



THE DEMOCRATIC REPUBLIC OF CONGO
Stakeholder Report for the United Nations Universal Periodic Review

Submitted by The Advocates for Human Rights,
a non-governmental organization in special consultative status

for the 33rd Session of the Working Group on the Universal Periodic Review
May 2019
Submitted October 2018

Founded in 1983, **The Advocates for Human Rights** (“The Advocates”) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. A growing number of victims fleeing politically-based violence in the Democratic Republic of Congo (DRC) have requested legal assistance from The Advocates in applying for asylum in the United States. Information from asylum seekers about the human rights violations that they experienced in DRC has been used in this submission with their permission.

INTRODUCTION

1. The Advocates has received direct information about the human rights violations detailed in this stakeholder report from survivors who have fled the Democratic Republic of Congo (DRC) to seek asylum in the United States. This stakeholder report addresses the DRC's failure to comply with its international, human rights obligations and makes recommendations to address and improve the human rights situation in the DRC.

I. BACKGROUND AND FRAMEWORK

A. 2014 Universal Periodic Review of Democratic Republic of Congo

2. During the DRC's second Universal Periodic Review in 2014, the government noted 39 recommendations and accepted 190.¹ Notably, the DRC did not support 16 recommendations related to abolishing the death penalty.² Furthermore, the government rejected 5 recommendations related to strengthening protections of human rights mechanisms as well as protection of human rights defenders.³ An additional 3 recommendations were noted related to the protection of free expression and political participation.⁴

1. *Ratification of international conventions and protocols to improve human rights conditions*

Status of Implementation: Accepted, Partially Implemented

3. The DRC accepted 13 recommendations related to ratifying international conventions and protocols related to improving human rights conditions⁵, including 2 recommendations to ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CPED).⁶ Further, 7 accepted recommendations were related to operationalizing the National Human Rights Commission (NHRC).⁷

2. *Enforced disappearance and extrajudicial executions*

Status of Implementation: Accepted, Not Implemented Yet

4. The DRC accepted 2 recommendations to increase the efforts to prevent and punish episodes of extrajudicial executions and illegal or arbitrary detentions, to adopt measures to prevent the possibility of extrajudicial executions and to fully prevent the use of torture by State Security Forces.⁸ Further, the DRC accepted Chile's recommendation to investigate, prosecute, and punish all cases of summary and extrajudicial executions, and to provide adequate compensation to victims.⁹

3. *Torture*

Status of Implementation: Not Implemented Yet

5. The DRC accepted 2 recommendations related to implementation of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading

Treatment or Punishment (OP-CAT).¹⁰ The DRC further accepted several recommendations to establish a national prevention mechanism to prevent and address torture.¹¹

4. *Arbitrary arrest, detention and conditions of detention*

Status of Implementation: Accepted, Not Implemented Yet

6. The DRC accepted 2 recommendations to investigate ill-treatment in detention including torture increase efforts to prevent and punish episodes of illegal and arbitrary detention¹². However, the DRC rejected Canada's recommendation to investigate allegations of arbitrary detention of journalists, activists, and political opponent before a special election¹³.
7. Since its last UPR, the Democratic Republic of the Congo has made some limited efforts to improve conditions in prisons as well as to reform obsolete laws regulating the prison system.¹⁴ These efforts, however have been grossly inadequate to address the significant problems with arbitrary arrest and detention, as well as the inhumane and unhealthy conditions of detention.

5. *Combatting impunity and reform of the judicial system*

Status of Implementation: Accepted, Not Implemented Yet

8. The DRC accepted 13 recommendations related to reforming the judicial system and combating impunity. The DRC accepted several recommendations regarding strengthening the independence of the judiciary through reforms including increasing the personnel and improving working conditions as well as taking steps to facilitate adequate training of judges and prosecutors.¹⁵ Further, recommendations from 6 countries were accepted related to combatting impunity to supplement judicial reform and build in accountability measures to adequately investigate and prosecute individuals – especially civilian officials or military personnel – who are suspected of committing crimes under international law and other human rights violations.¹⁶
9. The DRC reports having taken some steps to increase the independence of the judiciary and continue internal judicial reform.¹⁷ These efforts have, however, been inadequate to address the problems of the justice system and impunity in the DRC.

