

## Submission to the Universal Periodic Review of the Democratic Republic of Congo October 2018

### Introduction

Armed conflict and other violence have continued in the Democratic Republic of Congo, with government security forces and numerous non-state armed groups responsible for countless horrific abuses against civilians, including killings and rapes, largely with impunity. Government authorities have sought to silence dissent by targeting human rights and pro-democracy activists, journalists, and political leaders and supporters who criticized government authorities or participated in peaceful demonstrations. At time of writing, President Joseph Kabila remained in office beyond the end of his constitutionally mandated two-term limit in December 2016. This submission focuses on the human rights record of the Congolese government and security forces since 2014.

### Abuses by Congolese Security Forces and Government-Backed Armed Groups

Large-scale abuses involving Congolese security forces, government-backed militias, and pro-government armed groups resulted in the deaths of thousands of civilians in the country since 2014.

#### **(a) Unlawful Killings by Government Security Forces**

The [Kivu Security Tracker](#) recorded the killing of at least 180 civilians in North and South Kivu by Congolese police and soldiers between April 2017 and September 2018. In South Kivu province, Congolese security force members used excessive force to quash a protest in Kamanyola in September 2017, killing around 40 Burundian refugees and wounding more than 110 others.

Police summarily killed at least 51 youth and forcibly disappeared 33 others during “[Operation Likofi](#),” an abusive anti-crime campaign from 2013 to 2014 that targeted alleged gang members in Congo’s capital, Kinshasa. Those responsible for the abuses have [not been brought to justice](#).

Security forces killed nearly 300 people during largely peaceful political protests in Kinshasa and other cities between 2015 and 2018. This includes at least 90 people who were killed as part of a crackdown against members of the Bundu dia Kongo political religious sect in Kinshasa and Kongo Central province between January and March and in August 2017.

In July 2018, Kabila promoted Generals Gabriel Amisi and John Numbi, despite their long involvement in serious human rights abuses.

#### **(b) Abuses by Government-Backed Armed Groups**

More than 140 armed groups remain active in eastern Congo’s North Kivu and South Kivu provinces, and many continued to commit serious abuses against civilians. Elements of the Congolese security forces have provided material support to many of these armed groups.

Between August 2016 and August 2017, an estimated 5,000 people, and possibly many more, were killed in the central Kasai region, and more than 1.4 million people displaced. The United Nations identified around 90 mass graves in the region. The Congolese security forces and their proxy forces, including the Banu Mura, have frequently used excessive and lethal force, for which only a few low-level criminal suspects have been prosecuted.

Between December 2017 and March 2018, violence intensified in parts of northeastern Congo’s Ituri province, where armed groups launched deadly attacks on villages, killing raping or mutilating scores of civilians, torching hundreds of homes, and displacing an estimated 350,000 people. Three assailants told Human Rights

Watch in May that local government officials had coerced them into attacking their neighbors and that they were waiting for new orders to attack again.

Unidentified fighters killed more than 1,000 civilians in Beni territory in a series of massacres that began in October 2014. Human Rights Watch, the [UN Group of Experts on Congo](#), the [Congo Research Group](#), and Congolese human rights organizations point to the involvement of certain Congolese army officers in planning and carrying out many of these attacks.

#### *Recommendations*

- Establish a vetting mechanism for Congolese security forces that removes those credibly implicated in serious human rights violations, regardless of rank. Such individuals should be appropriately arrested and prosecuted in trials that meet international fair trial standards.
- Ensure that government officials do not provide military support to foreign or Congolese armed groups responsible for widespread and serious violations of the laws of war. Civilian officials or military personnel implicated in providing support to such groups should be suspended from their positions, investigated, and appropriately prosecuted.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- Increase efforts to prevent and appropriately punish extrajudicial executions and other serious abuses.

#### **Demobilization of Former Fighters**

The government's Disarmament, Demobilization, and Reintegration (DDR) programs for former members of armed groups have largely failed due to a lack of sufficient support in *regroupement* sites, a lack of robust long-term reintegration support, insufficient follow-up, and a failure to hold those responsible for past serious abuses to account.

Between December 2013 and October 2014, over 100 demobilized combatants, their wives, and children [died from starvation and disease](#) in the remote Kotakoli military camp in the country's northwest after officials failed to provide adequate food and health care.

In April 2016, Human Rights Watch documented that the Congolese military was [unlawfully detaining at least 29 children in dire conditions in a military prison in Angenga, northwest Congo](#). The authorities alleged that the boys were members of a rebel armed group and had held them in the prison since apprehending them in eastern Congo in the first half of 2015. Human Rights Watch found during a visit to the prison that neither the boys nor the adult men detained with them had been charged with crimes or had access to lawyers or their families.

