



AEA
Association of Evangelicals in Africa

UNIVERSAL PERIODIC REVIEW

The Human Rights Situation in the Democratic Republic of Congo

Report submitted by:

World Evangelical Alliance (WEA), an NGO with special consultative status since 1997. WEA is a network of churches in 129 nations that have each formed an evangelical alliance and over 100 international organizations joining together to give a world-wide identity, voice, and platform to more than 600 million evangelical Christians worldwide. WEA was founded in 1846 in London. www.worldevangelicals.org

Association of Evangelicals in Africa (AEA).

AEA is comprised 36 national evangelical alliance that are made up of numerous local churches, as well as 34 Associate Members who consist of Para-Church organizations. AEA was established in 1966 in Limuru (Kenya). www.aefrica.org

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EXECUTIVE SUMMARY

1. The World Evangelical Alliance and the Association of Evangelicals in Africa are focusing their report on three major human rights issues in the Democratic Republic of Congo (DRC), namely corruption (and its human rights impact), sexual violence, and the turmoil surrounding the most recent presidential elections—and their human rights consequences.

2. During the UPR of the DRC in December 2009, several recommendations touched on the issue of corruption and sexual violence. Concerning **corruption**, DRC accepted some recommendations, such as the one from the Czech Republic asking the State to “*Strengthen measures to ensure the independence of the judiciary, fight corruption and political interference and expand the State justice system effectively in rural territories.*”¹ Spain’s request to the government of DRC to “*Implement an effective programme to combat corruption, with the establishment of a better financed judicial system*”² was also accepted. Although corruption is prohibited by the Congolese Penal Code, the fight against corruption has not been effective. Furthermore, equal access to justice for all has not been realized.

3. Numerous recommendations also referred to the **sexual violence** committed in DRC. Azerbaijan requested the DRC to “*Continue firmly to combat the scourge of sexual violence and impunity and bring to justice those responsible for grave human rights and international humanitarian law violations.*”³ Denmark asked DRC to “*Effectively implement the 2006 law on sexual violence and train judicial officials in its application.*”⁴ Furthermore, Ghana requested DRC to “*Strengthen action to enforce the law on sexual violence against women and girls and continue to provide affordable health and physical services to the victims of sexual violence.*”⁵ Although DRC had accepted all of these recommendations, it has not yet implemented them. Acts of sexual and gender-based violence, including mass rapes, continue to be used as weapons of war in North and South Kivu, perpetrated by the Congolese national army and police, and national and foreign rebel groups. Impunity continues to be a major issue. Although the Congolese State Law No. 06/018 of 20 July 2006, speaks harshly about and condemns all acts of sexual violence, its implementation is clearly insufficient.

4. In January 2011, the government amended the electoral law to eliminate the requirement for **presidential runoff elections**, giving an advantage to Joseph Kabila. The governmental elections took place amidst reports of serious and widespread fraud, as well as violent incidents. Kabila was declared the winner of the presidential elections. Throughout 2011, all parties in the country’s ongoing conflicts continued to carry out killings, rapes, and abductions of civilians.

5. It is WEA and AEA’s hope that this review will draw attention to the severe human rights violations that continue to occur in DRC, and encourage the government of DRC to take responsibility in restoring peace and safety. Without respect for pluralism and human rights, no country can prosper. Ban Ki-Moon, the UN Secretary-General, has rightly stated that “*...the key to preventing genocide, war crimes, ethnic cleansing and other crimes against humanity lies within each society. These crimes occur far less often in places where*

¹ A/HRC/13/8, para. 94.76

² A/HRC/13/8, para. 94.75

³ A/HRC/13/8, para. 94.48

⁴ A/HRC/13/8, para. 94.9

⁵ A/HRC/13/8, para. 94.47

civil society is robust, where tolerance is practiced, and where diversity is celebrated. Political figures cannot incite mass violence for their own ends where the rights of minorities and the rule of law are respected.”⁶

CORRUPTION

6. A large number of foreign⁷ and local⁸ armed groups in the DRC have fought against each other and against the Congolese national army “Forces Armées de la République Démocratique du Congo” (FARDC) for power, for defense of their communities and control of natural resources. The country has significant deposits of precious metals and mineral deposits, including gold, copper, tantalum, tungsten, coltan and cobalt. The extraction of these resources has been linked to conflicts between these groups and the DRC’s national army FARDC, which led to corruption and human rights abuses including grave sexual violence. Groups of national soldiers have tended to leave the FARDC in order to make strategic alliances with rebels groups for the control of these natural resources. In general, a high level of impunity has continued to be registered during the last four years, and little progress has been made regarding the implementation of the President’s zero-tolerance policy for human rights violations (including sexual violence) by State security forces.