6. *Protection of human rights defenders*

Status of Implementation: Not Implemented Yet

10. The DRC accepted 5 recommendations regarding protections for human rights defenders.¹⁸ The DRC claims to have made some efforts to combat infringement of fundamental freedoms as well as to increase protections of human rights defenders.¹⁹ The DRC has, however, not only failed to put into place adequate protections for human

rights defenders but rather increased harassment of civil society activists since the last UPR. Significantly, the DRC rejected 3 recommendations concerning adoption of a specific law to protect human rights defenders.²⁰ A bill passed by the Senate in May 2017 purported to strengthen protection for human rights defenders but contained a restrictive definition of human rights defender and strengthened the government's control over human rights groups, threatening to limit their activities.²¹

7. Conditions for free expression and political participation

Status of Implementation: Accepted, Not Implemented Yet

11. The Democratic Republic of the Congo accepted 7 recommendations related to improving the conditions for free expression and political participation.²² Since its last UPR, the Democratic Republic of the Congo has made only limited efforts to combat infringement of fundamental freedoms as well as increase protections of journalists and free expression.²³

III. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

12. Since 2016, the human rights situation in the DRC has worsened as the government has increasingly used violence and political repression to respond to civil society protests against President Kabila's decision to postpone elections and remain in office after the end of his constitutionally-mandated two-term limit. The most significant human rights issues included: unlawful killings; disappearances and abductions; torture and other cruel, inhuman, and degrading treatment and punishment, including sexual and gender-based violence; life-threatening conditions in prisons and detention facilities; arbitrary arrests and prolonged detention; denial of fair public trial; and corruption and a lack of transparency at all levels of government.²⁴ The United Nations Organization Stabilization Mission in the DR Congo (MONUSCO) reports the severe restrictions on freedoms of speech and the press, assembly, and association, as well as the harassment of human rights defenders and opposition leaders.²⁵ Since 2015, Congolese security forces have killed nearly 300 people engaged in peaceful protests; hundreds more have been arrested and held illegally in detention.²⁶ Moreover, widespread violence in the DRC has killed an estimated 5,000 people and forced more than 4.5 million Congolese people to be displaced from their homes.²⁷

13. The Advocates has received direct information about violence and suppression of political opinion, freedom of expression, and freedom of assembly in DRC from survivors fleeing human rights abuses to seek asylum in the United States.²⁸ Our clients from the DRC share their stories of abduction, arrest, detention, interrogation and torture, including kicking, whipping, beating with batons, rape, and prolonged deprivation of food and water.

14. Our clients also report that the situation in the DRC has gotten much worse for those who are actively involved with opposition parties, as well as human rights organizations. They describe threats, intimidation, arrests, detention and restrictions on their movement in

violation of their rights to peaceful assembly, opinion and expression. Our clients from the DRC share stories of being accused, often arbitrarily, of supporting anti-government rhetoric and protests. While each client's case is different, their experiences confirm that the legal system and policies in DRC fail to provide individuals with adequate protection from politically-motivated violence.

Right or area 12 and 13: Life, Liberty and Security of Person

Right or area 12.3 and 13.2 Enforced disappearances and extrajudicial executions

15. State-sponsored violence appears to have increased since the last UPR, with a dramatic increase in enforced disappearances and unlawful executions by Congolese armed forces and militia groups. In 2017 alone, MONUSCO recorded 1,176 extrajudicial killings in the DRC.²⁹ The report alleged at least 89 women and 213 children among the dead.³⁰ While the Congolese armed forces were responsible for 64% of the killings, the Bana Mura militia has also carried out well-planned attacks on several villages in Kamonia territory in April and May of 2017. MONUSCO noted the Bana Mura militia's egregious use of burning, beheading, mutilating and shooting to execute the Tshokwe, Pende and Tetela ethnic groups.³¹ The government's complicity in limiting the ethnically charged strife has reportedly empowered the militia.³²
16. The Advocates' clients have described disappearances, extrajudicial executions and threats as the direct result of speaking out against the government. One client reported that she and a colleague received death threats for advocating on behalf of women and girls raped by members of the military. Soon after, the colleague was abducted by three men, including a police officer and a soldier.³³ Another client, who was the leader of a human rights organization, was out of the country when unidentified men came to the office demanding to speak with him. When the person assigned to lead the organization in his absence identified himself, he was shot and killed.³⁴
17. Many Congolese clients reported receiving threats for taking action to oppose the government. Several received multiple threatening telephone calls, which caused the client and/or the client's family to go into hiding.³⁵ Another client reported that, after he voiced his opposition to the DRC government on a radio program, he was physically attacked by several men.³⁶ He reported that his email account was hacked and he received threats over the phone. Days later, he received a message that read, "everywhere you are hiding we will find you, and you will be eliminated, traitor."³⁷

