



UPR Submission

Democratic Republic of Congo September 2013

1. Summary

Violent conflict has continued in the Democratic Republic of Congo, mostly in the east, with the Congolese army and non-state armed groups responsible for horrific attacks on civilians, including killings, rapes, and forced recruitment of children. Presidential and parliamentary elections in 2011 were characterized by a violent crackdown on the opposition. Government authorities have sought to silence dissent by targeting human rights activists, journalists, political leaders, and political party supporters who criticized government authorities or participated in peaceful demonstrations.

While the challenges for the Congolese justice system remain enormous and most perpetrators of serious abuses in Congo go unpunished, there are signs of a greater government commitment to fighting impunity for grave human rights abuses. Since 2012, government officials have repeatedly called for leaders of the M23 – a Rwandan-backed armed group responsible for widespread human rights abuses – to face justice, and have stated clearly that the government will neither provide an amnesty to those allegedly responsible for war crimes or crimes against humanity nor reintegrate them into the army. The government's insistence on accountability may have contributed to the surrender of M23 leader Bosco Ntaganda to the US embassy in Rwanda in March 2013. He is now awaiting trial at the International Criminal Court for charges of war crimes and crimes against humanity committed in north eastern Congo in 2002 and 2003.

This submission focuses on the human rights record of the Congolese government and security forces since 2009, when the last UPR on Congo was held.¹

2. Killings, Rapes, Recruitment of Children, and other Abuses by the Congolese Army

From 2009 to 2011, the Congolese army carried out joint military operations, first with the Rwandan army and later with the United Nations peacekeeping mission in Congo, against the Democratic Forces for the Liberation of Rwanda (FDLR), a Rwandan Hutu rebel group, some of whose members participated in the 1994 genocide in Rwanda. These operations resulted in large-scale attacks on civilians, with both sides burning villages and killing and raping hundreds of civilians they accused of "collaborating with the enemy." Between January and September 2009, Congolese army soldiers and their Rwandan allies extrajudicially executed more than 730 civilians.

Many of the worst abuses by the Congolese army during this period were carried out by former members of the National Congress for the Defense of the People (CNDP), a rebel group that was integrated into the Congolese army in early 2009 but

¹For abuses committed by other armed groups, please refer to other publications on Congo on the Human Rights Watch [website](#).

continued to operate under a parallel chain of command led by Gen. Bosco Ntaganda. In one incident between April 27 and 30, Congolese soldiers attacked camps in the Shalio Hill area and extrajudicially executed at least 129 Rwandan Hutu refugees. During the same incident, soldiers abducted at least 40 refugee women and girls, held them as sexual slaves, gang-raped and mutilated them.

Abuses continued in 2010 and 2011. At least 105 civilians were killed in western Masisi territory when former CNDP troops newly integrated into the army conducted unilateral operations against the FDLR and their allies. On January 1, 2011, soldiers raped at least 67 women and girls and arbitrarily detained and tortured dozens of other civilians in Fizi, South Kivu. Also in January 2011, soldiers raped at least 47 women and girls in Bushani, North Kivu, and looted and burned around 100 homes. From 2009 to 2011, Ntaganda led a brutal campaign against perceived military and civilian opponents, by ordering assassinations, arbitrary arrests, and other forms of intimidation. He recruited child soldiers and thwarted efforts to demobilize them. He blocked judicial investigations into abuses committed by those loyal to him and used his influence in the military to confiscate land and increase his wealth.

Soon after the government signalled it would seek to arrest Ntaganda and break up the parallel command structure by deploying ex-CNDP soldiers out of the Kivu provinces, Ntaganda and those loyal to him defected and launched the M23 rebellion. While the members of the M23 and other armed groups were responsible for widespread war crimes, Congolese soldiers also committed serious abuses against civilians. As they fled the M23's advance on Goma in November 2012, soldiers went on a rampage and raped at least 76 women and girls around the town of Minova, South Kivu. In the town of Kitchanga, North Kivu, Congolese soldiers, allied with a Tutsi militia they had armed, clashed with the primarily ethnic Hunde armed group, the Patriotic Alliance for a Free and Sovereign Congo (APCLS), from February 27 to March 4, 2013. Dozens of homes were burned and at least 25 civilians were killed. Most victims were Hunde and appear to have been deliberately targeted by soldiers because of their ethnicity.

Human Rights Watch also documented numerous cases in which the Congolese army or intelligence services detained former M23 fighters and alleged collaborators for several weeks without bringing them before a court, and often incommunicado and in harsh conditions.

Recruitment and use of child soldiers by armed groups remains widespread in eastern Congo. The government, however, has made significant progress in removing children from within the ranks of the army, releasing children from detention, and contacting child protection agencies for assistance. On October 4, 2012, the government signed a UN action plan to end the use of child soldiers.

3. Political Repression, Violations of Freedom of Expression, Association, and Assembly

Congolese government and security force officials – including the army, police, and Republican Guard – have used physical violence, intimidation, threats, arbitrary arrests, and in some cases judicial proceedings based on trumped-up charges to silence dissent and to prevent political leaders and activists from freely expressing their peaceful opinions or demonstrating.

