilising child soldiers from the army. Nevertheless, the security forces continue to commit the human rights abuses for which they were notorious for in the past. President Kabila's promises to limit the powers of the abusive Court of Military Order brought no reforms during 2001. Officials in the Ministry of Interior and some provincial governors continue to obstruct political party activities despite the promulgation of a new law in May 2001 allowing political activity **[5]**.

Overview of Human Rights in the Areas Held by the Rebel Groups

5.3 The rebel forces control mainly the north, north east and part of central DRC (most of Equator, Upper Congo, part of East Kasai, part of West Kasai, part of Shaba and North Kivu and South Kivu). This area as a whole covers roughly one half of the country - the other half is in the control of government forces **[4a]**. There have been many reports of widespread human rights abuses by soldiers of the rebel forces against the civilian population living in areas under rebel control. Rebel forces have reportedly been responsible for acts of murder, disappearances, torture, rape, theft, extortion, robbery, arbitrary arrests and detention, harassment of human rights workers and journalists and forcible recruitment of child soldiers. Rebel forces have reportedly severely restricted freedom of speech, assembly and association in the areas they control **[25]**.

5.4 In eastern DRC, the RCD and its Rwandan allies have reportedly used arbitrary arrest, illegal detention, torture and ill-treatment to harass and intimidate members of human rights groups, women's associations and other NGOs. The RCD has also reportedly tortured and ill-treated persons arrested for criminal offences and have disregarded due legal process. Persons detained by the RCD are often not informed of the reasons for their arrest and held for weeks or months without being charged. Prisoners are frequently subjected to beatings, torture and other forms of ill-treatment. Women have reported to being raped or sexually abused during detention in urban areas under RCD control. In an effort to control information both within their zone and

that disseminated to the outside world, RCD authorities have censored or banned publications and radio programmes. They have threatened, detained and harassed journalists, human rights workers and senior members of Christian churches **[25]**.

5.5 The RCD has taken over the existing judicial institutions and retained most of their personnel in the areas they control. Many government employees, including magistrates, prison guards and others have rarely been paid for their services since the beginning of the conflict. In an increasingly desperate economic situation, judicial personnel often demand bribes to carry out their duties and people are forced to pay to obtain justice. Many people deplore the reluctance of the authorities to act on criminal complaints, particularly when crimes involve RCD or Rwandan soldiers. These soldiers can commit human rights abuses with impunity **[25]**.

Freedom of Speech and the Media

5.6 The law allows for freedom of speech and the press but the Government restricts these rights in practice. The People Power Committees (CPPs) monitor people's speech as well as association and movement of people in residential areas, workplaces and schools. They report speech critical of the Government to the security forces. The CPPs are not part of the formal structure of the state but can be regarded as agencies of the Government **[4a]**.

5.7 Journalists are frequently harassed, intimidated and detained by the security forces and violations of press freedom are common but violations of press freedom were less common in 2001 than in previous years **[4b]**. All of the DRC's nine security services have victimised journalists and other media employees at some stage. The current conflict between the government and rebel forces is used by the security forces to justify violence against those journalists and media that criticise the currrent regime **[11]**. Some journalists have been harassed, beaten and tortured. The security forces sometimes seize individual issues of various newspapers or printing equipment. Other methods of silencing the broadcasting media include the burning down of radio stations and expelling journalists from their homes **[4b]**.

5.8 Almost 400 newspapers are licensed to publish, no more than 30 appear regularly in Kinshasa. Of the Kinshasa-based newspapers, eight are dailies; the rest of the newspapers that appear regularly are published between one and three times a week. News publications tend to emphasise editorial comment and analysis rather than factual descriptions of events and some are critical of the Government. The Government restricts the freedom of the press but there is, however, no formal censorship regime. The newspaper industry is regulated by a press law enacted in 1996. Publishers must deposit copies of their publications with the Ministry of Information. Criminal libel laws exist but have not been used against journalists. The Government does not overtly control any newspapers. Government officials criticised or implicated in fraudulent practices by the press sometimes resulted in the police arresting the journalists responsible **[4b]**.

5.9 Due to limited literacy and the high cost of newspapers and television sets, radio remains the most important medium of public information. There are about ten radio stations. In 2000, the Government nationalised one radio and television station. The state-controlled radio station is called La Voix du Congo (The Voice of Congo). It

broadcasts in French, Swahili, Lingala, Tshiluba and Kikongo. The state-owned television channel is called Radio-Television Nationale Congolaise (RTNC). Church radio networks are growing but the state-controlled broadcasting network reaches the largest numbers of citizens. In 1997, the Government lifted the Mobutu regime's ban on news broadcasts on private radio. Opposition parties are unable to gain access to state-owned radio and private radio is markedly less critical of the Government than private newspapers. Some private radio stations have been closed down by the Government for broadcasting news unfavourable to the present regime **[4a]**.

5.10 Seven television stations broadcast in the Kinshasa area, three of which were state-controlled and two of which were religious. In October 2001, the Ministry of Information announced that it had denationalised three broadcast corporations, including RTKM and two television stations owned by rebel leader Jean-Pierre Bemba. Opposition parties generally remain unable to gain access to state-controlled television **[4b]**.

5.11 Academic freedom continues to be restricted as professors, who are classed as public servants, exercise self-censorship or modify their lectures to suit their patrons in the Government. Faculty members have complained that the Government takes a strong interest in their activities. In 2001, there were no reports that the CPPs monitored classroom activities and there were no reports that students were arrested for questioning the Government, contacting foreigners or organising peaceful strikes. Between 3-8 December 2001, however, students at the University of Lubumbashi protested against school fees. Two of the students were arrested and detained without charge. On 13 December 2001, several students at the University of Kinshasa were arrested for organising a violent protest against school fees that resulted in the deaths of three police officers. Eight students were kept in detention without charge in Makala Prison **[4b]**.

Freedom of Religion

5.12 The Transitional Act of the Mobutu regime provided for freedom of religion and this provision has been respected in practice with the reservation that public order and morals are not disturbed. There is no state religion. Approximately 50% of the population are Roman Catholic, 20% are Protestant and 10% are Muslim. The remainder largely practice traditional indigenous religions. Traditional religions embody such concepts as monotheism, animism, vitalism, spirit and ancestor worship, witchcraft, and sorcery and vary widely among the different ethnic groups. Syncretic sects often merge Christianity with traditional beliefs and rituals. The most popular of these sects is Kimbanguism and was seen as threat by the colonial regime and was banned by the Belgians. Kimbanguism, officially “the church of Christ on Earth by the prophet Simon Kimbangu”, now has around 3 million members. In 1969, it was the first independent African church to be admitted to the World Council of Churches **[4c]**. In 1971, new national laws officially recognised the Roman Catholic Church, the Protestant Church and the Kimbanguist Church. The Muslim and Jewish faiths and the Greek Orthodox Church were granted official recognition in 1972 **[3]**.

5.13 The establishment and operation of religious institutions is provided for and regulated through a statutory order on Regulation of Non-Profit Associations and Public Utility Institutions. A 1971 law regulating religious organisations grants civil servants the

power to recognise, suspend recognition of, or dissolve religious groups. There have been no reports of the Government suspending or dissolving a religious group since 1990 when the Government suspended its recognition of the Jehovah's Witnesses religion. This suspension was subsequently reversed by a court. This law restricts the process of recognition but in practice religious groups that are officially recognised are free to establish places of worship. In practice, members of religious groups that are not officially recognised are also free to worship freely. The Government does not prohibit or punish assembly for peaceful religious services regardless of faith **[4c]**.