7. The mining sector has come under particular scrutiny because of widespread human rights abuses associated with it and reports that trade in minerals has been used to fuel conflicts in the country. Privatization of the DRC’s minerals sector has been known to have bred a culture of secrecy, informal deals and apparent corruption. Although the DRC has some of the world’s richest mineral reserves, its people appears to be losing out because State companies are systematically under-pricing its mining assets that are then sold to foreign companies—at the expense of the DRC’s people. Concessions have been sold on terms that appear to greatly profit foreign investors, but generate losses for public finance.⁹ This pattern of selling mining assets to offshore companies has been a consistent theme in the privatization of State assets. In 2011, the government signed a decree requiring mining and oil contracts to be made public. However, it did not fully publish details of a mining deal involving the sale of Gécamines, a State-owned mining company.¹⁰ DRC is rich in natural resources, which should bring prosperity to the people. However, in reality, the DRC citizens are being robbed.

8. International human rights law acknowledges people’s right to work and requires the government to protect people from both unsafe working conditions and exploitation by private parties.¹¹ All companies have a responsibly to respect human rights. However, the conditions for artisanal miners are difficult and dangerous. There are frequent injuries and fatal accidents are not rare. According to the miners, many of the accidents are not recorded or reported properly. Artisanal miners are being exploited by both State officials and private

⁶ <<http://www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/3951-sg-ban-ki-moon-un-news-address-to-stanley-foundation-conference-on-the-rtop>>

⁷ The Democratic Forces for the Liberation of Rwanda (FDLR); The Lord’s Resistance Army (LRA, a Ugandan rebel group).

⁸ Raia Mutomboki (meaning “outraged citizens” in Swahili); Mai-Mai Cheka (Congolese rebel group)

⁹ Africa Progress Panel, Africa Progress Report 2013, Equity in Extractives: Stewarding Africa’s natural resources for all, p. 56.

¹⁰ Africa Progress Panel, Africa Progress Report 2013, Equity in Extractives: Stewarding Africa’s natural resources for all, p.55-56.

¹¹ Article 6 and 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR); Article 15 of the African Charter on Human and Peoples’ Rights (ACHPR).

companies. They are often forced to sell minerals to specific individuals or companies under threat of being denied access to the mining site in the future.

SEXUAL VIOLENCE

9. The DRC continues to experience immense issues relating to sexual violence. From the 30th of July 2010, for at least three days, the village called Luvungi (North Kivu) was seized by Rwandan (FDLR) and Congolese (Mai Mai Cheka) rebel groups. They conducted systematic rapes of at least 200 women. Although UN Peacekeepers were in the nearby area, they were not informed of the attacks. Because there is no cell phone service in the area or electricity, communication is a challenge. Another challenge is the investigation of sexual violence. Considering the stigma associated with rape in the area and the fear of repudiation by their families, victims are often reluctant to report cases.¹²

10. Despite investigations into acts of sexual violence committed by (at least 100) FARDC soldiers who attacked Kalambahiro and Bushani villages in North Kivu province, between 31 December 2010 and 1 January 2011, no trial has taken place.¹³ A mass rape was also allegedly committed by FARDC soldiers in Minova in November 2012. A dozen FARDC soldiers have been arrested (on various charges) and are awaiting trial, but only two have been arrested on charges of rape.¹⁴

11. In 2011, the DRC's national army FARDC, the "Police Nationale Congolaise" (PNC) and other security forces were responsible for numerous human rights violations, such as mass-rapes. National armed groups and members of foreign armed groups, namely the Mai-Mai Cheka, Democratic Liberation Forces of Rwanda (FDLR) and the Ugandan Lord's Resistance Army (LRA) also perpetrated serious human rights abuses such as gang rapes, and other forms of sexual violence with full impunity.

12. Serious violations of human rights and international humanitarian law were committed in November 2012 during fighting between government forces (FARDC) and the M23 rebels over the town of Goma in North Kivu province. There are 135 cases of sexual violence committed by FARDC soldiers between 20 and 30 November 2012, under the threat of guns and other weapons.¹⁵ Most of the victims were raped multiple times by more than one soldier. The soldiers had purposefully organized trips and infiltrated homes to engage in sexual violence.¹⁶

¹² MONUSCO and OHCHR, 'Report of the United Nations Joint Human Rights Office on human rights violations perpetrated by soldiers of the Congolese Armed Forces and combatants of the M23 in Goma and Sake, North Kivu Province and in and around Minova, South Kivu Province, from 15 November to 2 December 2012', May 2013, para. 6. <http://www.ohchr.org/Documents/Countries/ZR/UNJHROMay2013_en.pdf>

