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**Submission by:** Front Line – the International Foundation for the Protection of Human Rights Defenders

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The following submission has been prepared by Front Line based on information received from independent human rights defenders.

Front Line is an international NGO based in Ireland with Special Consultative Status with the Economic and Social Council of the United Nations. We have particular expertise on the issue of the security and protection of human rights defenders and we work to promote the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by General Assembly resolution 53/144 of 9 December 1998.

The situation in the Democratic Republic of the Congo (DRC) remains volatile and human rights defenders remain at grave risk. In the post-conflict transition in the DRC, human rights defenders continue to operate at extreme personal risk in an atmosphere of violence, hostility and instability. Absence of the rule of law and a climate of impunity prevail. As a consequence of carrying out activities such as investigating and exposing atrocities, combating sexual violence, advocacy with respect to the elections, and independent journalism, many human rights defenders have been subject to threats and attacks, which have increased since the beginning of 2008.

Congolese human rights defenders are frequent targets of intimidation, judicial proceedings, stigmatisation, death threats, incommunicado detentions, arbitrary arrest, gender based violence, ill-treatment in prison including refusal of access to lawyers and medical care, physical assault and in some cases torture or even killing by DRC government agents or armed groups. Many defenders have been forced into hiding or exile as a result of the threats against their security and the safety of their families.

The situation of defenders in Eastern DRC is especially precarious. A number of human rights defenders and journalists have been killed in the last few years. Since July 2005, in Bukavu and Goma only, at least five human rights defenders and journalists were murdered, including Pascal Kabungulu Kibembi, Serge Maheshe, Wabiwa Kabisuba, Patrick Kikuku Wilungula and Didace Namujimbo. The killings and persistent threats have instilled a climate of fear among local defenders, who are made more vulnerable by the ongoing violence, ethnic tensions, and the unstable political and military situation in the region.

Attacks against defenders are political in nature and directly related to their professional human rights activities. However, defenders are also at greater risk of acts of robbery because they are believed to be in contact with the international community and recipients of international financial support, even when this is not the case.

With very few exceptions, serious investigations of attacks against defenders have not been conducted by the DRC authorities, even in the most serious cases including murders. The government has taken no action to support and promote the work of human rights organisations, or to protect organisations or individual activists from attacks. Human rights defenders are not protected by the national authorities and a national plan for the protection and security of human rights defenders does not exist, particularly in the eastern part of the country.

Human rights defenders are often involuntarily trapped in the political struggle between the government and rebel forces. When they report on violations committed by the regular army (FARDC), they are targeted by elements of the FARDC and depicted as unpatriotic and supporters of the armed groups. When they report on abuses committed by the armed faction groups they are under attack by the same armed groups. One leading activist commented “we are between a hammer and a nail”. Indeed, the government and armed groups regard HRDs with a mixture of deep suspicion and outright hostility. On some occasions the authorities have sought to foment popular anger against human rights NGOs, in apparent retaliation for legitimate NGO denunciations of official abuses.

Given their crucial work in the areas of investigating and exposing atrocities, combating sexual violence, free and fair elections work and independent media, supporting human rights defenders and enlarging the space for civil society is crucial for a democratic transition and sustainable peace.

### **The media and freedom of expression**

Freedom of expression is severely limited and members of human rights organisations and journalists are often targeted. The main challenge faced by defenders and journalists comes from attacks and intimidation in relation to what they write or report on, rather than applicable legislation.

Front Line is concerned for the safety of independent journalists who report on human rights abuses and violations. Human rights defenders have reported that they are constantly harassed at police road blocks and prevented from carrying out their human rights activities. Government officials who are unhappy with press coverage frequently charge journalists with offenses such as criminal defamation, insulting the head of state or the government, and spreading false information. On a number of occasions where charges were not brought, journalists have been intimidated and called in by the office of the public prosecutor or the police for questioning. This practice reduces freedom of expression and media freedoms as it intimidates journalists, provokes self-censorship and discourages criticism of government policy or the conduct of single officials.

The frequent instances of intimidation of journalists have been accompanied by some instances of media outlets being attacked. In September 2008, the offices of the TV channel *Moliere* were raided by unidentified men who vandalised the premises as well as equipment.

In September 2008, the Ministry of Communication ordered the suspension of a number of independent media outlets reporting on the failure by the government to uphold respect for human rights. Five TV channels, namely Africa TV, Canal 5, Couleurs TV, DRT Africa, RLTV, and two radio stations, namely Africa FM and DRT FM, were banned from broadcasting.