5.14 In the areas held by the rebel forces, human rights groups have reported human rights abuses by the rebel forces on the Roman Catholic clergy. These reports have been confirmed by various independent sources including the Roman Catholic Church itself. Human rights abuses reportedly took the form of attacks on Catholic missions, killings of priests, the rape of nuns, and the burning of churches **[4c]**.

Freedom of Assembly and Political Association

5.15 There is no legal protection for freedom of assembly and political association and the Government severely restricts this right in practice. The Government considers the right to assemble and associate subordinate to the maintenance of public order. The Government requires all organisers to apply for permits which are granted at the Government's discretion. Public activities generally are dispersed by the security forces. The Government requires political parties to apply for permits to hold press conferences but such permits are frequently denied **[4b]**.

5.16 On 17 May 2001, President Joseph Kabila issued a decree liberalising political activities. Under the decree, political parties can function legally upon simple notification to the Ministry of the Interior and on condition that founding members have national representation. The new law imposes some onerous conditions on political parties. The law prohibits anyone under the age of 30 from being a founder member of a party. This effectively outlaws student political parties, a group which are amongst the most critical of the Government. The law mandates Congolese residence which prohibits exiled political party founders from engaging in political activity. The law also requires a fee of 100,000 FC to be paid to the Government to allow political parties to operate. This would be beyond the reach of most Congolese in a country that is one of the most poorest countries in Africa **[12][20]**.

5.17 According to the Government, more than 100 parties, all reportedly pro-government, registered during the year. The Government attempted to force the UDPS and other parties to register with the Ministry in compliance with the law. The UDPS and other opposition parties refused to register on the grounds that they had registered under the Mobutu Government and should not be required to re-register **[4b]**.

5.18 Political party offices by and large remain open and members of political parties can carry out internal administrative functions. In 2001, opposition parties were able to hold private meetings without government harassment which had not been the case in previous years. The Government, however, prevented most public political gatherings and press conferences. Government harassment of various political parties decreased in 2001 as compared with previous years. There were no reports that the security forces surveilled, padlocked or patrolled the headquarters of opposition parties. Also, in 2001,

there were no reports that the Government prevented opposition party members from travelling **[4b]**.

Employment Rights

5.19 Legislation enacted under the Mobutu regime permits all workers except magistrates and military personnel to form and join trade unions. The National Union of Congolese Workers is the largest labour organisation in the country. There are almost 100 other independent unions which are now registered with the Labour Ministry. Some of the independent unions are affiliated with political parties or associated with a single industry or geographic area. The International Confederation of Free Trade Unions (ICFTU) alleged in its *Annual Survey of Violations of Trade Union Rights 2000* that the Labour Code does not adequately protect workers against anti-union discrimination and interference into union affairs. The ICFTU also claimed that the Government does not enforce the provisions of the Labour Code **[4a]**.

5.20 The law recognises the right to strike, however, legal strikes rarely occur since the law requires prior resort to lengthy mandatory arbitration and appeal procedures. The country's deteriorating economy has meant that trade unions have not been effective in defending the rights of workers. The law prohibits employers or the Government from retaliating against workers who go on strike but this is rarely enforced. The collapse of the formal economy has resulted in the decline of trade union influence. Employers tend to ignore labour regulations in what is very much a buyer's market for labour **[4a]**.

5.21 The law provides for the right to bargain collectively and an agreement between the National Union of Congolese workers and the employers' association formerly provided for wages and prices to be negotiated jointly each year under the minimal government supervision. This system broke down in 1991 as a result of the rapid depreciation of the national currency. The professional unions and the Congolese Business Federation signed a co-operative agreement in 1997, however, while collective bargaining still exists in theory, continuing inflation and the continuing depreciation of the Congolese Franc eliminated salary increases in the public sector **[4b]**.

5.22 Most citizens are engaged in subsistence agriculture or commerce outside the formal wage sector. The minimum wage, adjusted by government decree in 1990, has been rendered irrelevant by rapid inflation. The average wage does not provide for a decent standard of living for a worker and family. Most workers rely on extended family and informal economic activity to survive. The low salaries of police, soldiers and other public officials and the non-payment of salaries encourage many of these officials to extract bribes from the public. The maximum working week (excluding voluntary overtime) is 48 hours. One 24-hour rest period is required every 7 days **[4b]**.

5.23 The law prohibits forced or compulsory labour, however, the Government forcibly conscripted adults during 2001. The law does not specifically prohibit forced and bonded labour by children and the Government forcibly conscripted children. In addition, there were reports in 2001 that girls as young as 8 years of age were forced into prostitution to earn money for their families **[4b]**.

People Trafficking

5.24 There are no specific laws that prohibit trafficking in persons and trafficking is a problem. The country is a source for trafficked women and children. Women are trafficked to Europe, mainly France and Belgium, for sexual exploitation. Rebel and foreign forces have abducted a number of children in the country to be used for labour and sex. The Government does not have any programmes in place to prevent this practice. The Government has not yet made significant efforts to combat trafficking, due in part to lack of resources or information, an unwillingness to acknowledge there is a significant problem and because much of the country's trafficking problem occurs in areas controlled by the rebel groups and foreign armies. The Government has not investigated vigorously or prosecuted trafficking cases. The Government does not co-ordinate with other countries on trafficking issues and has no funding for protection services **[4b]**.

Freedom of Movement

5.25 The law allows for freedom of movement but the Government restricts freedom of movement in practice. In March 2001, President Joseph Kabila announced that all Congolese citizens were free to circulate with their goods throughout the country in accordance with the Lusaka Peace Accords. Movement between the government-held and rebel-held areas is difficult and dangerous. The Government requires exit visas for all foreign travel **[4b]**.

5.26 In Kinshasa, the practice of police and soldiers erecting roadblocks to harass or extract bribes from taxibus drivers and passengers decreased during 2001. Roadblocks are still in use but are used to protect government installations. The Government has created a new force of armed military police, recognisable by their red berets. They occasionally stopped civilian vehicles at roadblocks for security checks or pulled over civilian vehicles, usually for traffic violations or for exceeding their legal carrying capacity but their precise function is unclear **[4b]**.

5.27 In 2001, unlike previous years, the Government did not impede the travel of political party members, journalists and local NGO representatives into and out of government-controlled areas of the country. The Government also allowed oppositon political members and journalists to travel to rebel-held areas. The Government also allowed NGO activists from the rebel-held areas to attend conferences in Kinshasa **[4b]**.

5.28 The risk of rape restricts the freedom of movement at night for women in many neighbourhoods. Some people have started neighbourhood watch programmes but women in Kinshasa and Lubumbashi do not leave their homes at night due to fear of attack **[4a]**.