(a) Killings and Arrests of Political Party Activists and Attacks on Freedom of Assembly

Before, during, and immediately after the 2011 national elections, security forces used unnecessary or excessive force to quell peaceful demonstrations throughout the country. In the capital, Kinshasa, suspected opposition supporters were targeted and killed, and security forces fired on groups of people who may have been protesting the election result, were preparing to protest, or were simply bystanders. At least 57 opposition party supporters or suspected supporters were killed in Kinshasa by security forces—mostly President Joseph Kabila's Republican Guard—between November 26 and December 31, 2011. Human Rights Watch received credible reports of nearly 150 other people killed in this period, their bodies reportedly dumped in the Congo River, in mass graves on Kinshasa's outskirts, or in morgues far from the city center.

Scores of people accused of opposing Kabila were arbitrarily detained by Republican Guard soldiers and the police. Many were held in illegal detention centres where they were mistreated and some were killed. Most were never formally charged or brought before the courts. Some former detainees said they were stripped naked, blasted with cold water and repeatedly beaten by Republican Guard soldiers, including with wooden bats with nails.

In Goma, local authorities forcibly stopped an attempt by opposition party leaders to organize a demonstration on December 13, 2011, to protest Kabila's re-election and alleged vote rigging. A protester, Patient Chibike Birindwa, was assaulted by the police and died from his injuries the following day. In Bukavu on December 13, police dispersed opposition protesters by beating them with batons.

Attacks on political party activists and peaceful demonstrators continued in 2012 and 2013. During the summit of francophone countries in Kinshasa in October 2012, 14 opposition supporters were arrested near opposition leader Etienne Tshisekedi's home as they prepared to accompany his convoy to a meeting he was to have with the French president, François Hollande. Most were badly beaten and detained for several days, without being brought before a court. On August 20, 2013, police forcibly disrupted a peaceful sit-in by supporters of a detained member of parliament outside the North Kivu governor's office in Goma. They beat several protesters and arrested five, who were threatened with rebellion charges. In Bandundu, 12 members of the Association for the Defense of the Interests of Bandundu City (*Association pour la défense des intérêts de la ville de Bandundu*, ADIVB) were arrested, convicted, and sentenced to 20 years in prison for planning to hold a demonstration to protest alleged bad management by Bandundu's governor. Their sentences were later reduced by an appeals court.

(b) Physical Attacks and Arrests of Political Leaders

Political leaders have been arrested or attacked in what appear to be politically motivated efforts to silence dissent. On November 26, 2011, four armed men seriously injured a parliamentary candidate from the political opposition, Dieudonné Lowa Opombo, at his home in Kinshasa. The assailants attacked him with knives and hammers, injected him with an unknown substance, and left him unconscious in a sewer.

Eugène Diomi Ndongala, a former member of parliament and minister, has been detained since April 2013. Diomi is the president of the opposition Christian

Democrats (*Démocratie chrétienne*) political party and a founding member of the Popular Presidential Majority (*Majorité présidentielle populaire*) – a pro-Tshisekedi political alliance. Another member of parliament, Muhindo Nzangi, was sentenced to three years in prison in August 2013. Nzangi is a member of the Movement for Social Renewal (*Mouvement social pour le renouveau*, or MSR), one of the largest political parties in the ruling Presidential Majority (*Majorité présidentielle*, or MP) coalition. Only two days after he made remarks on a radio program in Goma which were viewed to be critical of President Kabila's policy in eastern Congo, Nzangi was tried and convicted for endangering internal state security.

4. Threats to Journalists and Human Rights Defenders

Government agents have also killed, arrested, tortured, threatened and harassed journalists and civil society activists who have spoken out against or published information critical of those in power. A prominent human rights defender, Floribert Chebeya Bahizire, executive director of Voice of the Voiceless, was found dead on June 1, 2010, following a visit to police headquarters in Kinshasa. His driver, Fidèle Bazana Edadi, remains missing. In June 2011, the deputy head of special police services Col. Daniel Mukalay, and three fugitive police officers were sentenced to death. Another defendant was sentenced to life imprisonment. Gen. John Numbi, the former police chief who was allegedly implicated in the murder, according to Congolese human rights activists and others, has not been arrested. Appeal hearings began in June 2012, and in October, Congo's high military court rejected the civil parties' request for Numbi to be brought to trial.

On August 23, 2009, Bruno Koko Chirambiza, a journalist for Radio Star, was murdered by a group of eight armed men some 150 meters from a police post in Bukavu. Freelance cameraman Patient Chebeya Bankome was shot dead by soldiers outside his home in Beni, North Kivu, on April 5, 2010. On June 30, 2010, a human rights defender working for Le Bon Samaritain was killed by armed men in uniform near Beni. On November 4, 2011, Fabrice Mumpfiris, a popular Hunde folk singer, was kidnapped in Goma after singing campaign songs in support of opposition candidates. Soldiers detained, interrogated and beat Mumpfiris before injecting him with an unknown substance and dumping him, blindfolded and tied up, on the outskirts of Goma. Following his release, he came under intense pressure from senior government officials to cover up details of his abduction and to publicly declare his support for Kabila. In December 2011, near Kiwanja, North Kivu, soldiers shot and killed Willy Wabo, a civil society activist who had denounced election irregularities on local radio stations.