### **Harassment, arrest and detention of human rights defenders**

Harassment and arbitrary arrest or detention of defenders occur throughout the country. Defenders

working on any human rights issue may be targeted, be it corruption, good governance, democratisation, labour rights, impunity, women's rights, police abuses, or other issues.

- On 15 March 2009, prominent human rights defenders **Floribert Bahizire**, **Dolly Inefo Mbunga** and **Donat Tshikaya** were arrested by the police. Floribert Bahizire is the Executive Director of the *Voix des Sans Voix* (VSV) and National Executive Secretary of the *Réseau national des organisations non gouvernementales des droits de l'homme de la République Démocratique du Congo* (RENADHOC), Dolly Inefo Mbunga is the Deputy Executive Director of VSV, and Donat Tshikaya is reception officer with RENADHOC. At 2.36 p.m., they were arrested by armed members of the Congolese National Police and other individuals in civilian clothing at the end of a press conference on the inter-institutional crisis in DRC held at RENADHOC headquarters. The armed police officers arrived in three vehicles and took away Floribert Bahizire, Dolly Inefo Mbunga and Donat Tshikaya by force, threatening approximately ten other human rights defenders and journalists with firearms. Floribert Bahizire, Dolly Inefo Mbunga and Donat Tshikaya were taken to the national intelligence agency (ANR) and have allegedly been subjected to torture and ill-treatment while in detention. Computers, stationary, and CCTV security cameras were also taken from the RENADHOC office. The objective of the press conference was to announce a peaceful march and sit-in demonstration at the *Palais du Peuple* planned by NGOs in order to present a memorandum to the Chairmen of the Senate and the National Assembly.
- On 19 January 2009, trade unionist **Nginamau Malaba** was arrested by the national intelligence agency (ANR). Nginamau Malaba is President of the union committee at the Ministry for the National Economy and Commerce. At approximately 11 a.m., Nginamau Malaba was stopped by five agents of the ANR near the offices of the Prime Minister. Nginamau Malaba had been on his way to the office of the Prime Minister to present an employees' memorandum denouncing misappropriation of public funds by the Minister for the National Economy and Commerce, and calling for the rectification of these actions, including payment of employee bonuses. He was detained in the ANR facilities near the office of the Prime Minister, in Gombe, Kinshasa. He has not been allowed to see his lawyer and no charges have been brought against him. Only more than two weeks after the arrest, at the order of the Prime Minister, his wife was allowed to visit him for five minutes in the presence of ANR agents.
- In October 2008, **Mbuto Sumaili**, coordinator of UNIPROBAM, was attacked at his home in the Mwenga territory after organising a peaceful protest march to protest against the human rights abuses in the eastern part of the country. He was forced to temporarily leave his village. No investigation on the attack were carried out and the perpetrators remained unpunished.
- In April 2008, death threats were received by **Jean Bedel Kaniki**, **Dieudonné Sango**, **Jean-Paul Ngongo Mundala** and **Sophie Roudil**, human rights defenders observing the trial for the murder of Radio Okapi journalist Serge Maheshe. Jean Bedel Kaniki is a lawyer and member of *Initiative Congolaise pour la Justice et la Paix* (ICJP), Jean-Paul Ngongo Mundala is member of the *Voix des sans voix ni liberté* (VOVOLIB), Dieudonné Sango is vice president of the *Réseau Provincial des Organisations Non Gouvernementales des Droits de l'Homme de la République Démocratique du Congo-Sud Kivu* (REPRODHOOC) and coordinator of the *Programme de Développement Social* (PRODES), Sophie Roudil is the DRC representative of Protection International. On 17 April 2008, they received a text message warning them that they would pay with their own blood for the comments they had made as trial observers, which highlighted the numerous irregularities of the trial proceedings. New threats were received after they reported the threats to the police on 19 April. In the new text messages received, the sender showed he was aware of the fact that they had reported the threats to the police.

## Killings of journalists and human rights defenders

A number of journalists and human rights defenders have been killed in the last few years due to their reporting on human rights abuses. It is reported that at least seven journalists were killed in 2006-2009. While most of killings of journalists and human rights defenders occurred in the eastern part of the country, in particular Bukavu, other regions including Kinshasa were not immune.