5.29 A Danish Immigration Service fact-finding mission to Kinshasa in August 2001 looked at the subject of the safety of returning failed asylum seekers to the DRC. Foreign embassy and diplomatic officials, members of human rights organisations and other NGOs were interviewed and consulted. The fact-finding mission found out from the people interviewed and consulted that there are wide-ranging views as regards whether it is safe to return failed DRC asylum seekers to the DRC. In general, failed asylum seekers with proper travel documentation encounter no problems when returned

to Kinshasa. The governments of some countries have formal re-admission agreements with the DRC Government and the governments of some countries inform the DRC immigration authority (DGM) of the fact that they are returning Congolese who are failed asylum seekers. Formal re-admission agreements are not, however, essential to allow the immigration authority of a country to return failed asylum seekers to the DRC. No human rights organisations in the DRC had reported any difficulties for returning failed asylum seekers and, more importantly, the report made the point that it is not official government policy to harass or persecute returning failed asylum seekers. In individual cases, however, some returning failed asylum seekers to the DRC may encounter ill-treatment or harassment by members of the security forces. These incidents, however, would be due to the actions of undisciplined or corrupt individual officers and not as a result of official government policy **[26]**.

5.30 Information obtained from the Foreign and Commonwealth Office in 2001 indicates that there is no evidence to support the assertion that failed asylum seekers returned to the DRC are subject to harassment and persecution **[22]**.

5.31 Freedom of movement in the rebel-held areas was severely restricted during 2001 as a result of the fighting between the rebels, Rwandan and Uganda forces, the Mai Mai and Hutu militias. In the eastern part of the country, rebel forces prevented travel and harassed travellers. Rebel forces also imposed travel restrictions on NGOs. Travel across the war front is often inconvenient and sometimes impossible **[4b]**.

5.32 The law includes provisions to grant refugee status and asylum in accordance with the provisions of the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. The Government provides first asylum to refugees and co-operates with the UN High Commissioner for Refugees. Refugees were accepted into the country from the Republic of Congo (ROC) during 2000 and approximately 360,000 refugees from neighbouring countries, including Rwanda, Burundi, Angola, Uganda and Sudan live in the country. During 2001, there were no known reports of the forced repatriation of refugees **[4b]**.

Arbitrary Interference With Privacy

5.33 The law prohibits arbitrary interference with privacy but in practice, the security forces routinely ignore such legal provisions. Government security forces have reduced but have not ceased altogether the surveillance of the headquarters of opposition political parties and the movements of leading opposition political figures. Security forces raid private businesses and detained employees whom they accused of collaborating with rebel forces. Security forces routinely ignore requirements for search warrants, entering and searching at will. When unable to locate a specific individual, authorities routinely arrest or beat the closest family member **[4b]**.

5.34 Security agents force their way into private homes without search or arrest warrants, often beating the inhabitants and stealing money and goods. There have been reports that security forces raped women during these raids. The police often raid opposition party leaders' residences, make arrests, and seize files. For example, in November 2000, a group of armed government soldiers searched and robbed the house of Athanese Matenda Kyelu, the manager of the Chamber of Commerce, in the Ngaliema district of Kinshasa **[4a]**.

Use of Torture and other Cruel or Degrading Punishment

5.35 The law forbids torture but in practice security forces and prison officials use torture and often beat prisoners in the process of arresting or interrogating them. Incidents of physical abuse by security forces has occurred during the arrest or detention of political opponents, journalists and businessmen **[4a]**. Torture and ill-treatment are widespread in unofficial detention centres run by the security forces, where detainees are almost invariably held incommunicado. Beatings, including whippings administered with cordelettes (belts) are particularly common. Psychological torture is also frequent, with many detainees being threatened by death and some have been subjected to mock executions. Conditions in many detention centres are very poor **[17]**.

5.36 Despite assurances given by the Government both to Amnesty International and the UN High Commissioner for Human Rights that it was committed to a moratorium on executions, the death penalty continues to be applied. As many as 200 members of the security forces and civilians have been executed since Laurent Kabila took power in May 1997. At least 35 people are known to have been executed in Kinshasa and Maluku during 2000. Executions are often carried out in secret. In September 2000, five soldiers and three civilians were taken from the CPRK (main prison in Kinshasa) in the middle of the night and reportedly executed at the Inspectorat de police de Kinshasa (IPK) or Police Inspectorate of Kinshasa. No official announcement was made and no names were released. At the end of 2000, up to 60 people remained on death row at the CPRK **[24]**.

5.37 Many soldiers and some civilians were arrested in January and February 2001 in connection with an alleged coup plot and the assassination on 16 January 2001 of former president Laurent Kabila. Many of those arrested were from the provinces of Orientale and Equateur which are occupied by the rebel forces. Those arrested appear to have been suspected of involvement in the offences on the basis of their origin. For example, army Brigadier Jean Kandolo was severely tortured there after his arrest on 25 January. He was reportedly severely beaten on 27 and 29 January, and again on 2 and 10 February, each time in the hours of between midnight and 3 am. While in custody at the Groupe Litho Moboti (GLM) detention centre in Kinshasa, Brigadier Kandolo remained handcuffed until he was transferred to the CPRK. He reportedly sustained injuries and has scars on his testicles, buttocks, and the full length of his legs, including his feet **[27]**.

5.38 Five women, four of them wives of soldiers accused of involvement in the assassination of former President Laurent Kabila, were reportedly severely tortured in custody at the GLM building. They were arrested during the two weeks following Kabila's assassination. This group of victims included Peggy Fono Onokoko, wife of Lieutenant Mwenze Muzele, the alleged assassin of Laurent Kabila, Charlotte Atandjo Otshudi, Luziba Nabintu, Coco Chibalonza Balole and Angelique Bilbago. For several weeks, a GSP commander reportedly subjected them to beatings, while naked and with bound arms and legs, in the mornings and at night. The commander reportedly beat the women with sticks, a military belt, an electric cable and a chain. The women appear to have been prisoners of conscience held solely because of their relationship with their husbands who were implicated in the murder of the former president **[27]**.

V.B HUMAN RIGHTS: SPECIFIC GROUPS

Women

5.39 Many women suffer from domestic violence and rape but there are no known government or NGO statistics to verify this. The police rarely intervene in domestic disputes and the press rarely report incidences of violence against women. Women mainly work as agricultural labourers and small-scale traders. They are relegated to a secondary role and rarely occupy positions of authority or responsibility. The law discriminates against women in many areas of life. Women are required by law to obtain their husband's permission before selling or renting property, opening a bank account, accepting employment, or applying for a passport. Widows often have their possessions and their children taken from them with no legal recourse and women are denied custody of their children in divorce cases although they have the right to visit them. Polygyny is practiced although it is illegal. Father/child relationships resulting from polygynous unions are legally recognised but only the first wife is legally recognised as a spouse. Prostitution is not a crime and there has been an increase in prostitution due to poor economic conditions. Some women become prostitutes by their families due to economic necessity **[4a]**.

5.40 Many women have been subjected to rape and other forms of sexual violence by members of the security forces. The incidence of rape is thought to be seriously under-reported. Investigations into cases of rape are extremely difficult particularly because of the social stigma associated with it. In many cases, women are reluctant to report rape because they may be abandoned by their husbands or they may even be accused of having been targeted because of their loose morals. In a number of cases, women who have been are stigmatised as likely to have contracted HIV and hence shunned by those who get to know about the rape. Fear of stigma and reprisals usually leads women to request that their identities are not revealed in public reports **[27]**.

Children

5.41 In 2001, there were no documented cases in which security agents or others targeted children for specific abuse although children are affected by the same general social disorder and widespread disregard for human rights that impact society as a whole. These conditions sometimes make it impossible for parents to meet their children's basic human needs **[4b]**.

