



Human Rights Council: Address the deteriorating human rights situation in the Democratic Republic of the Congo (DRC)

Open Letter to Permanent representatives of member and observer States of the UN Human Rights Council

26 February 2016

Your Excellency,

We, the undersigned non-governmental organizations, express our deep concern at the deterioration of the human rights situation in the Democratic Republic of the Congo (DRC), in particular the clampdown on peaceful activists and political opponents ahead of the presidential election scheduled for November 2016. The year 2015 has been marked by an increasingly repressive political climate against human rights defenders, journalists, political opponents and other independent or critical voices who have denounced the proposed electoral reform that would allow a *de facto* extension of President Joseph Kabila's term in office beyond his constitutionally-mandated two terms, ending in December 2016.

In January 2015, thousands of Congolese citizens took to the streets of Kinshasa and several other large cities to protest against the draft electoral reform. Government defense and security forces violently repressed the popular protests, responding with disproportionate force and unjustified use of live ammunition,¹ killing at least 42 protestors, wounding dozens more, and resorting to mass arbitrary arrests and detentions.² Among those arbitrarily detained is prominent human rights defender Mr. Christopher Ngoyi Mutamba, who took part in several peaceful protests and documented human rights violations that occurred during these protests. He was kidnapped by armed elements of the national guard, held incommunicado by the National Intelligence Agency (ANR) without access to a lawyer or legal counsel, and had trumped-up charges brought against him. His detention was recognized as arbitrary by the UN Working Group on arbitrary detention, which found that it resulted from the sole exercise of his human rights activities.³ On February 8th 2016, he was admitted to Nganda hospital for emergency healthcare, and his condition remains worrisome.

In March 2015, the ANR also arrested some 40 civil society activists and journalists who had gathered in Kinshasa to announce the launch of the "Filimbi" citizen platform aiming at encouraging youth participation in the electoral and democratic processes in the DRC. In Goma, in eastern DRC, the authorities later arrested and released at least 15 activists from the LUCHA (Lutte pour le Changement) youth movement who were peacefully demonstrating to demand the release of the Filimbi members.

On February 16th 2016, several opposition platforms and other Congolese civil society organizations

1 Report of the United Nations Joint Human Rights Office on human rights and fundamental freedoms during the pre-electoral period in the Democratic Republic of the Congo between 1 January and 30 September 2015, December 2015, www.ohchr.org/Documents/Countries/CD/UNJHRODecember2015_en.pdf, para. 80.

2 FIDH, "DRC: 42 already dead in protests against the proposed electoral law," 21 January 2015, www.fidh.org/International-Federation-for-Human-Rights/Africa/democratic-republic-of-congo/16850-drc-42-already-dead-in-protests-against-the-proposed-electoral-law.

3 FIDH, "DRC: UN recognizes detention of Christopher Ngoyi Mutamba is arbitrary," 12 December 2015, www.fidh.org/en/impacts/drc-un-recognises-detention-of-christopher-ngoyi-mutamba-is-arbitrary.

called for a "ghost town" day throughout the DRC to demand the holding of elections within the constitutional timeline, respect for the Constitution and for the principle of democratic change of government. The UN Joint Human Rights Office deplored at least 11 arrests and six LUCHA activists were arrested in Goma and sentenced to two years in prison for inciting civil disobedience, while two of their colleagues kidnapped in Kinshasa in the early hours of 16 February 2016 remain held incommunicado to date.

Our organizations are also concerned about the prevailing impunity in the DRC, as evidenced by the acquittal on appeal on 17 September of 4 of the 5 accused of the enforced disappearance and murder of two human rights defenders, Floribert Chebaya and Fidèle Bazana, more than 5 years after the facts.⁴

In its latest report documenting human rights violations in relation with the electoral process from 1 January-30 September 2015, the UN Joint Human Rights Office observed an increase in the number of instances of threats, arbitrary arrests and manipulation of justice, mainly targeting members of political opposition parties, civil society activists and media professionals and perpetrated primarily by members of the Congolese national police (PNC) and the national intelligence agency (ANR).⁵ The report also shows that the majority of violations took place in provinces where opposition parties and civil society organizations are prominent, and that in some instances justice has been instrumentalized in order to silence political opponents, human rights defenders and media professionals, and as a result intimidate civil society as a whole,⁶ raising the issue of the independence of the judiciary.⁷

Our organizations are deeply concerned that such restrictions to freedoms of expression, peaceful assembly and association, as well as attacks and harassment against those expressing critical opinions against the government and its actions, have created a general atmosphere of intimidation and indicate a narrowing of the democratic space in the country in the lead up to the presidential election. In this regard, the UN High Commissioner for Human Rights, Mr. Zeid Ra'ad Al-Hussein, reaffirmed the need to guarantee civil and political rights ahead of this key election, stating that "if the upcoming elections are to be credible and peaceful, the authorities must ensure that all citizens, independently of their political opinions, can fully participate in an open and democratic debate, and that civil society activists, media workers and political opponents are able to carry out their activities without fear".⁸

The Human Rights Council should heed the warning signals sent by experts and institutions that are closely monitoring the human rights situation in the DRC and urge the Congolese authorities to:

- **Respect and protect the rights to freedom of expression, peaceful assembly and association, and put an end to all forms of intimidation, harassment, attacks and reprisals against human rights defenders, journalists, political opponents and other independent or critical voices;**
- **Ensure that members of the defense and security forces use proportionate means to guarantee law and order, and strictly prohibit the use of lethal weapons and other means and methods of violence against peaceful protesters, in accordance with the United Nations Basic Principles on the use of force and firearms by law enforcement officials;**
- **Put an end to all forms of intimidation and harassment, including by the judiciary,**

4 FIDH, "DRC: Verdict en appel dans l'affaire Chebeya: "une banalisation du crime d'état"", 24 September 2015, <https://www.fidh.org/fr/regions/afrique/republique-democratique-du-congo/verdict-en-appel-dans-l-affaire-chebeya-une-banalisation-du-crime-d>.

5 UNJHRO report, paras. 92 and 94.

6 *Idem*, para. 58.

7 *Idem*, para. 85.

8 OHCHR, "DRC: new UN report highlights the need to protect political and civil rights ahead of key elections," 8 December 2015, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16853&LangID=E#sthash.tlQdr2uR.dpuf.

against human rights defenders, journalists, political opposition members and supporters and other independent or critical voices;

- **Immediately and unconditionally release all persons arbitrarily detained;**
- **Ensure the fight against impunity for crimes committed against human rights defenders;**
- **Conduct thorough, impartial and independent investigations into all allegations of human rights violations in order to bring the perpetrators to account in fair trials, including members of the defense and security forces;**
- **Guarantee the holding of free, fair, transparent, credible and secure electoral processes, in accordance with their regional and international human rights obligations;**
- **Abide by their international obligations, in particular under the International Covenant on Civil and Political Rights.**

We call on the Human Rights Council to stand ready to convene an urgent debate on the human rights situation in the Democratic Republic of the Congo should the situation deteriorate.

We thank you for your attention to these pressing issues and are available to provide your delegation with further information as required.

Sincerely,

**International Federation for Human Rights (FIDH)
Association africaine des droits de l'Homme (ASADHO)
Groupe Lotus
Ligue des Électeurs**

FIDH is an international human rights NGO federating 178 organizations from close to 120 countries. Since 1922, FIDH has been defending all civil, political, economic, social and cultural rights as set out in the Universal Declaration for Human Rights. FIDH's headquarters are in Paris and the organization has offices in Abidjan, Bamako, Brussels, Conakry, Geneva, The Hague, New-York, Pretoria and Tunis.