Right or area 12.5 Prohibition of torture and 13.3 Arbitrary arrest and detention

18. The DRC security services have arrested hundreds of human rights defenders and opposition supporters, holding many of them in illegal detention for weeks or months, without charge or access to their families or lawyers.³⁸ In July 2017, 100 demonstrators were arrested during peaceful nation-wide protests urging the release of the electoral calendar.³⁹ Four demonstrators were sentenced and one journalist was detained.⁴⁰ On November 15, 2017, 52 people were detained by the Congolese security forces for their

involvement in small marches and demonstrations in Goma, Kasindi, Kindu, Kisangani, Kinshasa, and Idjwi. While most were released in the following days, eight protestors were detained for several months.⁴¹ Arrests and detention of peaceful demonstrators has continued throughout 2018.

19. The Advocates has documented several accounts from clients who were arbitrarily arrested and detained in the DRC. Many of them were targeted for their active involvement in peaceful political protests. One client reported being abducted in a taxi and taken to a police facility where he was detained and tortured for about seven days. A year later, he was arrested again for intervening when police started arresting people in his neighborhood. He was arrested a third time after he again confronted police in his neighborhood and spoke up about human rights. Six police officers came to his residence at 2 am; he was detained, beaten and tortured for eight days.⁴² Another client was similarly arrested, detained for without a hearing, beaten and tortured. Both clients were told that they were detained because their work shamed and criticized the government.⁴³
20. The Advocates has documented the torture and cruel, inhuman or degrading treatment experienced by our clients by the DRC government actors. One client reported being beaten so severely during his detention that he has scars on his legs and head. The police also told the other prisoners to sodomize and urinate on him.⁴⁴ Another client reported that he and other detainees were whipped with batons with wires attached to them.⁴⁵

Right or area 12.6 Conditions of detention

21. Conditions of detention in the DRC do not meet the standards established by the U.N. *Standard Minimum Rules for the Treatment of Prisoners* and the *Nelson Mandela Rules*. Conditions in “most prisons” in the DRC are “harsh and lifethreatening”.⁴⁶ Congolese and international human rights organizations have reported that the detention conditions in the two official prisons in Kinsasha (the central Makala and the Ndolo military prison) as “subhuman” and life-threatening.⁴⁷ The Makala prison, which has capacity for 1,500, housed 8,000 inmates in May of 2017 and 8,220 in June of 2017.⁴⁸ In addition to overcrowding, reports document urine stained corridors, unemptied septic tanks, and the lack of water for showers.⁴⁹
22. Several of our clients have shared their firsthand experiences with deplorable conditions of detention. One client reported being held in a small cell with seven other people. For the first two days of detention, they were given no food or water.⁵⁰ Another client was detained for several days under harsh conditions, including being forced to sleep on the floor.⁵¹

Right or area 15.1 Administration of justice & fair trial and 16 Right to effective remedy, impunity

23. The DRC is blatantly failing to meet its obligations to promptly, thoroughly, and impartially investigate and prosecute human rights violations. Authorities have taken no steps to investigate, prosecute or punish security forces or other government officials who committed human rights abuses.⁵² Judicial institutions are compromised by widespread

corruption, as well as lack of finances and basic infrastructure.⁵³ Judges are also subject to political influence and face repercussions for maintaining independence. For example, in July 2017, armed men shot and nearly killed a judge who refused to hand down a ruling against an opposition leader.⁵⁴

24. The Advocates' clients report witnessing widespread impunity for human rights abuses in the DRC. When one client tried to report the death threats he was receiving to the township police chief official, no action was taken; he was simply told to "be careful".⁵⁵

Right or area 14.3 Freedom of opinion and expression, 14.4 Right to peaceful assembly and 14.5 Freedom of association