5.42 The number of orphans and street children increased in 2001. Street children in Kinshasa are subject to severe harassment and exploitation, particularly by soldiers and the police. There have been credible reports that the FAC sexually exploited homeless girls. On 15 August 2001, police shot and killed one street child for shoplifting in Kinshasa's central market. This provoked a riot during which police arrested dozens of street children. Public sentiment for the most part rested with the police, since the Kinshasa population is distrustful of street children **[4b]**.

5.43 The Juvenile Code includes a statute prohibiting prostitution by children under the age of 14; however, child prostitution is common in Kinshasa and in other parts of the country. There were reports during 2001 that girls as young as 8 years of age were forced into prostitution to provide income for their families **[4b]**.

5.44 It is estimated that more than 10,000 children are under arms in the DRC although the precise number cannot be verified. All parties to the conflict are alleged to be making extensive use of child soldiers. Despite declarations by both the DRC Government and the RCD rebel group to cease recruitment and commit to the demobilisation of child soldiers, their use and recruitment continues. The April 2001 report of the UN Secretary-General to the Security Council on the MONUC operations stated that MONUC confirms regular sightings of child soldiers across the country. Reports to MONUC indicate that between 15 and 30 per cent of newly recruited combatants are children under 18 years old; substantial numbers of these are under 12 years old **[7]**.

5.45 A significant minority have been recruited by force, while armed groups or local authorities have enrolled many others through various forms of community coercion such as the imposition of quotas. The principal motivations for children to join a rebel group or the government regular army are economic, a desire to seek revenge, a desire to seek personal physical security and to protect family and community. The most important factor has been economic necessity as being a soldier can mean receiving financial payments and having greater access to food. There is a close correlation between the level of a child's poverty and their vulnerability to recruitment **[7]**.

5.46 Testimonies from former child soldiers suggest that they are used extensively in combat and suffer a disproportionate number of casualties while being the least likely to receive medical attention when sick or wounded. Severe beatings and other punishments are reportedly routinely meted out to child soldiers, both during training and in general service **[7]**.

5.47 Girls recruited by the different armed groups are not generally used in combat. Girls are typically used for domestic work and sex by commanders, which implies that their number is relatively low compared with boy recruits **[7]**.

5.48 Female genital mutilation (FGM), which is condemned widely by international health experts as damaging to both physical and psychological health is not widespread but it is practiced on young girls among isolated groups in the north. The Government has not addressed the problem **[4b]**.

Ethnic Groups

5.49 Ethnic tensions, which are a long-standing issue, are reflected in DRC internal and external politics. The Congolese people are made up of over 200 distinct ethnic groups. These ethnic groups generally are concentrated regionally and speak distinct primary languages. There is no majority ethnic group - the four largest are the Mongo, Luba, Kongo and Angbetu-Azande. The various ethnic groups speak many different languages but only four indigenous languages have official status – Kiswahili, Lingala, Kikongo and Tshiluba. French is the language of government, commerce and education **[4b]**.

5.50 Societal discrimination on the basis of ethnicity is widely practiced by members of virtually all ethnic groups and is evident in private hiring and buying patterns and in patterns of de facto ethnic segregation in some cities. In large cities, however, intermarriage across ethnic and regional divides is common. Birth on national territory

reportedly does not necessarily confer Congolese citizenship. The Government does not recognise the citizenship claims of long-time residents whose ancestors immigrated to the country, including the Banyamulenge Tutsis **[4a]**.

5.51 President Joseph Kabila has continued his father's practice of filling a disproportionate number of government positions with people from his home province of Katanga and specifically from his Mulaba ethnic group. The present government cabinet is more geographically representative of the country than previous cabinets **[4b]**.

5.52 Immigration and settlement in the eastern part of the country by the Banyarwanda people, who are Twas, Tutsis and Hutus of Rwandan origin, occurred at different periods and for a variety of reasons. There is historical evidence that Rwandan agricultural colonies were established in the islands of Lake Kivu in the 18th century. In addition to this, a group of ethnic Tutsis claim to have settled during the 17th century in the hills they named "Mulenge" between Lakes Kivu and Tanganyika or between Bukavu and Uvira in South Kivu Province. Accordingly, they called themselves Banyamulenge. Congolese Tutsis are often described as Banyamulenge or "Rwandans" by Congolese from other ethnic groups **[8]**.

5.53 Tutsis dominate one of the rebel groups - the Congolese Rally for Democracy - which controls one third of the country and for this are viewed by the Government as a potential threat. In addition to this, Tutsis are generally resented and viewed with suspicion by other tribal groups who make up the civilian population of the country. In August 1998, at the start of the rebellion, the Government's security forces systematically arrested and detained Tutsi civilians throughout the country. Many Tutsis have been killed, beaten and tortured both by security forces and civilians and the Government has encouraged this by inciting violence against them in radio broadcasts **[4a]**.

5.54 Violent acts against the Tutsis have lessened in intensity since 1999 and the Government no longer incites mob violence against unarmed Tutsis. The widespread killings that occurred in 1998 did not occur in 1999. During 2000, there were no reports of extrajudicial killings of non-combatant Tutsis in government-controlled areas. Tutsis have either left the Government-controlled areas or are in hiding, sought refuge abroad or in government custody. In addition to this, many Tutsis have been evacuated to safe countries in evacuation programmes by the UNHCR. Persecution and harassment of Tutsis is now sporadic and not part of a systematic and concerted campaign. Many people who are not Tutsis but physically resemble Tutsis have been detained or beaten on suspicion of being a Tutsi **[4a]**.

5.55 Throughout the year in the Ituri district in Orientale Province, an area dominated by Ugandan and Ugandan-supported forces, fighting between members of the Lendu and Hema ethnic groups reportedly killed thousands of persons and displaced tens of thousands of persons. The fighting reportedly arose from disputes over land use. There have been reports that Ugandan troops manipulated and exacerbated the fighting by providing support to the combatants **[4b]**.

5.56 Neither the Hemas or the Lendus originated in the area of the DRC they now live. The Bantu-Lendu, mainly farmers, settled before the 19th century arrival of the Nilotic-Hema, who are mainly cattle herders. The minority Hema benefited disproportionately

from the Belgian colonial era, when they inherited plantations, farms and fertile land, whereas the Lendu were employed to work on the land. The comparative wealth of the Hema gave them more access to education and greater representation in local government **[3]**.

Homosexuals

5.57 Homosexual activity is not illegal in the Democratic Republic of Congo. Police arrests are usually made when the person concerned has acted without due regard to propriety or acted against public morals but this applies to heterosexual activity as well. Male homosexuals are not treated any differently to female homosexuals by the law. Homosexuality has traditionally been regarded as a crime against nature and homosexuals could be punished in accordance with local tradition. This might have included being ostracised or segregated. Homosexuality does not now generally result in public condemnation or police harassment **[23]**.

Human Rights Groups

5.58 A number of domestic and international local human rights NGOs continued to investigate and publish their findings on human rights cases but are subject to government harassment. The Government arrested several human rights activists after they published reports on government abuses, including Golden Misabiko of ASADHO and N'Sii of CODHO. There has, however, been a significant decline in the overall level of government harassment of human rights activists **[4b]**.

