



Democratic Republic of Congo: Journalists and Human Rights Defenders Under Fire

A Human Rights Watch Briefing Paper

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Summary

With the first round of elections in the Democratic Republic of Congo (DRC) set for July 30, 2006, there has been an increase in attacks, threats, and detention of journalists, human rights defenders and members of the political opposition. These abuses limit possibilities for the public debate essential to any free and fair elections. The significant financial and political investments in the elections made by the international community risk being undermined if conditions do not allow voters to freely exercise their right to vote. A delegation of the United Nations Security Council, scheduled to visit the DRC on June 11 and 12, should speak out strongly against repression of free speech, and press Congolese officials to ensure that public debate and the elections themselves take place in a climate that is free from fear. Human Rights Watch also urges donors to immediately establish a free speech election monitoring unit to report on and respond promptly to any measures taken by the Congolese authorities to unlawfully or unreasonably limit freedom of expression, assembly, and the freedom of the press prior to the elections.

Attacks on Journalists and the Media

Assaults and threats against journalists and media outlets

Journalists were attacked and threatened in the following incidents during the months of April and May 2006:

- On April 24, members of the Republican Guard (also known as the *Guardes Spéciales de Sécurité Présidentielle*, GSSP) in Kisangani, northeastern Congo, beat Anselme Masua, a journalist with Radio Okapi who had entered an army camp to investigate the integration of rebel combatants into the national army. Masua had identified himself clearly at the camp entrance before entering the grounds.¹
- On May 18, unidentified assailants abducted and beat state television reporter Ricky Nzuzi in Lubumbashi. Nzuzi, who was on his way to work, got into a

¹ Journaliste En Danger, "La garde républicaine passe à tabac un journaliste à Kisangani," *Press release*, April 24, 2006; Human Rights Watch telephone interviews with representatives of Journaliste En Danger, May 24 and June 1, 2006.

vehicle that he took to be a taxi. The assailants took him to a location outside of town, beat him, and then left him in the bush after holding him for many hours.²

- On May 22, approximately ten agents of the special police in plainclothes stormed the Christian television station Radio Télé Message de Vie. They beat four technicians and destroyed or confiscated essential broadcasting equipment, making further broadcasts impossible. Radio Télé Message de Vie had broadcast a church service conducted by Pastor Fernando Kutino, who is highly critical of the current political process. Kutino himself was arrested following the service (see below).³
- In mid May, Kabeya Pindi Pasi, a television journalist and president of the National Press Union in Congo (UNPC), received anonymous death threats after reporting alleged human rights abuses by Vice-President Jean-Pierre Bemba and combatants of his Movement for the Liberation of Congo (MLC). Bemba is currently campaigning for election as president. After receiving the threats, the journalist fled the country.⁴

Detention of journalists

Government officials and other powerful persons dissatisfied with press coverage frequently charge journalists with such offenses as criminal defamation, insulting the head of state or the government, and spreading false information, rather than pursue civil remedies against them. This practice tends to restrict legitimate freedom of expression and freedom of the press, as it intimidates journalists and discourages open and honest criticism of government policy and the conduct of officials. The following journalists have recently been or are still in detention:

- Kazadi Kwambi Ksumpata was arrested in April 2006 on criminal defamation charges, and is currently held at Kinshasa Central Prison. The charges are based on an article he wrote for the weekly *Lubilanji Expansion* alleging mismanagement

² Committee to Protect Journalists, "DRC: Attacks on the press rise in run-up to elections," *Press release*, May 23, 2006.

³ Comité des Observateurs des Droits de l'Homme (CODHO), "RD Congo : Réquisition illégale du matériel de la Radio Télé Message de Vie," *Press release*, May 24, 2006.