25. The DRC Government systematically targets civil society organizations, human rights defenders and journalists to suppress dissenting voices in the country. Human rights defenders and journalists have been subjected to physical abuse, arbitrary arrest and detention, and sexual violence by DRC security forces.⁵⁶ In response to peaceful protests around the electoral process organized by the youth movement Lutte pour le Changement (LUCHA) the government dispatched police to disrupt the protests in six regions, resulting in civilian injuries and arrests.⁵⁷ Security forces have reportedly used teargas and live bullets on civilians during several peaceful protests in 2018.⁵⁸
26. One client described the repeated threats she experienced because she was publicly critical of the military.⁵⁹ Another client, an active member of a human rights group, organized several marches, protests, and petitions about human rights abuses in the DRC. He was harassed and interrogated multiple times and believes that the government had blacklisted him.⁶⁰

Right or area 18 Right to participate in public affairs and right to vote

27. The DRC has postponed constitutionally mandated national elections for two years, with elections now scheduled for December 23, 2018. Under the agreement to work towards a national electoral process signed in December 2016, millions of Congolese living in diaspora are eligible to register to vote in the 2018 elections.⁶¹ In spite of statements by the head of the electoral commission (CENI) that diaspora voter registration would begin in July 2018,⁶² the diaspora community in the U.S. reports that the government of the DRC is not complied with electoral law and provided the opportunity to register to vote.⁶³

V. RECOMMENDATIONS

28. This stakeholder report suggests the following recommendations for the Government of the DRC:
 - Take immediate action to address human rights violations and serious crimes, including releasing detained political leaders, civil society activists, students, and journalists.

- Adopt a law on the protection of human rights defenders and protect, in both law and in practice, the victims and witnesses of human rights violations.
- Establish an independent mechanism for investigating complaints of torture or ill-treatment at the hands of members of police or security forces ensuring that law enforcement officials continue to receive investigative training in accordance with the Istanbul Protocol.
- Ensure that confessions obtained under torture are systematically rejected by the courts.
- Continue prison reform efforts and ensure conditions of all detention comply with the Nelson Mandela Rules, particularly with respect to overcrowding, access to food and water, adequate sanitation, and medical care.
- Take the necessary steps to ensure that legal systems and policies are in full compliance with the DRC's international obligations with respect to freedom of assembly, association and expression and ensure that journalists and human rights defenders are free to carry out their work independently and without fear of persecution or intimidation.
- Take necessary steps to train judges, lawyers and prosecutors on international standards.
- Combat impunity by thoroughly and impartially investigating and prosecuting crimes committed by State actors, hold offenders accountable, and ensure appropriate compensation for victims of such crimes.
- Commit to a free and open political environment so that all political parties can legally campaign and participate in elections.
- Provide Congolese citizens in diaspora adequate opportunities to participate effectively in national elections in accordance with electoral and constitutional law.

¹ *ZRP: Responses to Recommendations & Voluntary Pledges: Democratic Republic of Congo* (April 29, 2014), Also available online at https://www.upr-info.org/sites/default/files/document/congo_democratic_republic/session_19_-_april_2014/recommendations_and_pledges_drc_2014.pdf

² *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 136.3 Take appropriate steps to ratify various international treaties including the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (ICCPR-OP-2) and OP-CEDAW (Romania); ¶ 136.4 Abolish the death penalty in law and ratify ICCPR-OP-2 (France); ¶ 136.5 Remove the death penalty from its criminal statutes and ratify ICCPROP- 2 (Australia); ¶ 136.6 Abolish the death penalty and ratify ICCPR-OP-2 (Germany); ¶ 136.7 Ratify ICCPR-OP-2 and provide for the de jure abolition of the death penalty (Hungary); ¶ 136.8 Abolish the death penalty and sign and ratify ICCPR-OP-2 (Portugal); ¶ 136.12 Undertake constitutional and legislative reforms aimed at the full abolition of the death penalty (Spain); ¶ 136.13 Amend the Criminal Code as to abolish the death penalty (the former Yugoslav Republic of Macedonia); ¶ 136.14 Adopt a law abolishing the death penalty (Togo); ¶ 136.15 Adopt a law to abolish the death penalty (Benin); ¶ 136.16 Ensure the implementation of an official moratorium on all executions, commuting death penalty sentences by imprisonment periods, with a view to the definitive abolition of the death penalty (Uruguay); ¶ 136.17 Take all necessary measures to implement the commitment to abolish the death penalty (Argentina); ¶ 136.18 Take again into consideration the possibility to soon abolish the de jure death penalty (Italy); ¶ 136.19 Intensify its efforts to establish an official moratorium on the use of the death penalty with a view to abolishing it, and in the meantime immediately remove all provisions on national laws which are in breach of international human rights law (Lithuania); ¶ 136.20 Adopt a law abolishing the death penalty (Montenegro); ¶ 136.21 Abolish the death penalty in order to allow abolitionist countries to consider the possibility of extraditing