5.59 The main domestic human rights organisations operating in the country include Comite Droits de l'Homme Maintenant, a national network of human rights organisations; VSV, an active Kinshasa-based organisation; Group Amos, a Christian-inspired group that focuses on human rights and democracy issues; Toges Noires, an international association of lawyers and judges involved with human rights and Associations de Defence des Droits de l'homme (ASADHO) **[4a]**.

5.60 International human rights organisations operating in Kinshasa include the International Human Rights Law Group, the International Foundation for Elections Systems, Search for Common Ground and the National Democratic Institute. Representatives of other international human rights and democracy NGOs, such as Human Rights Watch Africa and the National Endowment for Democracy, visited the country (including rebel-held areas) during 2001 **[4b]**.

5.61 Human rights defenders have been subjected to torture and other ill-treatment in an attempt intimidate them and cause them to desist from carrying out their work. For example, Guy Maginzi, a member of the Lubumbashi-based Centre des droits de l'homme (CDH) human rights group, was tortured after he was suspected by the security services of travelling to Kinshasa to investigate the case of another human rights defender, Golden Misabiko. Maginzi was arrested soon after his arrival at N'djili Airport from Lubumbashi. Maginzi was arrested after he exchanged greetings with Misabiko and both were taken to the GLM building. A member of the GSP (one of the Government's security forces), first ordered him to laugh and then cry repeatedly. He was then made to lie on the floor and he was repeatedly beaten on the soles of his feet in the air. The second night he was repeatedly whipped on the back **[27]**.

ANNEX A

PROMINENT PEOPLE PAST AND PRESENT

Jean-Pierre BEMBA

Leader of the Movement for the Liberation of Congo (MLC). Son of business magnate Bemba Saolona. The Bemba family, which was closely associated with Mobutu before his fall, has wide ranging business interests.

Joseph ILEO (or Ileo Nsonga Amba)

Prime minister 1960-61. Leader of PDSC. Vice-president of CNS December 1991. Died in 1995.

Emile ILUNGA

Leader of RCD-Goma rebel faction until November 2000 when he was deposed. A long-time political activist from Katanga.

Joseph KABILA

Son of Laurent Kabila and current President of the DRC. He was appointed as the President of the DRC in January 2001 after the assassination of his father - Laurent Kabila.

Laurent Desire KABILA

Former President of the DRC. He was the leader of AFDL forces which toppled Mobutu in May 1997 after a prolonged military campaign which started in the east of the country. He became President of the DRC in May 1997 and remained the president until his assassination in January 2001.

Colonel Eddy KAPEND

Former head of the former president's special presidential staff and aide-de-camp to the late Laurent Kabila. He was arrested as a key suspect by the security forces after the former president Laurent Kabila was assassinated in January 2001. Kapend was formally charged in March 2002 with conspiracy and the murder of the late Laurent Kabila.

Nguza KARL-I-BOND

Lunda ethnic origin. Minister in Mobutist governments in the 1970s. Sentenced to death in 1977 for alleged treason, the sentence was commuted to life imprisonment. Reinstated to government post in 1979. Leader of FCD in 1982. Leader of UFERI in 1990. First state commissioner on 22 November 1991 under Senegal proposals for new constitutional arrangements.

Justine KASAVUBU

Appointed ambassador to Belgium by Kabila. She resigned and formed an opposition party in exile in Brussels in June 1998.

Leon KENGO WA DONDO

Appointed first state commissioner by Mobutu in November 1982 and November 1983 for a few months on each occasion. He was appointed Prime Minister from June 1994 until the last days of Mobutu's presidency. Press reports state he is now head of a government in exile in Belgium.

Frederic KIBASSA-MALIBA

Founder member of UDPS and president of USORAL 1994-6. During this period he was involved in a power struggle with Tshisekedi. Appointed Minister of Mines in Kabila government in 1997.

Francois LUMUMBA

Leader of MNC/L Party.

Patrice LUMUMBA

First Prime Minister after independence. Leader of MNC (Mouvement national Congolais) which favoured the creation of a federal state. In the post-independence secession of Katanga, Lumumba lost control to Kasavubu who was supported by Mobutu. He was murdered in February 1961. The current Lumumbiste party (PALU) support similar federalist views.

Catherine Nzumi Wa MBOMBO

Leader of the MPR political party.

Joseph Ruhana MIRINDI

UDPS politician. Leader of reformist wing which took part in the Kengo Wa Dondo administration in 1994.

Joseph-Desire MOBUTU (Mobutu Sese Seko Kuku Ngbendu Wa Za Banga after 1972)

Took control of the country in 1965 and remained President of the DRC until 1997. From 1965 to 1990 opposition activity was banned and power was concentrated in Mobutu's hand's and those of his immediate supporters. Eventually, in 1990, amid allegations of corruption, extravagance and human rights abuses, Mobutu announced a return to pluralist politics and promised elections and a constitutional referendum, which never took place. In August 1996, Mobutu left the country for 4 months for cancer treatment. During his absence, the AFDL rebels led by Kabila extended the revolt which had arisen from ethnic tensions in the east and eventually took control of the whole country in May 1997. Mobutu and his family left for Morocco where he died in September 1997.

Joseph OLENGHANKOY

Leader of FONUS political party. Detained in January 1998 on unspecified charges, he was later sentenced to 15 years imprisonment by the Military Court for violating the ban on political activity. He was released in June 1999.

Adolphe Yemba ONUSUMBA

President of RCD-Goma rebel group since November 2000 replacing Emile Ilunga.

Etienne Wa Mulumba TSHISEKEDI

UDPS founder member and leader. During the 1990s, he was at the centre of the political activity following Mobutu's 1990 announcement of a return to a multi-party state, often in conflict with other leading figures, including Mobutu and with members of his own party. In April 1996, divisions with Kibassa-Maliba led to a power struggle for control of the party. During the last days of the Mobutu regime Tshisekedi continued to be excluded from the government although he again held the premiership briefly in April 1997. In early 1997, his faction of the UDPS declared its support for the AFDL takeover. After they came to power, however, he refused to recognise the new regime and was not offered a post in the new government. In February 1998, he was arrested on the grounds that he had violated the ban on public political activity and sent to live in internal exile in his home village for 5 months. In October 1998, he was prevented from travelling to Brussels to address the European Parliament.

Ernest WAMBA DIA WAMBA

Chairman of the RCD from the start of the rebellion in August 1998. He was later ousted by the Goma-based faction of the RCD led by Emile Ilunga and became the head of RCD-ML.

Arthur Z'AHIDI NGOMA

Political opponent of Mobutu and Kabila under Forces du Futur party. In May 1998, he was found guilty by a military tribunal of violating the ban on public political activity and given a one year suspended sentence. He then emerged as a leader of the rebel RCD group but left in January 1999 after a disagreement.

ANNEX B

CHRONOLOGY

1885

Congo Free State established under the sovereignty of King Leopold of Belgium.

1908

Following reports of exploitation and abuses, the Belgian Parliament voted to annex the territory, which was then renamed the *Belgian Congo*.

1959

The Belgian Government announced a timetable leading to independence.