Hundreds of former combatants of the M23 and the Democratic Forces for the Liberation of Rwanda (FDLR) armed groups remain encamped in disparate parts of Congo and neighboring Uganda and Rwanda since 2013 and 2014 respectively. In the face of difficult living situations, lack of future prospects, and a general political impasse regarding their situation, many are at risk of returning to armed groups. At least 200 and likely many more [former M23 rebel fighters from Uganda and Rwanda were mobilized by Congolese senior security force officers](#) to protect President Kabila and quash anti-Kabila protests in December 2016.

#### *Recommendations*

- Improve the Disarmament, Demobilization, and Reintegration 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 act 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 have access to long-term civilian employment opportunities and other alternatives to military service.
- Promptly charge with a credible offense or release persons, including former fighters, held in custody.
- Rehabilitate former child soldiers and reintegrate them into society.

#### **Political Repression and Violations of Freedom of Expression, Association, and Assembly**

Since 2015, President Kabila and the Congolese government have postponed elections in violation of the constitution and entrenched their hold on power through brutal repression, large-scale violence and other human rights violations.

**(a) Arbitrary Arrests and Killings of Largely Peaceful Protesters, Activists, Journalists**

Security forces killed nearly 300 people during [largely peaceful political protests](#) since 2015, including by [recruiting former fighters from the abusive M23 armed group](#) to take part in the crackdown. During Catholic Church-led protests in December 2017, January, and February 2018, Congolese security forces fired into church grounds to disrupt religious services and processions, killing at least 18 people and wounding and arresting scores of others.

Congolese authorities have systematically banned meetings and demonstrations by the opposition while jailing more than 1,800 opposition leaders and supporters, as well as human rights and pro-democracy activists. Many have been held in secret detention facilities without charge or access to family members or lawyers. Others have been tried on trumped-up charges. The government has also shut down Congolese media outlets, and periodically curtailed access to the internet and text messaging.

In June 2018, UN human rights experts [urged](#) Congo to undertake a comprehensive review of a draft bill on nongovernmental organizations, saying it “threatens the vital work of civil society.” The Congolese parliament is also working on draft legislation on the protection of human rights defenders, but the bill “seems to lead to further restriction of their role and activities,” the UN experts said. At time of writing, these bills had not passed.

In July 2018, two journalists and two human rights activists in Congo went into hiding over [threats following the release of a documentary](#) about mass evictions from land claimed by the presidential family.

**(b) Harassment of Opposition Political Leaders**

During the period under review, political leaders have been arrested or attacked in what appear to be politically motivated efforts to silence dissent.

On May 4, 2016, Congo’s justice minister opened an investigation into one of the country’s leading opposition figures, Moïse Katumbi, for alleged recruitment of mercenaries. Katumbi was later convicted *in absentia* for forgery regarding a real estate deal many years earlier and sentenced to three years in prison and a US\$1 million fine. One of the judges later told Human Rights Watch that the National Intelligence Agency threatened her and forced her to hand down the conviction. In July 2017, armed men shot and nearly killed another judge who refused to rule against Katumbi. In August 2018, authorities [restricted the movement of opposition leaders](#), arrested dozens of opposition supporters, and prevented presidential aspirant Katumbi from entering the country to file his candidacy for the presidential election.

Opposition leaders Jean-Claude Muyambo, [Franck Diongo](#), and Gérard Mulumba Kongolo were arrested as part of the government’s campaign of political repression. Muyambo and Diongo were sentenced to five years in prison, while Mulumba was sentenced to 18 months. They have suffered deteriorating health in detention. Dozens of other political opposition leaders were arrested since 2015 and later released.

**Recommendations**

- Ensure that the rights to freedom of expression and peaceful assembly are respected and that members of political parties, and pro-democracy and human rights activists can pursue their activities and express criticism of government policies without intimidation.
- Release all individuals arrested because of their political views or because they participated in peaceful demonstrations and ensure charges against them are dropped.
- End the excessive use of force against opposition supporters, release arbitrarily detained opposition party members and activists, and investigate serious violations and appropriately hold those responsible to account.
- Allow all Congolese citizens to fully and freely participate in the electoral process.
- Establish a proposed National Preventive Mechanism to prevent torture, as supported by Congo in 2014 and obligated by the Convention against Torture’s optional protocol.

- Actively pursue cooperation with UN mechanisms and the international community to restore security and establish the rule of law.
- Undertake a comprehensive review of the draft NGO and human rights defenders bills according to international human rights standards, in particular the African Guidelines on freedom of association and assembly.
- Strengthen cooperation with special procedures of the Human Rights Council by responding positively to pending visit requests, as supported by Congo in 2014.
- Ensure that the freedoms of expression and peaceful assembly are respected in conformity with international standards and that members of political parties, journalists and human rights activists are able to exercise their activities and criticize the government without being subject to intimidation, reprisals or harassment.

### **Obstruction of International Journalists and Researchers, Murder of UN Experts**

The government has expelled or kept out of the country international officials, human rights monitors and journalists who have investigated or reported on unlawful government practices. In 2017, two UN investigators were murdered by alleged members of an armed group.