Radio France Internationale (RFI) was prevented from broadcasting in Congo from July 2009 to October 2010. Other radio stations were shut down or disrupted by authorities when they criticized government policy. On September 6, 2011, unidentified armed men threw tear gas, gasoline, and incendiary grenades into the studio of Radio Lisanga Télévision (RTLTV), a private television station favorable to opposition leader Tshisekedi. Dozens of journalists have been threatened, beaten, or detained for reporting on political opposition activities or other events that government officials or state agents did not want to be publicized. In November 2012, a female journalist was beaten with batons, punched, slapped, and kicked by policemen while reporting on a demonstration in Kinshasa protesting the fall of Goma to M23 rebels. The police accused her of writing in her notebook that the police were threatening protesters. On March 10, 2013, police and Republican Guard soldiers beat or threatened four journalists for covering

Tshisekedi's return to Kinshasa from South Africa.

5. Justice and Accountability

The vast majority of human rights abuses committed in Congo have gone unpunished. In many cases, perpetrators have been rewarded rather than brought to justice. In December 2011, the then minister of justice and human rights instructed the civilian and military prosecutors to open investigations into election-related human rights abuses, including the killings in Kinshasa. Nearly two years later, no one has been arrested or charged.

However, there have been some positive developments. There was an increase in the number of military prosecutions of soldiers accused of human rights violations, including sexual violence, although the majority of those prosecuted held junior ranks. In one notable exception, judicial authorities in Kinshasa arrested Gen. Jérôme Kakwavu in April 2010 on war crimes charges for rape and torture. Kakwavu – a former armed group leader whose troops were responsible for summary executions, torture, and rape between 2002 and 2004 before he was integrated into the Congolese army – is the first general ever arrested on rape charges in Congo. His trial is ongoing. Following the January 2011 mass rape in Fizi, South Kivu, a military court found 10 soldiers and their commanding officer guilty of crimes against humanity.

The Congolese army chief of land forces Gen. Gabriel Amisi was suspended on November 23, 2012, after the fall of Goma to the M23. Amisi, who is allegedly responsible for widespread human rights abuses, including several massacres, has not been arrested or charged. In April 2013, the minister of justice and human rights announced that 12 senior Congolese army officers had been suspended for their alleged involvement in the mass rape around Minova in November 2012. However, no officers have been arrested or formally charged. Since the start of the M23 rebellion, the government has issued arrest warrants for several M23 leaders, including four believed to be in Rwanda.

President Kabila and other high-ranking government officials have expressed support for the creation of specialized mixed chambers within the domestic judicial system to prosecute war crimes and crimes against humanity committed in Congo. A similar plan was defeated by Parliament in 2011, but in 2013 there appears to be new political momentum for adopting the necessary legislation. If established, the specialized mixed chambers – composed of both Congolese and non-Congolese personnel – have the potential to help end impunity for grave human rights abuses.

A moratorium on the death penalty has been in place in Congo for the past decade; however the government has not moved to abolish what is increasingly viewed as an inhumane, cruel, and degrading punishment.

6. Recommendations

The Congolese government should:

- Ensure that the rights to freedom of expression and peaceful assembly are respected and that members of political parties, journalists and human rights activists are able to pursue their activities and express criticism of government policies without intimidation.

- Establish a special judicial mechanism within the Congolese justice system, with the involvement of international prosecutors, judges, and other personnel, to prosecute war crimes and crimes against humanity committed in Congo since 1990.
- Establish a vetting mechanism for Congolese security forces that removes those allegedly responsible for serious human rights, regardless of rank. Such individuals should be arrested and prosecuted in trials that meet international fair trial standards.
- Investigate and prosecute all armed group members responsible for serious human rights abuses in trials that meet international fair trial standards.
- Urgently develop and implement a new Disarmament, Demobilization, and Reintegration (DDR) program and strategy for dealing with armed groups. Such a strategy should ensure that: those responsible for serious human rights abuses are excluded from the army, investigated and appropriately prosecuted; children are immediately handed over to child protection agencies; former combatants who integrate into the army or police are properly trained to function in compliance with international human rights and humanitarian law, and are then deployed to parts of the country other than where they operated as militia fighters; and former combatants are given realistic alternatives to military service, including long-term civilian employment opportunities.
- Take all necessary action to stop government officials from interfering in judicial proceedings.
- Release all individuals arrested because of their political views or because they participated in peaceful demonstrations, and ensure charges against them are dropped.
- Abolish the death penalty.
- Ensure that the government does not provide military support to foreign or Congolese armed groups responsible for crimes against humanity or other widespread and serious abuses. Civilian officials or military personnel implicated in providing support to such groups should be suspended from their positions, investigated, and appropriately prosecuted.