- On 21 November 2008, **Didace Namujimbo** was murdered on his way home in Bukavu. He was a journalist with Radio Okapi, a radio station jointly run by the UN Mission in the Democratic Republic of Congo (MONUC) and the Hironde Foundation, a Swiss non-governmental organisation (NGO). Radio Okapi promotes access to information as part of the peace building efforts in the region. At approximately 9:30 pm, Didace Namujimbo was returning home from work and was metres from his house in the Ndendere Quarter in the d'Ibanda Community of Bukavu when he was shot in the head by unknown individuals. The attackers took his two mobile phones but left his money, which indicates that his killing was not the result of violent robbery. On 22 November 2008, the Southern-Kivu provincial police launched an inquiry into the attack. According to Provincial Chief of Police, General Gaston Lunzembo, the ongoing investigation and eye-witness testimony received suggest that Didace Namujimbo was well-known to his attackers. Didace Namujimbo had been receiving death threats for more than a year in relation to his reporting on violence and human rights abuses in Southern-Kivu. Didace Namujimbo is the second Radio Okapi journalist murdered in Bukavu. On 13 June 2007, **Serge Maheshe**, the editor of Radio Okapi, was shot multiple times by unknown assailants as he left a friend's home. Two of his friends were convicted of the crime in a trial marred with contradictions and irregularities.
- **Wabiwa Kabisuba**, coordinator with the human rights organisation *Voix des sans voix ni liberte* (VOVOLIB), was killed on 18 May 2008 in her home in Panzi, seven kilometres from Bukavu. Wabiwa Kabisuba also worked as a councillor at VOVOLIB's centre for victims of sexual violence in Panzi. At approximately midnight, eight men in military uniform armed with rifles broke into Wabiwa Kabisuba's home. Wabiwa Kabisuba was dragged outside by force and was shot dead at about 80 metres far from her home. She was the mother of four children, and was twenty-seven years old when she was killed.

## Women human rights defenders

Front Line is particularly concerned about the situation of women human rights defenders, especially women defenders working in rural communities on the issue of sexual violence and as peace mediators.

In particular in the eastern part of the country, members of the FARDC and of other armed groups are responsible for the very high number of acts of sexual violence against the civilian population. Women human rights defenders working assisting victims of sexual violence are often themselves victim of reprisal attacks including sexual assaults by the same perpetrators of the violence they are denouncing. Front Line documented a trend in terms of cases whereby the same perpetrator of the FARDC has raped, threatened and physically attacked women human rights defenders who took up the case of a woman and children raped by that very same perpetrator. This seems to occur particularly in rural areas. Women human rights defenders working on monitoring, reporting, assisting victims of gender based violence committed by members of armed faction groups such as the Mai-Mai or the FDLR (Democratic Forces for the Liberation of Rwanda) are also targeted by the same members of these armed groups. These attacks are a punishment for the human rights activities that the women defenders are carrying out on behalf of other women.

- **Sifa Bunyere** is the president of the *Association des Femmes pour l'assistance aux defavorises* (AFAD), an organisation providing assistance to victims of sexual violence in Goma. In April 2008, she started receiving death threats, by phone and letter. On a few occasions, she noticed unknown individuals around her home during the night. The threats started after Sifa Bunyere provided information to the police on the alleged murderers of a man killed in February 2008, whose wife is a member of AFAD. As the threats intensified, Sifa Bunyere had to leave Goma and move to a safer location.

## **Recommendations**

Front Line calls upon the UN to urge the authorities in DRC to prioritise the protection of human rights defenders and in doing so to:

1. Conduct an independent inquiry into the source of threats, ill-treatment, and all forms of intimidation and harassment directed towards all those human rights defenders mentioned in this report;
2. Take immediate measures to ensure the safety and protection of human rights defenders, including publicly recognise the legitimacy of their work and the essential role they play in the democratisation and peace process;
3. Take immediate measures to tackle the problem of impunity for attacks and abuses perpetrated against human rights defenders, and in particular:
  - Ensure that investigations on the killings of human rights defenders and journalists that are currently pending, including on the murder of Didace Namujimbo, are prompt and effective and the perpetrators are brought to justice;
  - As regards the killings of other human rights defenders and journalists, including Serge Maheshe and Pascal Kabungulu Kibembi, on which investigations have ended, take in due account civil society's observations on the effectiveness and comprehensiveness of the investigations and trials and take immediate measures to address them, including reopening the investigations where relevant;
4. Ensure that all human rights defenders in DRC are free to carry out their human rights activities free from persecution.