⁴ Human Rights Watch telephone interview with representative of Journaliste En Danger, May 24, 2006. See also "Président de l'Union des journalistes Congolais: Menacé par le MLC, Kabeya Pindi Pasi en danger de mort," *Le Potentiel* (Kinshasa), May 31, 2006, [online] http://www.africatime.com/rdc/nouvelle.asp?no_nouvelle=259731&no_categorie=4 (retrieved May 31, 2006).

of funds at the Protestant University of Congo, a private university. Arthur Twishimanga Kaputut, editor of *Lubilanji Expansion*, was also detained for three days in April.⁵

- Jean Louis Ngalamulume, editor of *L'Eclairneur*, was arrested in January 2006 and held for two months on charges of insulting an official after he published an article criticizing the official for incompetence and tribalism in the way he distributed land at Mount Amba, near Kinshasa. Jean Pierre Pambu Lutete, editor of *La Tolérance*, was arrested and held for a month after alleging that another official had favored persons of one ethnic group in distributing land at Mount Amba.⁶
- Patrice Booto, editor of *Le Journal* and its supplement, *Pool Malebo*, has been in Kinshasa Central Prison since November 2005, when he published an article saying that President Joseph Kabila had given U.S.\$30 million to Tanzania for its education system at a time when his government was in a payment dispute with Congolese teachers. On May 30, 2006, Booto was found guilty of insulting the head of state and the government, but acquitted of the charge of publishing false information. He was sentenced to six months' imprisonment (he was freed on the basis of time served) and a U.S.\$500 fine.⁷ The prosecutor has appealed the decision.

The murder of Franck Ngyke and Hélène Mpaka

On November 2, 2005, four armed men murdered journalist Franck Ngyke of *La Référence Plus* and his wife Hélène Mpaka outside their Kinshasa residence as the couple were returning home. According to the couple's children, the attackers said that they had come to kill Ngyke, and they took no items of value except two mobile phones. Ngyke was said to have been close to the deputy secretary-general of President Kabila's political party and, according to fellow journalists, may have been investigating a story potentially

⁵ Human Rights Watch telephone interviews with representatives of Journaliste En Danger, May 24 and June 1, 2006; Journaliste En Danger, "Le directeur d'un hebdomadaire libéré après 72 heures d'incarcération," *Press release*, April 21, 2006.

⁶ Journaliste En Danger, "Un journaliste obtient une liberté sous caution, un autre attend la décision du parquet," *Press release*, April 3, 2006; Journaliste En Danger, "L'éditeur-directeur du journal 'La Tolérance' a été libéré sous caution après 33 jours de détention," *Press release*, April 6, 2006.

⁷ Journaliste En Danger, "Condamné à six mois de prison ferme, Patrice Booto est libéré à condition de payer 500\$ amende dans les 8 jours," *Press release*, May 30, 2006. His trial started at the State Security Court (*Cour de sûreté de l'Etat*). When the State Security Court was abolished in February 2006, it was transferred to a regular civilian tribunal in Kinshasa.

damaging to some politicians.⁸ Four suspects have been arrested, but no trial has yet been scheduled.⁹

Threats Against Human Rights Defenders

- Two leading members of *Journaliste En Danger* (JED), a Congolese organization campaigning for free speech, received death threats in January 2006, when they published the results of an investigation into the murder of Ngyke and Mpaka.¹⁰ On May 20, 2006, JED received another death threat by email. It said:

You people from JED have the opportunity to choose the coffin you like. You have chosen. Your time has come. We know your hiding places. This time we will get you. We will rape you with your women and children, even babies. As soon as it rains, that will be the sign. We know your homes and all the schools. You have no way out any more.¹¹

- Hubert Tshiswaka, director of the Katanga-based Action Against Impunity and for Human Rights (ACIDH), received a telephoned death threat and fled the country in April 2006 after ACIDH criticized the creation of militias by political parties, particularly the Union of Congolese Nationalists and Federalists (UNAFEC), a political movement close to President Kabila and composed primarily of members of the Balubakat ethnic group. After Tshiswaka criticized UNAFEC, its party leaders and a newspaper close to them described Tshiswaka as tribalist and accused him of inciting ethnic hatred. Tshiswaka is from Kasai, and in the past there has been ethnic hostility between the Balubakat of Katanga and Kasaians.
- Jean-Pierre Muteba, a trade unionist, and Jean-Claude Katende, president of the Katanga branch of the African Association for the Defence of Human Rights (ASADHO), received telephoned death threats after a nongovernmental

⁸ Journaliste En Danger, "Franck Ngyke: Le mystère. Rapport d'enquête sur l'Assassinat du journaliste Franck Ngyke Kangundu et de son épouse Hélène Paka," February 14, 2006; Action des Chrétiens pour l'Abolition de la Torture, "Appel Urgent, Lutte contre l'impunité," February 28, 2006.