1960

The country gained independence from Belgium on 30 June 1960 as the Republic of the Congo. Kasavubu becomes president and Lumumba becomes prime minister. Political and military disagreements ensued and the eastern provinces of Katanga and South Kasai resolved to secede. Later that year, Col Mobutu, as Army Chief of Staff, suspended political institutions and assumed control of the country. Kasavubu was allowed to remain as President. Lumumba was murdered in 1961.

1964

Rebellions in the Kwilu region and in the South Kivu and northern Katanga provinces were eventually defeated with the help of Belgian troops. The political leader of the eastern separatists, Moise Tshombe, became Prime Minister pending legislative elections, and the country was renamed the *Democratic Republic of the Congo*.

1965

Mobutu again intervened following the political deadlock which ensued from elections. He assumed full executive powers and declared himself the President of the "Second Republic". The legislature was suspended and a five-year ban on party politics was imposed. During this period, power was progressively concentrated in the office of the President. By 1970, no senior politicians remained as potential rivals to Mobutu, the main candidates having been either ignored, or appointed to overseas diplomatic posts, subsequently accused of plotting against the President, and dismissed or arrested.

1970

Presidential and legislative elections were held. Mobutu, as sole candidate, was elected President, and members of a national legislative council were elected from a list of candidates presented by Mobutu's political party, the Mouvement populaire de la revolution (MPR). The government, legislature and judiciary became institutions of the MPR and all citizens automatically became party members. In 1971, the country was renamed the *Republic of Zaire* as part of the campaign for African authenticity.

1977

An invasion of Shaba province by former Katangese rebels from Angola was repulsed with assistance from France and Morocco (the First Shaba War).

Mobutu created the post of first state commissioner (equivalent to prime minister) and announced a legislative election for 1980. He was then re-elected unopposed for a further term of office.

The commissioner for foreign affairs, Nguza Karl-I-Bond, was dismissed and sentenced to death for alleged treason, later commuted to life imprisonment.

1978

The military establishment was purged when a number of senior officers and civilians were executed after the alleged discovery of a coup plot.

The "Second Shaba War" occurred when several thousand men, originally from Angola, invaded Shaba from Zambia in May. French paratroopers assisted Zairian forces to recapture Kolwezi, a major mining centre. In June a Pan-African peacekeeping force was sent to Shaba and remained there for more than a year.

1982/3

Internal opposition groups became active, notably the UDPS, led by Etienne Tshisekedi, which was then banned, and the FCD coalition, headed by Karl-I-Bond. A substantial political opposition movement in Belgium was also formed. In response to a highly critical Amnesty International report, Mobutu offered an amnesty to political exiles.

1984

Mobutu was again re-elected without opposition and continued with political and financial policies to reinforce his personal position. Two UDPS members were imprisoned for insulting the head of state.

1987

Results of regional and municipal elections were annulled due to alleged electoral malpractice. External opposition continued and several UDPS members, including Tshisekedi, returned to Zaire under amnesty terms. Some UDPS members were appointed to government posts.

1990

Mobutu announced various political changes, including the inauguration of the Third Republic, and a transitional government although he retained his hold on power. Legislation permitting the operation of political parties and free trade unions was enacted, and a special commission to draft a new constitution by April 1991 was announced. Tshisekedi was released from house arrest.

1991

The announcement of a timetable for the restoration of multi-party politics led to the

proliferation of political parties, notably, UFERI, led by Karl-I-Bond, and the PDSC, which united with the UDPS, to form a coalition, the USOR.

In April, Mobutu announced a national conference to discuss the drafting of a new constitution, which would be subjected to a national referendum. Widespread anti-government demonstrations followed and forty two people were killed, and many others wounded, when security forces opened fire on demonstrators in Mbuji-Mayi, in central Zaire.

In October, following pressure from France, Belgium and the USA in the wake of the riots, the "government of crisis" was formed, headed at first by Tshisekedi, then by Mungal Diaka, leader of the Rassamblement democratique pour la Republique (RDR). When this failed to gain both internal and external acceptance a new government led by Karl-I-Bond was appointed. The national conference resumed in December, only to be suspended by Mobutu in January 1992.

1992

Under pressure at home and abroad, Mobutu reconvened the national conference in April which then became the Sovereign National Conference (CNS), with power to take legislative and executive decisions, with Mobutu remaining as head of state. The CNS was to prepare a draft constitution for a referendum, and a timetable for legislative and presidential elections. Disagreements between Mobutu and the CNS soon arose over its powers.

In August, the CNS appointed Tshisekedi as transitional first state commissioner, who also clashed with Mobutu.

On 6 December, the CNS dissolved itself and was succeeded by a 453-member high council of the republic (HCR), which again clashed with Mobutu over its stated intention to consider a report on allegations of corruption, and in its declaration of Tshisekedi as head of government.

1993

In January, the HCR declared Mobutu to be guilty of treason and threatened impeachment proceedings unless he recognised the transitional government. Civil disorder again broke out in a brief general strike and campaign of civil disobedience organised by the USOR which resulted in five deaths. .

In March, Mobutu convened a "conclave" of political forces to debate the country's future, which appointed Faustin Birindwa, ex-UDPS, as Prime Minister, in a rival government to that of Tshisekedi and the HCR. Instability and political stalemate ensued in the following months, despite the attempted mediation of a UN envoy. In September an agreement reached between Mobutu representatives and opposition groups over arrangements for a transitional period failed to finalise over the HCR insistence that Tshisekedi should continue as Prime Minister.

1994

In January, an agreement was reached to form a government of national reconciliation.

Mobutu then announced the dissolution of the HCR, the dismissal of the Birindwa government, and a contest for the premiership between Tshisekedi and Molomba Lokoji, to be decided by a transitional legislature - the HCR-PT - which convened and immediately rejected Mobutu's proposal for the selection of a new Prime Minister.

In the following months a number of inconclusive political moves occurred but by July a new administration had been established under Leon Kengo Wa Dondo, which sought to introduce a measure of stability. In October an expanded opposition grouping - USURAL - resumed participation in the HCR-PT, and in November a reformist wing of the UDPS, led by Joseph Ruhana Mirindi, agreed to join the government.

Meanwhile, the country's economic difficulties had been compounded in September by the circulation of some 30 tons of counterfeit Zaire currency. Austerity measures were announced but by December the country's financial reserves were virtually exhausted.

1995

The Kengo Wa Dondo Government continued despite opposition frustration at the failure to finalise a timetable for elections. In July, at an anti-government rally organised by PALU, clashes with the security forces resulted in the deaths of nine civilians and one police officer. A further anti-government demonstration in Kinshasa in August organised by USORAL, which passed off peacefully, was attended by an estimated 5000 Tshisekedi supporters.

1996

In April, it was announced that multi-party presidential and legislative elections would take place in May 1997, and regional and municipal elections in June and July of that year, to be preceded by a referendum on a new constitution in December 1996, later put back to February 1997.