persons suspected of having committed crimes in the Democratic Republic of the Congo (Rwanda); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

³ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 136.22 Ensure the speedy adoption of the law on protection of human rights defenders by the Parliament and its immediate and effective implementation (Czech Republic); ¶ 136.23 Adopt a law on the protection of human rights defenders (Mali); ¶ 136.24 Combat violations and violence against human rights defenders, particularly by adopting a law protecting them (France); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

⁴ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 136.36 Investigate without delay allegations of arbitrary detention of journalists, activists and political opponents and report before the holding of the local elections (Canada); ¶ 136.37 Free all persons arrested as a result of their political opinion or because they took part in peaceful demonstrations, and ensure that charges against them are dismissed (Belgium); ¶ 136.38 Ensure the full enjoyment of freedom of expression and of the press by removing all of the restrictions imposed, including by decriminalizing defamation, in accordance with its obligations under ICCPR and its commitment taken during the previous review (Estonia). Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

⁵ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 133.1 Take necessary steps to ratify or accede to major international human rights instruments which are still outstanding (Lesotho); ¶ 133.4 Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Portugal); ¶ 133.14 Facilitate shortly the visit of the Special Rapporteur on the situation of human rights defenders (Uruguay); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

⁶ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 133.2 Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CPED) (Tunisia); ¶ 133.3 Ratify CPED (France); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

⁷ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 133.12 Ensure sufficient resources so that the National Human Rights Commission (NHRC) can fully carry out its mandate (Republic of Korea); ¶ 133.13 Attend to the appointment of members of the NHRC to enable it to commence its work (Zimbabwe); ¶ 134.20 Accelerate its efforts to establish the national human rights institution in line with the Paris Principles (Tunisia); ¶ 134.21 Complete the nomination of members of the NHRC with a view to render it operational, if not done so yet (Niger); ¶ 134.22 Operationalize the NHRC and strengthen its capabilities in the technical, human and financial fields for better protection of human rights (Morocco); ¶ 134.23 Continue efforts for the establishment of a national human rights institution with an “A” status in conformity with the Paris Principles (Portugal); ¶ 134.24 Establish a national human rights commission, provide it with necessary resources for its proper functioning and ensure its conformity with the Paris Principles (France); ¶ 134.25 Speed up its efforts to ensure the functioning of the Commission in accordance with the Paris Principles on national human rights institutions (Indonesia); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

⁸ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 133.15 Increase efforts to prevent and punish episodes of extrajudicial executions and illegal or arbitrary detentions (Italy); ¶ 134.49 Adopt measures to prevent the possibility of extrajudicial executions and to fully prevent the use of torture by State Security Forces (Spain); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

⁹ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 134.121 Investigate, prosecute and punish all cases of summary and extrajudicial executions, and provide adequate compensation to victims (Chile); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

¹⁰ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 134.27 Implement article 3 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) and immediately establish an independent national mechanism for the prevention of torture with the mandate to visit all places of detention (Czech Republic); ¶ 134.30 Establish the national mechanism for the prevention of torture under OP-CAT and appoint an independent and qualified expert, provided with necessary resources to exercise its mandate (Uruguay); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

¹¹ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 134.28 Continue working towards the establishment of a national mechanism for the prevention of torture (Guatemala); ¶ 134.29 Establish a national preventive mechanism to prevent torture (South Sudan); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

¹² *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 134.50 Investigate all cases of torture and ill-treatment in detention, as recommended previously (Austria); ¶ 133.15 Increase efforts to prevent and punish episodes of extrajudicial executions and illegal or arbitrary detentions (Italy); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

¹³ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5; ¶ 136.36 Investigate without delay allegations of arbitrary detention of journalists, activists and political opponents and report before the holding of the local elections (Canada); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