⁹ Human Rights Watch telephone interview with representative of Journaliste En Danger, May 24, 2006.

¹⁰ Action des Chrétiens pour l'Abolition de la Torture, "Appel Urgent, Lutte contre l'impunité," February 28, 2006.

¹¹ Information provided by representative of Journaliste En Danger, May 24, 2006. Translation by Human Rights Watch and Journaliste En Danger.

umbrella organization with which they are affiliated, the Natural Resource Network, published an April 19, 2006 statement denouncing corruption, unfair contracts, child labor and other malpractices in the resource sector.¹² The network also published a copy of a letter from a high-ranking member of President Kabila's political party in Katanga listing individuals who had bankrolled the party and requesting appropriate thanks for their support. The list included a number of well-known businessmen.

- Human rights defenders Richard Bayunda and Sheldon Hangi, who had fled death threats in early 2005 after criticizing human rights abuses and arms distribution in North Kivu, had just returned home to Goma in North Kivu when they were again threatened by telephone calls in January and February 2006. Unidentified armed men also came to their homes at night but were unable to gain entry.¹³

The bungled trial in the case of murdered activist Pascal Kabungulu

In one of the rare cases where justice has been pursued for an attack against a human rights defender, the prosecution has been poorly handled. Pascale Kabungulu Kibembi, the widely-respected executive secretary of *Héritiers de la Justice*, was murdered in his Bukavu (South Kivu) home by three armed men in the early hours of July 31, 2005.¹⁴ *Héritiers de la Justice* had documented grave human rights abuses, including war crimes, by soldiers of the Congolese armed forces and others.

Didace Kaningini, acting governor of South Kivu, established a commission of inquiry into the murder, but its members—judicial and political authorities with competing agendas—concluded only that they could not act in the case.¹⁵ After its inadequate performance, the commission further lost credibility when Kaningini was accused of

¹² Journaliste En Danger, "Des graves menaces de mort contre des membres du Réseau ressources naturelles de la société civile à Lubumbashi," *Press release*, May 3, 2006.

¹³ Human Rights Watch, "DR Congo: Protect Activists Returning From Exile," *A Human Rights Watch Press Release*, November 14, 2005, [online] <http://hrw.org/english/docs/2005/11/14/congo12015.htm>.

¹⁴ Human Rights Watch, "DR Congo: Prominent Human Rights Defender Assassinated, Transitional Government Must Investigate, Bring Killers to Justice," *A Human Rights Watch Press Release*, August 1, 2005, [online] <http://hrw.org/english/docs/2005/08/01/congo11549.htm>. For further details on the case see Frontline Mission Report on the case of Pascal Kabungulu, [online] <http://www.frontlinedefenders.org/news/2345> (retrieved June 2, 2006).

¹⁵ Human Rights Watch, "DR Congo: Commission of Enquiry a 'Failure.' Authorities Must Prosecute the Murderers of Kabungulu Kibembi," *A Human Rights Watch Press Release*, September 8, 2005, [online] <http://hrw.org/english/docs/2005/09/07/congo11695.htm>.

fabricating evidence to incriminate staff at *Héritiers de la Justice* and was himself briefly detained.¹⁶

The Bukavu military prosecutor arrested several former soldiers of the *Rassemblement Congolais pour la Démocratie-Goma* (RCD-Goma), the Rwandan-backed armed group that controlled large parts of eastern Congo during the 1998-2002 war. Local senior army commanders, led by former RCD-Goma commander Col. Thierry Ilunga, intervened to have two of the suspects freed, but they were later re-arrested¹⁷ and brought to trial in late November 2005, after considerable pressure from Congolese and international human rights organizations. During the trial, the military prosecutor accused Colonel Ilunga of ordering the assassination. During testimony on December 12, 2005, Colonel Ilunga grabbed a gun from a soldier, threatened trial spectators, and tried to flee the courtroom. He was detained but released the next day. In late December 2005 the case was transferred to another military court that has the authority to try higher-ranking officers, but has made little progress since.¹⁸

