

Resolution on the Human Rights Situation in Democratic Republic of Congo (DRC)

Presented by Groupe Lotus, Association africaine des droits de l'Homme (ASADHO) and Ligue des Electeurs

The International Federation for Human Rights (FIDH) meeting at its XXXVIIth Congress in Yerevan, Armenia, from 6 to 10 April 2010,

Considering the insecurity that still prevails in eastern DRC because of the active presence of the Democratic Forces for the Liberation of Rwanda (FDLR)¹, a situation motivated by the establishment in January 2010 of *Opération Amani Leo* following *Opération Kimia II* carried out by DRC army forces (FARDC) against the FDLR;

Considering the presence in Haut-Uélé territory, in North-East of Eastern Province, of armed members of the Lord Resistance Army who terrorise the local population².

Considering that officers of the National Congress for the Defence of the Population (*Congrès national pour la défense du peuple - CNDP*) still possess heavy weapons they used during the rebellion, though they are officially integrated in the FARDC, and still control income-generating activities as well as parallel local administrations;

Considering that UNSC Resolution 1896 which imposes an embargo on weapons and UNSC Resolution 1856 which aims to prevent illegal armed groups from benefiting from traffic in natural resources are repeatedly violated;

Considering that the parties to the conflict, armed groups and FARDC are committing serious violations of human rights and international humanitarian law against civilian populations: summary executions, arbitrary arrest and detention, forced displacements, looting, etc. and that sexual violence is being committed on a large scale by all the armed parties;

Considering for example that in the month of February 2010 alone, UNOCHA reported 1444 “protection incidents” in South Kivu, including sexual violence, forced labour, arbitrary arrests and looting, mainly committed by members of the FARDC within the framework of *Opération Amani Leo*;

Considering that these violations are committed in total impunity (enquiries and condemnations are rare considering the scale of exactions), as a consequence of lack of political and judicial determination;

Considering discussions relating to the renewal of the MONUC mandate scheduled for 1 June 2010 and its possible withdrawal strategy, requested by DRC President, Joseph Kabila;

Considering the weaknesses of the rule of law which undermines the return to peace in Eastern DRC as well as the violations of fundamental liberties committed by State agents³;

Considering in particular the serious violations of the rights of human rights defenders⁴;

¹ Cf. the Report of the DRC Group of Experts published in December 2009: “[T]he military operations against the FDLR have failed to dismantle the organization’s political and military structures on the ground in eastern DRC. (...) The armed group has regrouped in a number of locations in the Kivus, and continues to recruit new fighters. The FDLR continues to benefit from residual but significant support from top commanders of the FARDC and has sealed strategic alliances with other armed groups in both North and South Kivu.”

² Cf. Joint MONUC and UNHCHR report, December 2009.
http://www2.ohchr.org/SPdocs/Countries/LRAReport_December2009_F.pdf

³ Cf. FIDH Report : “The authoritarian drift of the regime”, July 2009. www.fidh.org

⁴ Cf. the 2009 Annual Report of the Observatory for the Protection of Human Rights Defenders (joint FIDH – OMCT program) and the Urgent Appels published by the Observatory in 2010. www.fidh.org

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Calls on MONUC to contribute to effective security in the east and the northeast of DRC, in full respect of international human rights and international humanitarian law by:

- supporting a non-military strategy of disarmament of armed groups;
- terminating all cooperation with members of FARDC who commit human rights violations;
- contributing to effectively implementing the 23 March, 2009 agreement by fully integrating members of CNDP into the army;
- contributing to the “vetting process” to refuse integration into FARDC of any person presumably responsible for having committed human rights violations against civilians;
- controlling the implementation of UNSC Resolutions 1896 and 1856, and calling for sanctions against any violators;
- proposing an adequately-funded international plan of support for the national security sector;
- ensuring safe return and reintegration of refugees and internally displaced persons;

Call on the UNSC to maintain the MONUC mandate, prioritising the protection of civilians, including human rights defenders, and to consider a withdrawal strategy only after issues motivating the MONUC mandate have been settled and a plan to support the rule of law, – with full State involvement based on reforms of the justice and security sectors and the establishment of institutions that ensure good governance, – has been implemented.

Call on FARDC to develop strategies of communication and protection vis-à-vis civilian populations before any attacks against armed groups;

Call on the Congolese authorities to translate into action their commitment to a zero tolerance policy as concerns perpetrators of serious human rights violations against civilians by:

- creating specific task forces in support of legal proceedings dedicated to investigating serious human rights violations and to prosecuting perpetrators;
- effectively implementing its national strategy to fight against sexual violence and take appropriate measures to ensure full implementation of the 2006 laws on sexual violence;
- adopting the adaptation law of the Rome Statute into national law and transferring to The Hague Bosco Ntaganda, inapplication of an ICC warrant of arrest;

Call on the Congolese authorities to implement a general plan of reform of its justice system with adequate funding:

- to adopt, as soon as possible, laws creating the Supreme Court, the Constitutional Court and the *Conseil d'État*;
- to ensure effective work of the Magistrate's High Court and to adopt measures to guarantee its independence and to support programmes of judicial assistance;
- to reinforce civil tribunals rather than military tribunals by enabling civil courts and prosecutors to have jurisdiction over acts committed by police agents and civilians under criminal law;
- to finalise a strategic plan of reforms of the penitentiary system and ensure that all places of detention are run under judicial control;

Call on Congolese authorities to reform the security sector by:

- proceeding to a “vetting” system similar to the one for the FARDC;
- reducing the number of security agents with authority to arrest and detain individuals;
- adopting in national law a definition of the crime of torture that conforms with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

Call on Congolese authorities:

- to fully comply with the Declaration on Human Rights Defenders adopted by the UN General Assembly in 1998;
- to adopt a law creating a national human rights institution, in conformity with the Paris Principles.