¹⁴ *National Report: Democratic Republic of the Congo* (April 28 – May 9, 2014), U.N. Doc. A/HRC/WG.6/19/COD/1; ¶ 39. The Democratic Republic of the Congo is concerned to improve living conditions in prisons. Therefore, the Minister of Justice and Human Rights issued Judicial Organization Order No. 029/CAB/MIN/J&DH/2013 of 28 January 2013 concerning the establishment, organization and functioning of local budget management oversight committees for provincial central prisons and detention camps. The Order introduces significant innovations to prisons management in that it establishes a committee in every prison for the administration of resources allocated to the nutrition of prisoners. ¶ 40. In the interest of good governance, administration committees are composed of the Provincial Governor or his representative; the Public Prosecutor; the Head of the Provincial Division of Justice; the Prison Warden and two civil society representatives. ¶ 41. With regard to infrastructure and with a view to solving the problem of prison overcrowding, the Democratic Republic of the Congo, with the support of partners, has refitted and constructed prisons. Notably, it has done so in Goma prison, Dungen prison in Province Orientale and Makala prison in Kinshasa as well as in Ndolo military prison in Kinshasa and Angenga military prison in Equateur. Nevertheless, with regard to the obsolete laws regulating the prison system, it should be noted that the Democratic Republic of the Congo is currently engaged in a prison reform process with priority emphasis being given to the revision of Decree Law of 17 September 1965 concerning the prison system and the training of prison staff. Seventeen prison directors have been redeployed in the context of the reform and restructuring of the Prison Administration., Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

¹⁵ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 133.19 Strengthen the capacities of the judiciary, including by increasing the personnel and improving its working conditions (Luxembourg); ¶ 134.107 Take further steps to strengthen the independence of the judiciary, including by allocating sufficient resources and adequate training to judges and prosecutors (Thailand); ¶ 134.114 Take measures to complete the reforms in the judicial system and in the defense and security sectors (Djibouti); ¶ 134.124 Strengthen efforts to enhance the capacities of law enforcement agencies and judicial organs (Ethiopia). Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

¹⁶ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 134.120 Continue the efforts to attain the respect for the rights and fundamental

freedoms of the entire population, and adopt all necessary measures to guarantee the fight against impunity of perpetrators of crimes, acts of violence and all human rights violations (Argentina); ¶ 134.117 Continue strengthening the judicial system in order to put a real end to impunity for human rights violations (Republic of Korea); ¶ 134.118 Pursue its efforts to improve its justice system and its commitment to fight against impunity (Timor-Leste); ¶ 134.122 Take necessary measures to ensure that individuals suspected of committing crimes under international law and other serious human rights violations are thoroughly investigated and brought to justice (Botswana); ¶ 134.123 Ensure that civilian officials or military personnel implicated in providing support to foreign or Congolese armed groups responsible for crimes against humanity are suspended from their positions, investigated and appropriately prosecuted (Croatia); Also available online at

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

¹⁷ *National Report: Democratic Republic of the Congo* (April 28 – May 9, 2014), U.N. Doc.

A/HRC/WG.6/19/COD/1; ¶ 43. In the Democratic Republic of the Congo, the High Council of the Judiciary, which is the sole management body of the judiciary, is made up exclusively of judges. It meets on an annual basis in order to examine all issues relating to the functioning of the judiciary and formulates draft decisions for approval by the President of the Republic. ¶ 44. In order to strengthen the independence of the judiciary, the salaries of all 3,750 civilian and military judges were increased by 20 per cent, on average, in 2011. Moreover, the Democratic Republic of the Congo has taken a number of steps in order to strengthen the capacities of the law enforcement agencies and the judicial organs, by continuing to establish special courts, including commercial, labour and juvenile courts; by the creation of a judicial support unit within the military justice system, which is currently being tested in the East; and by the appointment of judges by a number of presidential decrees on 1 June 2013, in order to make the newly-created magistrates', commercial, juvenile and labour courts operational. ¶ 45. The Democratic Republic of the Congo is continuing to reform the judicial system and the defence and security sector. A number of initiatives have been taken in this context, including:

- With regard to reform of the judicial system, on the one hand the following laws have been promulgated: Organizational Act No. 13/011-B of 11 April 2013 on the organization, functioning and competence of ordinary courts; Organizational Act; Moreover, the High Court of Justice has been divided to form three new Courts, namely the Council of State, the Court of Cassation and the Constitutional Court, and juvenile and labour courts have been established;

Also available online at

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

¹⁸ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29,

2014), U.N. Doc. A/HRC/27/5. ¶ 134.26 Ensure that human rights defenders can exercise their rights without interference and ensure the effective establishment of the NHRC (Switzerland); ¶ 134.52 Take necessary measures to prevent any threat against human rights defenders and ensure their effective protection (Spain); ¶ 134.53 Adopt as soon as possible the law protecting human rights defenders (Sweden); ¶ 134.54 Take adequate measures for better protecting human rights defenders and journalists (Djibouti); ¶ 134.131 Take all necessary steps to ensure freedom of the media and duly address all cases of restrictions on the media (Slovakia); Also available online at

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

¹⁹ *National Report: Democratic Republic of the Congo* (April 28 – May 9, 2014), U.N. Doc.

A/HRC/WG.6/19/COD/1; ¶ 46. The Democratic Republic of the Congo has made efforts to protect journalists and human rights defenders, freedom of expression and association and the right to peaceful demonstration and to punish infringements of these fundamental freedoms. In this context, it is appropriate to mention the following legislation: Organizational Act No. 11/001 of 10 January 2011 concerning the organization, powers and functioning of the High Council for Broadcasting and Communications (CSAC); Act No. 13/011 of 21 March 2013 concerning the establishment, organization and functioning of the National Human Rights Commission; Decree No. 09/35 of 12 August 2009 concerning the establishment, organization and functioning of the Human Rights Liaison Entity in the Democratic Republic of the Congo; and Ministerial Order No. 219/CAB/MIN/J&DH/2011 of 13 June 2011 on the establishment, organization and functioning of the Protection Unit for Human Rights Defenders, pending the adoption of the bill on the protection of human rights defenders. The eastern territories formerly in rebel hands have posed considerable challenges for the protection of human rights defenders. ¶ 47. Political parties exercise their

rights to freedom of expression, association and to peaceful assembly freely, in accordance with the law in force. To date, 451 political parties are registered with the Ministry of the Interior.; Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

²⁰ *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 136.22 Ensure the speedy adoption of the law on protection of human rights defenders by the Parliament and its immediate and effective implementation (Czech Republic); 136.23 Adopt a law on the protection of human rights defenders (Mali); ¶ 136.24 Combat violations and violence against human rights defenders, particularly by adopting a law protecting them (France); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

²¹ Amnesty International, *Amnesty International Report: Democratic Republic of Congo 2017/2018*, 2018, <https://www.amnesty.org/en/countries/africa/democratic-republic-of-the-congo/report-democratic-republic-of-the-congo/> (last visited October 3, 2018).

²² *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo* (April 29, 2014), U.N. Doc. A/HRC/27/5. ¶ 133.20 Implement recommendations of the 2011 international election observation missions with special emphasis on the enhancement of equal participation of women in political life (Czech Republic); ¶ 133.21 Respect and promote the democratic principle of the right to participate in public and political life without discrimination, so that everyone can pursue their activities freely and without fear of intimidation (Germany); ¶ 134.132 Assure transparent and credible elections by ensuring freedom of peaceful assembly and expression for all persons, including members of political parties, candidates and members of the press (United States of America); ¶ 134.133 Bring all perpetrators of violence against journalists and human rights defenders to justice and ensure that journalists and human rights activists are able to pursue their activities, including by expressing criticism of government policies, without intimidation and harassment (Austria); ¶ 134.134 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 to criticize the Government without being subject to intimidation, reprisals or harassment (Belgium); ¶ 134.135 Enhance the engagement towards increasing the role of civil society, especially by widening the space for political debate and ensuring the right of human rights defenders, opposition parties and journalists to freely carry out their activities (Italy); ¶ 134.136 Ensure that the rights to freedom of expression and peaceful assembly are respected and all citizens, including journalists and human rights defenders, are able to pursue their activities without intimidation (Romania); Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CDindex.aspx>

²³ See Footnote 20

²⁴ U.S. Department of State, *Democratic Republic of the Congo: Country Report on Human Rights Practices for 2017* (2017), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dliid=276987> (last visited October 3, 2018).