Repressing Political Protest

Several political leaders and parties, including the popular *Union Démocratique pour le Progrès Social* (UDPS), have criticized repeated delays in holding elections, which were originally set for the end of the transition period, June 30, 2005, but with the possibility of a one-year extension to June 30, 2006.¹⁹ In late June 2005, UDPS supporters demonstrated in various cities across the DRC, protesting the government decision to extend the period of transition for one year. In Mbuji-Mayi, the capital of Kasai Oriental and the UDPS stronghold, security forces opened fire during demonstrations, killing fifteen demonstrators and injuring another twenty-six. Several people, including some UDPS leaders, were arbitrarily arrested and held for days or weeks, and some of them were ill-treated in detention. After an investigation, the United Nations Mission in Congo

¹⁶ Human Rights Watch telephone interview with representative of *Héritiers de la Justice*, May 29, 2006.

¹⁷ Human Rights Watch, "Letter to His Excellence Major-Général Joseph Kabila. Assassination of Pascal Kabungulu Kibembi, Executive Secretary *Héritiers de la Justice*," September 7, 2005, [online] <http://hrw.org/english/docs/2005/09/08/congo11703.htm>.

¹⁸ *Héritiers de la Justice*, "L'ex-vice gouverneur Didane Kaningini et le commandant de la 5^{ème} brigade, le Colonel Thierry Ilunga, inculpés pour assassinat et association de malfaiteurs," December 14, 2005, [online] <http://www.heritiers.org/francais/nota%20bene/depeches/dec6.htm> (retrieved June 1, 2006).

¹⁹ The *Accord global et inclusif sur la transition en République Démocratique du Congo* permitted the postponement of the end of the transition period by one year in total (Chapter IV). The newly-adopted Constitution, however, lifts the time limit, by stating that political institutions will remain in place until new institutions as foreseen by the Constitution are put in place (Art. 222).

(MONUC) found that Congolese forces had used excessive and unjustified force in dispersing the demonstrators.²⁰

Clamping down on political opponents, March–June 2006

In other more recent cases, police officers have used excessive force against demonstrators, and other forms of intimidation against supporters of the UDPS and other political parties, making it more difficult for Congolese to express their opinions through peaceful protests.

- On March 10, police broke up a peaceful UDPS demonstration in Kinshasa, beating demonstrators and briefly detaining fifteen of them.²¹
- On May 14, Pastor Fernando Kutino, founder of an evangelical religious movement, was arrested after criticizing excessive foreign influence over the government during a well-attended service in a Kinshasa stadium. He was also accused of being in possession of weapons. The pastor had left the country in 2003 after being accused of preaching revolt, and had just returned. A few days after Kutino's arrest, his colleague, Pastor Bompere, was also arrested.²² They are both still in detention at this writing.
- Security forces surrounded the homes of several opposition leaders, including presidential candidates Roger Lumbala, Anatole Matusila, Joseph Olenghankoy and Christophe Mboso Nkodia Mpwanga, for a few hours on the evening of May 23. No reason was given for the action, which appeared to be an attempt at intimidation. Olenghankoy's political party, like the much larger UDPS, has protested against electoral delays.

²⁰ MONUC Human Rights Section, "Rapport sur les événements de Mbuji Mayi, province de Kasai Oriental, Juin 2005," [online] <http://www.reliefweb.int/rw/RWB.NSF/db900SID/RMOI-6F67WA?OpenDocument> (retrieved June 2, 2006). The report found that security forces "summarily or arbitrarily executed fifteen persons" and "shot another twenty-six in an attempt to summarily or arbitrarily execute them" during the demonstrations.

²¹ "Kinshasa: une marche pacifique de l'UDPS violemment étouffée par la police," Radio Okapi, [online] <http://www.radiokapi.net/article.php?id=4116> (retrieved June 2, 2006).

²² Comité des Observateurs des Droits de l'Homme (CODHO), "RD Congo: Réquisition illégale du matériel de la Radio Télé Message de Vie," *Press release*, May 24, 2006.