In August, Mobutu left the country for treatment in Switzerland of a serious form of cancer. The hiatus created by his absence and ill-health proved to be a decisive factor in bringing his rule to an end as the Kengo Wa Dondo Government proved unable to deal with the outcome of the rapidly escalating situation in the eastern provinces of North and South Kivu. Rwandan Hutu militia who had taken refuge there in 1994 began to try to carve out an area for themselves with the support of local Hutus, and members of the Zaire armed forces (FAZ), killing and expelling local Tutsis and other ethnic groups. The situation was affected by long-standing ethnic friction in the area. In October, Tutsis in South Kivu were ordered to leave the area provoking a backlash in which combined Tutsi forces supported by Rwandan armed forces made rapid advances against the Hutus and FAZ. What appeared at first to be a regional movement soon gathered momentum and emerged as a national rebellion aiming to overthrow the Mobutu regime. The rebels were joined by dissidents of diverse ethnic origin to form the Alliance des Forces Democratiques pour la Liberation du Congo-Zaire (AFDL), led by Laurent-Desire Kabila, a former Lumumba aide and opponent of the Mobutu regime since the 1960s. Despite attempts by the government to control the situation the rebel forces continued to make progress in taking over a large area of the east, including the towns of Goma and Bukavu, by the end of the year.

1997

In January, following Mobutu's return from abroad and the formation of a crisis government in Kinshasa, a counter-offensive by Zaire troops failed to make any significant gains and the AFDL forces continued to advance, taking the second city, Lubumbashi, by April. Attempts at mediation between the two sides failed, and with control of all the country's main resources Kabila was in a commanding position.

On 8 April, Mobutu declared a state of emergency, dismissed the government headed by Tshisekedi, who had replaced Kengo Wa Dondo a few days previously, and appointed General Likulia Bolongo as Prime Minister. Following inconclusive peace talks with Kabila mediated by the South African president, Nelson Mandela, Mobutu refused to submit to international pressure and the realities of the situation and resign. On 16 May, however, he left Zaire, having accepted a proposal to transfer interim power to the speaker of the HCR-PT, Monsignor Monsengwo Pasinya. He took refuge with his family and entourage in Morocco, where his health continued to deteriorate and where he died in September.

On 17 May, AFDL troops entered Kinshasa and Kabila declared himself President of the Democratic Republic of the Congo. He announced that there would be presidential and parliamentary elections in April 1999 and a programme of national regeneration would be pursued meanwhile. Kabila also issued a constitutional decree to remain in force until the adoption of a new constitution which allows him legislative and executive power and control over the armed forces and treasury. Of the previously existing institutions, only the judiciary was not disbanded. A government was formed which, while dominated by AFDL members, also included UDPS and other party members.

In June, a number of senior officials from the Mobutu period were arrested. The UDPS leader, Tshisekedi, was detained overnight after addressing a student meeting.

In July, a protest march against the ban on political activity resulted in three civilian deaths following clashes with troops. The Government blocked efforts by UN investigators to enquire into allegations of massacres by AFDL troops in eastern DRC but subsequently allowed them to resume in November.

In August, a military court was established by decree.

In October, the president appointed a 42-member Constitutional Commission (originally due to be appointed in June) to draft a new constitution by March 1998.

In November, Kabila re-affirmed the ban on public political activity until the holding of presidential and legislative elections in 1999. Clashes between rival army factions took place at the end of the month. It was apparent that Kabila had yet to gain control over the eastern provinces where ethnic violence continued between the Tutsi and Bantu groups.

1998

In February, Tshisekedi was arrested and banished to his native village allegedly because of his continued involvement in subversive political activity in defiance of the ban imposed in May 1997. He was freed in July and returned to Kinshasa. It was

reported that government control had been restored in the east, however, clashes reportedly continued and a statement issued by the citizens of Kivu province expressed indignation at the arrest of traditional chiefs and university lecturers.

A government in exile was formed in Brussels headed by Leon Kengo wa Dondo.

In April, the government banned the country's main human rights group AZADHO and took action against other groups. The draft constitution was submitted to the president. The draft was accompanied by a list of 250 names of people who would not be allowed to stand for office which was later disowned.

In May, a decree provided for the establishment of a 300-member constituent and legislative assembly to carry out a number of functions, including the preparation of a draft constitutional bill. Restrictions of previous good character and associations with the Mobutu regime were placed on membership.

In August, reports were received of an organised rebellion from the east of the country which was aiming to topple the regime. The rebels, calling themselves the Rassemblement Congolais pour la Democratie (RCD), were assisted by Rwanda and Uganda who were angered by Kabila's failure to contain attacks on their territory by insurgents based in eastern DRC. The rebels captured a number of eastern towns and made a flight to the west to take other assets, including the country's only port, Matadi, and the Inga hydroelectric dam, which were vital to Kinshasa. They reached the outskirts of Kinshasa by late August but then received a number of military setbacks from government forces who were by then being aided by Zimbabwe, Angola and Namibia, and subsequently by Chad.

The rebels continued to make progress in the east and captured more than one-third of the country by the end of the year.

In October, another rebel group, the Movement for the Liberation of Congo (MLC) joined the fighting in northern DRC.

Later in the year and in early 1999, reports of mass movements of refugees displaced by the war and of atrocities committed by both sides were issued. Kinshasa remained generally calm, although suffering the economic effects of the war. The security situation in government areas outside Kinshasa was dependent on the attitude and ability of the local police or army commander. Diplomatic efforts to end the fighting were inconclusive.

1999

In January, government decrees lifted the ban on public political activity and announced arrangements for registering new political parties. These were widely criticised for being too restrictive.

In April, the government stated that the country needed new-style political parties which should be national in character and not reflect narrow interests and stated that elections could only take place on a nationwide basis. The election that was due to take place in April 1999 was postponed.

A peace accord was signed in Lusaka by the governments of the DRC and other countries involved on 10 July and by the MLC rebel group on 1 August. The RCD factions, however, stayed outside the peace accord for several weeks but on 31 August 1999, signed the peace deal. Attention turned to the next steps of setting up arrangements to monitor the ceasefire and to hold a national debate about restoring central administration and to pave the way for elections

In August/September, the UN Special Rapporteur visited the country. He expressed concern at human rights issues on both the government and rebel sides and made recommendations.

Despite the ceasefire agreement, violations of the ceasefire by both the government forces and the rebel groups were reported.

2000

In January, peace talks were held at the UN Headquarters in New York to discuss the political impasse in the DRC which is protracting the conflict between the rebels and the government forces. President Kabila of the DRC was in attendance as well as representatives of the other African nations involved in the conflict.

Following the peace talks at the UN Headquarters in January, the UN decided to send 5,037 troops to the DRC to support the work of the 500 ceasefire monitors.

Violations of the ceasefire agreement by both the Government forces and the rebel groups continue to be reported. New ceasefire agreement in April fails to bring lasting peace. Serious fighting between Ugandan and Rwandan forces in Kisangani.

Transitional parliament set up by President Kabila.

Peace talks between the warring parties in Lusaka in Zambia in August aimed at ending war completely fails.

2001

On 16 January, President Laurent Kabila was assassinated in Kinshasa. He was given a full state funeral. His son - Joseph Kabila - was sworn in as the new President of the DRC.

In February, representatives from the six warring countries and the three main rebel groups attended a United Nations Security Council meeting in New York on the DRC in February 2001. In a resolution negotiated with all the parties, the Security Council demanded that rebel forces withdraw an initial 15 km from their current positions by 15 March 2001 and plan for a complete withdrawal by 15 May 2001.

In May, the Commission of Enquiry into the assassination of Laurent Kabila produced its findings in a report which accuses both the Ugandan and Rwandan Governments and the rebel RCD rebel group of plotting the assassination and a coup.

Also in May, a law is passed allowing registered political parties to engage in political activity legally subject to certain conditions.