²⁵ UN Security Council, *Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo*, October 2, 2017,

<https://monusco.unmissions.org/sites/default/files/n1729873.pdf> (last visited October 3, 2018). See also U.S.

Department of State, *Democratic Republic of the Congo 2014 Human Rights Report*,

<https://www.state.gov/documents/organization/236558.pdf> (last visited October 3, 2018)

²⁶ Ida Sawyer, *Overview of the Political Crisis in DR Congo and the Human Rights, Security, and Humanitarian Consequences*, Human Rights Watch, April 9, 2018, <https://www.hrw.org/news/2018/04/09/overview-political-crisis-dr-congo-and-human-rights-security-and-humanitarian> (last visited October 3, 2018).

²⁷ Human Rights Watch, *UN: DRC Congo Unfit to Serve on Rights Body*, October 13, 2017,

<https://www.hrw.org/news/2017/10/13/un-dr-congo-unfit-serve-rights-body> (last visited October 3, 2018)

²⁸ The case information presented in this submission is compiled from intake and other interviews conducted by The Advocates for Human Rights with asylum seekers from the DRC between April 2014 and September 2018 (hereinafter referred to as “Interviews conducted by The Advocates (2014-2018)”). Some details have been removed to maintain confidentiality and to protect the identities of clients and their families.

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- ²⁹ United Nations Organization Stabilization Mission in the DR Congo, *DRC: Victims' Harrowing Accounts Indicated Government Complicity in Ethnic-based Massacres in Kasai – UN Report*, August 5, 2017, <https://monusco.unmissions.org/en/drc-victims%E2%80%99-harrowing-accounts-indicate-government-complicity-ethnic-based-massacres-kasai-%E2%80%93-un> (last visited October 3, 2018)
- ³⁰ United Nations Organization Stabilization Mission in the DR Congo, *DRC: Victims' Harrowing Accounts Indicated Government Complicity in Ethnic-based Massacres in Kasai – UN Report*, August 5, 2017, <https://monusco.unmissions.org/en/drc-victims%E2%80%99-harrowing-accounts-indicate-government-complicity-ethnic-based-massacres-kasai-%E2%80%93-un> (last visited October 3, 2018)
- ³¹ United Nations Organization Stabilization Mission in the DR Congo, *DRC: Victims' Harrowing Accounts Indicated Government Complicity in Ethnic-based Massacres in Kasai – UN Report*, August 5, 2017, <https://monusco.unmissions.org/en/drc-victims%E2%80%99-harrowing-accounts-indicate-government-complicity-ethnic-based-massacres-kasai-%E2%80%93-un> (last visited October 3, 2018)
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- ³³ Interviews conducted by The Advocates (2014-2018).
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- ⁴⁰ Amnesty International, *Amnesty International Report: Democratic Republic of Congo 2017/2018*, 2018, <https://www.amnesty.org/en/countries/africa/democratic-republic-of-the-congo/report-democratic-republic-of-the-congo/> (last visited October 3, 2018).
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- ⁴⁶ U.S. Department of State, *Democratic Republic of the Congo: Country Report on Human Rights Practices for 2017* (2017), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dliid=276987> (last visited October 3, 2018).
- ⁴⁷ Canada: Immigration and Refugee Board of Canada, *Democratic Republic of the Congo: Prison conditions in Kinshasa, including the treatment of prisoners (2015–June 2017)*, 28 June 2017, COD105817.FE, available at: <http://www.refworld.org/docid/59843b394.html> [accessed 3 October 2018].
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- ⁵⁴ Written communication to The Advocates from Congolese human rights defender (July 21, 2017).
- ⁵⁵ Interviews conducted by The Advocates (2014-2018).
- ⁵⁶ Freedom House, *The Democratic Republic of Congo "Freedom in the World Report (2017)*, <https://freedomhouse.org/report/freedom-world/2017/congo-democratic-republic-kinshasa>
- ⁵⁷ Written communication to The Advocates from Congolese human rights defender (July 31, 2017); Amnesty International, *DRC: Authorities must halt crackdown on peaceful protests (2018)*; <https://www.amnesty.org/en/latest/news/2018/09/drc-authorities-must-halt-crackdown-on-peaceful-protests/> (last visited October 3, 2018).
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