Responsibilities of the Media, Civil Society and Political Parties

Responsible and objective reporting of events is important for the democratic process. While many journalists and representatives of civil society report and comment objectively on political developments, some have secretly taken money to publish articles reflecting a given point of view.²³ Such behavior undermines the principle of media independence and is contrary to journalistic ethics.²⁴

The *Haute Autorité des Médias*, the Congolese government agency tasked with enforcing responsible journalistic behavior, recently denounced a “dangerously polluted political environment” and accused presidential candidates of using the media to demonize their opponents. It suspended political programs broadcast by three television channels.²⁵ The Electoral Commission has drawn up a code of conduct outlining rights and duties of political parties. Signatories agree to work together in a “climate of tolerance.”²⁶ So far, 217 political parties have signed this important document, though its effectiveness is weakened by the notable absence of a signature from the president’s political party, the Party of the People for Reconstruction and Democracy (PPRD).

International Attention to the Elections

The United Nations, the African Union, the European Union, as well as various donor nations have invested great efforts and important financial resources in trying to ensure that elections take place in the DRC within a reasonable time and under conditions that allow voters a free choice. Such efforts will be undermined if freedoms of speech and association are limited in the period before polling day. The international community must use all its influence to ensure that Congolese authorities cease intimidation of journalists, human rights activists and others who speak out.

²³ Human Rights Watch staff were approached by several journalists who requested payment in return for writing accounts favorable to a Human Rights Watch report being disseminated at the time, Kinshasa, March 2005; Human Rights Watch interview with Congolese journalist, May 2006.

²⁴ See for example the Declaration of Principles on the Conduct of Journalists by the International Federation of Journalists, [online] <http://www.ifj.org/default.asp?index=1627&Language=EN> (retrieved May 31, 2005).

²⁵ Agence France-Presse, “Rhetoric turns ugly ahead of watershed Congo election,” May 22, 2006, reported on <http://www.monuc.org/news.aspx?newsId=11118> (retrieved June 1, 2006). Committee to Protect Journalists, Cases 2005, [online] http://www.cpj.org/cases05/africa_cases05/drc.html (retrieved June 1, 2006).

²⁶ Code de bonne conduite des partis politiques, préambule, March 9, 2005.

As of this writing, plans call for only about 200 international election monitors at the elections. Human Rights Watch believes that this number is insufficient to cover a country the size of Congo, particularly given the difficulties of transportation and communication resulting from its decayed infrastructure. It will also be important that monitors be specifically tasked with following issues related to free speech and the media.

Recommendations

To the Congolese government, including the Haute Autorité des Médias

- Allow all citizens, including those active in the media, civil society, and political parties to enjoy the rights to free expression and association guaranteed by the International Covenant on Civil and Political Rights (ICCPR) and the African [Banjul] Charter on Human and People's Rights, to which the DRC is a party.
- Direct agents of security forces to comply with the laws of the DRC and the United Nations Code of Conduct for Law Enforcement Officials, and hold accountable those who fail to do so.
- Amend laws that unreasonably interfere with freedom of expression and the media. In particular the DRC should remove the offense of criminal defamation, and allow those who believe they have been unjustly damaged by untrue statements or writing of others to pursue civil remedies.

To Congolese judicial officials

- Investigate promptly attacks and threats against journalists and human rights defenders, with a view to prosecuting alleged offenders where possible.
- Resume the trial of those accused of the murder of Pascal Kabungulu, and bring to trial those accused of murdering Franck Ngyke and Héléne Mpaka.

To the Congolese press, civil society and political parties

- Respect the rights and reputation of others, in accordance with Congolese law and international human rights standards.
- Ensure that all campaigning, monitoring and journalistic reporting is conducted in a transparent manner and not subject to undue influence by political parties.

To the United Nations Security Council delegation to Congo

- Urge the Congolese government to ensure that all citizens, including those active in the media, civil society, and political parties, enjoy the rights to free expression and association guaranteed by the ICCPR.
- Urge the Congolese government to ensure that the conduct of the police and security forces is such as to ensure a climate free from fear, where all citizens will be able to exercise the right to a free and informed choice in the upcoming elections.

To the European Union, the African Union and all other institutions sending election monitors

- Increase the number of election monitors sent by the European Commission and various donor nations.
- Establish, in co-ordination with the MONUC human rights division, an election monitoring unit in the near future that will include a specific focus on issues related to freedom of expression. Provide for monitors to report promptly and publicly on any violations of the rights of citizens, including the rights to free expression and association.