In October 2014, the government expelled the director of the UN Joint Human Rights Office in Congo, Scott Campbell, following publication of a report about summary executions and enforced disappearances during a police operation in Kinshasa. The director of the Congo Research Group, Jason Stearns, was forced to leave in April 2016, following publication of a report about massacres in the Beni region of eastern Congo. In July 2016, the authorities forced two researchers from Global Witness to leave Congo while they were investigating logging practices. In August 2016, the Congolese government [blocked](#) Ida Sawyer from Human Rights Watch from continuing to work in Congo. In January 2017, Sawyer was [obliged to leave](#) Congo for a second time, a few days after she was permitted to re-enter the country. Authorities refused to renew the accreditation for the Radio France Internationale (RFI) correspondent in Congo in June 2017, and the visa for the Reuters correspondent in August 2017.

In March 2017, a group of armed men [summarily executed](#) two UN investigators—Michael Sharp and Zaida Catalán—while they investigated serious rights abuses in the Kasai region. Human Rights Watch investigations and reporting by RFI and Reuters suggest government responsibility for the murders. A seriously flawed trial in Congo began in June 2017.

### *Recommendations*

- Ensure that international officials, human rights advocates, and journalists are able to work without hindrance, including by granting them the required visas and work authorizations if in compliance with immigration rules.
- Cooperate but do not interfere with the UN expert team mandated to support Congolese authorities in their investigation into the murder of UN investigators Sharp and Catalán.

### **Justice and Accountability**

The vast majority of human rights abuses committed in Congo have gone unpunished. In many cases, perpetrators have been rewarded by the government rather than brought to justice.

A year after the 2012 [mass rape of at least 76 women and girls by soldiers in and around Minova](#), Congo's Military Operational Court opened a trial in November 2013, for 39 soldiers, including five high-ranking officers, on charges of war crimes and other offenses. In May 2014, the verdict was announced, with only two low-ranking soldiers convicted of rape. Human Rights Watch research revealed that there was no investigation strategy to tackle such a mass crime scene, a lack of expertise and a weak prosecution file contributed to the poor quality of the investigation, and the rights of defendants to a fair and impartial trial were compromised. There did not seem to be any willingness to seriously investigate the responsibility of certain suspects beyond field commanders, notably high-level officers who were present in Minova and may have had command responsibility.

The government failed to exhume the [mass grave in Maluku](#), a rural area about 80 kilometers from Kinshasa, where it admitted burying 421 bodies in March 2015. In June 2016, family members of those forcibly disappeared or executed by Congolese security forces during Operation Likofi and the January 2015 demonstrations filed a public complaint with the national prosecutor requesting exhumation.

Warlord [Gédéon Kyungu Mutanga](#) surrendered in October 2016 after he had escaped from prison in 2011. Authorities have not yet transferred him to prison to serve the remainder of his 2009 sentence for crimes against humanity.

In July 2017, militia leader Ntabo Ntaberi Sheka surrendered to the UN peacekeeping mission in Congo (MONUSCO), which then transferred him to Congolese judicial officials. Sheka has been implicated in numerous atrocities in eastern Congo, and he had been sought on a Congolese arrest warrant since 2011 for crimes against humanity for mass rape. His trial was yet to begin at time of writing.

The International Criminal Court (ICC) has jurisdiction over serious international crimes committed in Congo. It opened an investigation there in June 2004 and has brought several cases to trial but has not prosecuted recent crimes.

Former warlord Bosco Ntaganda stands trial at the ICC for 13 counts of war crimes and five counts of crimes against humanity allegedly committed in northeastern Congo's Ituri province in 2002 and 2003.

[Sylvestre Mudacumura](#), military commander of the FDLR armed group, remains at large. The ICC issued an arrest warrant against him in 2012 for nine counts of war crimes allegedly committed in 2009 and 2010 in eastern Congo.

In September 2018, a military tribunal in Bukavu, eastern Congo, [convicted two high-ranking FDLR commanders](#) for murder and torture constituting crimes against humanity.

Although Congo has a moratorium on the death penalty and has not carried out executions for a number of years, Congolese law still permits capital punishment.

#### *Recommendations*

- 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 to enable more effective investigations and prosecutions of these crimes.
- Investigate and prosecute armed group members and security force members responsible for serious human rights abuses in trials that meet international fair trial standards.
- Direct government officials to stop interfering in judicial proceedings.
- Abolish the death penalty.
- Strengthen the capacities of the judiciary, including by increasing the personnel and improving its working conditions.
- Fully cooperate with the International Criminal Court, especially in the execution of arrest warrants issued by the court.
- Exhume existing mass graves, including in the Kasai region and Maluku, that may contain the bodies of people forcibly disappeared or executed by Congolese security forces and reveal the identities of those buried there.