In October, the Government, opposition political parties, armed groups and members of civil society met in Addis Ababa to start the Inter-Congolese Dialogue (ICD). The aim of the ICD is to resolve the conflict between rebel forces and the Government and to agree the setting up of an interim government until free democratic elections are held. The DRC Government pulled out of the talks which were subsequently re-scheduled to take place in South Africa.

2002

In February, the Inter-Congolese Dialogue starts again in Sun City in South Africa.

ANNEX C

GLOSSARY

AFDL

Alliance des forces democratiques pour la liberation du Congo-Zaire Ruling party of President Kabila on coming to power. Mainly Tutsi and comprising 4 political parties, all from eastern DRC: PRP (Popular Revolution Party), founded by Kabila in 1967; PDA (Peoples Democratic Alliance led by AFDL Secretary-General, General Bugera, and comprising largely Congolese Tutsis, the Banyamulenge; RMLZ (Revolutionary Movement for the Liberalisation of Zaire) led by Masusu Nindaga, mainly supported by the Bashi in the Bukavu area; and, NCRD (National Council for resistance for Democracy) led by the late Andre Kisase Ngandu, supported by the Luba tribe. In April 1999, President Kabila dissolved the AFDL.

ANR

National Intelligence Agency (Agence Nationale de Renseignements). One of the Government's security forces.

ASADHO

Formerly AZADHO. Human rights group banned by Kabila in April 1998.

Banyamulenge (Congolese Tutsis)

Congolese Tutsis of Rwandan origin. Long-term residents of South Kivu. Formed the basis of the AFDL group which brought Laurent Kabila to power but now compromised by association with Rwandan opposition to the Kabila regime. Tutsis were systematically persecuted by the security forces and Congolese people from other ethnic groups in August 1998 when the RCD rebellion against the Laurent Kabia regime started.

Banyarwanda

Collective name for Congolese people of Rwandan origin, either Hutu, Tutsi or Twa. Those in DRC living mainly in North Kivu but without equal nationality and land ownership rights, a situation which led to violent ethnic conflicts, especially after the influx of Rwandese Hutu refugees in 1994, when thousands were massacred.

Congolese Liberation Front

Formed in January 2001 following a merger between the MLC and RCD-ML and backed by the Ugandan Government. The leader was Jean-Pierre Bemba. In June 2001, the CLF split back into the MLC and RCD-ML. The CLF was in control of the areas that were in the control of the MLC and RCD-ML.

DEMIAP

Military Detection of Anti-Patriotic Activists. One of the Government's security forces.

DGM

Direction Generale de Migrations. Government security force with immigration control responsibilities.

DSP

Special Presidential Division. Mobutu's security force, controlled by loyalist generals.

FAC

Force Armee Congolaises or Congolese Armed Forces.

FAZ

Zaire armed forces under former Mobutu regime.

ICRC

International Committee of the Red Cross.

Interhamwe

Rwandan Hutu militia groups who lived in refugee camps in Kivu. Responsible for most of the massacres which took place in Rwanda during the genocide and involved in the ethnic clashes in Kivu. Controlled many of the refugee camps in the Kivus. Dispersed with the camps but many groups are still in eastern DRC and opposing Rwandan military involvement in the country. They are allied with government forces but operate independently.

Kadogos

Swahili word for “little ones”. This term is used by Congolese people to describe child soldiers in the army.

Lusaka Peace Accord or Lusaka Ceasefire Agreement

This ceasefire agreement was signed in Lusaka by representatives of the DRC war combatants - DRC, Namibia, Rwanda, Uganda, Zimbabwe and Angola on 10 July 1999 and by the MLC rebel group on 1 August 1999. On 31 August 1999, the RCD also signed the peace agreement.

Mai-Mai

Militia based in North Kivu, drawing support from local tribes and opposed to Rwandan occupation. They are allied with government forces but operate independently.

MLC

Mouvement de Liberation du Congo. Rebel group which emerged in late 1998 in northern DRC. Operating in Equateur province with Ugandan backing. Leader - Jean-Pierre Bemba.

MONUC

United Nations Organisation Mission in the DRC created in August 1999. Originally authorised to deploy 5,537 observers and armed troops by the UN Security Council.

Rassemblement Congolais pour la Democratie (RCD)

Rebel group. Formed by rebels in August 1998. Split into two separate groups in 1999: RCD-Goma and RCD-Kisangani (later renamed RCD-ML). The current leader of RCD-Goma is Adolphe Onosumba and the current leader of RCD-ML is Mbusa Nyamwisi.

RPA

Rwandan Patriotic Army. Armed forces of Rwanda.

RPF

Rwandan Patriotic Front. Tutsi-dominated movement which forced out the Hutu regime in Rwanda following the 1994 genocide.

SARM

Service d'action et de renseignements militaires. Mobutist military security agency.

SNIP

Service national d'intelligence et de protection. Mobutist civilian security agency.

ANNEX D

LIST OF MAIN POLITICAL PARTIES IN THE DRC [1]

Forces Novatrices pour l'union et la Solidarite (FONUS)

Based in Kinshasa. Advocates political pluralism. President - Joseph Olenghankoy. Secretary General – John Kwet

Forces Politiques du Conclave (FPC)

Bases in Kinshasa. Formed in 1993. Alliance of pro-Mobutu groups. Chairman – Jean Nguza Karl-I-Bond

Forces Pour le Salut du Congo (FSC)

Formed in June 2000 by former supporters of former president Mobutu. Leader - Jerome Tshisimbi.

Mouvement National du Congo-Lumumba (MNC-Lumumba)

Based in Kinshasa. Formed in 1994. Coalition of seven parties, including PALU. Led by Antoine Gizenga; supports the aims of the late Patrice Lumumba.

Mouvement Populaire de la Revolution Liberation du Congo (MPR)

Formed in 1966 by Mobutu. Sole legal political party until 1990. Advocates national unity and opposes tribalism. Leader – Catherine Nzugi Wa Mbombo

Parti Democrate et Social Chretien (PDSC)

Formed in 1990. President – Andre Bo-Boliko. Secretary General – Tuyaba Lewula

Parti Lumumbiste Unifie (PALU)

Formed in 1964 by Antoine Gizenga (minister in Lumumba's government)

Union des Federalistes et Republicains Independants (UFERI)

Based in Kinshasa. Formed in 1990. Seeks autonomy for the Shaba (Katanga) province. Dominant party in the USOR. Leader – Kouyoumba Muchuli Mulembe

Union pour la Democratie at le Progres Social (UDPS)

Based in Kinshasa. Formed in 1982. Leader – Etienne Tshisekedi. Secretary General – Dr Adrien Phongo Kunda.

Union pour la Republique (UPR)

Based in Kinshasa. Formed in 1997 by former members of the MPR. Leader – Charles Ndaywel.

Union Sacree de L'Opposition Radicale (USOR)

Based in Kinshasa. Formed in 1991. Comprised of 130 movements and factions opposed to Mobutu in which the UDPS was the dominant party. A radical internal faction, known as the Union Sacree del'Opposition Rdicale et ses Aliies (USORAL) emerged in 1994 . President – Frederic Kibassa Malaba

Union Sacree Renovee (USR)

Based in Kinshasa. Formed in 1993 by several ministers in former Government of National Salvation. Leader – Kiro Kimate.

ANNEX E

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