¹³ MONUSCO and OHCHR, 'Report on the Investigation Missions of the United Nations Joint Human Rights Office into the mass rapes and other human rights violations committed in the villages of Bushani and Kalambahiro, in Masisi Territory, North Kivu, on 31 December 2010 and 1 January 2011', July 2011. http://www.ohchr.org/Documents/Countries/ZR/UNJHROReportMassRapesBushani_en.pdf

¹⁴ MONUSCO and OHCHR, 'Report of the United Nations Joint Human Rights Office on human rights violations perpetrated by soldiers of the Congolese Armed Forces and combatants of the M23 in Goma and Sake, North Kivu Province and in and around Minova, South Kivu Province, from 15 November to 2 December 2012', May 2013. http://www.ohchr.org/Documents/Countries/ZR/UNJHROMay2013_en.pdf.

¹⁵ Ibidem, para. 20 <http://www.ohchr.org/Documents/Countries/ZR/UNJHROMay2013_en.pdf>

¹⁶ Report CEDAW DR Congo - Franciscans International, Alternative Report on the rape of women during conflict, trafficking in women and sexual exploitation of women in the Democratic Republic of Congo, Submitted for consideration at the 55th Session of the Committee for the Elimination of Discrimination against women, Geneva, from 8 to 26 July 2013.

13. In the same period, the city of Goma was controlled by M23 rebels. Between 21 and 25 November 2012, at least 59 cases of sexual violence were committed by M23 rebels. At least 49 cases of rapes were committed in the Katindo military camp in Goma. In addition, between 29 and 30 November 2012 at Mugunga III camp (North Kivu) which shelters 14,000 displaced people, six cases of rape have been reported committed by a member of M23.¹⁷

14. M23 has committed human rights abuses and war crimes, including acts of sexual violence, for which they have not been held accountable. This impunity is worsened by the fact that all judicial bodies had been suspended in areas controlled by the M23 in Rutshuru (northeast of the DRC). The total absence of independent judicial institutions in charge of investigating and prosecuting such crimes can only fuel more abuses in the future.

15. Recent reports of sexual violence in the DRC show that the efforts made to eliminate sexual violence by the DRC government have been insufficient and ineffective. Although the government of the DRC has made declarations that it would combat the impunity with which sexual violence and other serious human rights violations are committed, very little progress has been recorded in practice. The provinces of major concern continue to be North and South Kivu as well as Orientale.

PRESIDENTIAL ELECTIONS AND HUMAN RIGHTS IMPACT

16. The DRC's government had the total responsibility for organizing the 2011 presidential and legislative elections. Long before the elections took place, developments in the political environment did not encourage transparency. Free and fair elections, which result from the exercise of various human rights (freedom of opinion and expression, freedom of assembly, freedom of association, non-discrimination, etc.), were not guaranteed. First, the national assembly (which is dominated by Mr. Kabila's party) voted to scrap a second round run-off if no candidate won an absolute majority in the first round. This move was widely interpreted as facilitating Mr. Kabila's victory against a divided opposition. Then Mr. Kabila appointed a close associate (Daniel Ngoy Mulunda) to head the Independent National Electoral Commission (CENI), thereby depriving the body of independence and credibility.

17. Serious human rights violations, including killings, disappearances and arbitrary detention were committed in Kinshasa by Congolese security forces in the context of the elections.¹⁸ The elections were characterized by the State security forces making targeted attacks against opposition party members and supporters, the use of force to quell political demonstrations, and threats or attacks on journalists and human rights activists.

18. Joseph Kabila of the People's Party for Reconstruction and Democracy (PPRD) was declared the winner of the disputed (28 November presidential) election in the DRC. The worst election-related violence was between 26 November and 31 December in the capital,

¹⁷ MONUSCO and OHCHR, 'Report of the United Nations Joint Human Rights Office on human rights violations perpetrated by soldiers of the Congolese Armed Forces and combatants of the M23 in Goma and Sake, North Kivu Province and in and around Minova, South Kivu Province, from 15 November to 2 December 2012', May 2013, para. 27 <http://www.ohchr.org/Documents/Countries/ZR/UNJHROMay2013_en.pdf>

¹⁸ See also MONUSCO and OHCHR, Report of the United Nations Joint Human Rights Office on Serious Human Rights Violations Committed by Members of the Congolese Defense and Security Forces in Kinshasa in the Democratic Republic of the Congo Between 26 November and 25 December 2011 <http://www.ohchr.org/Documents/Countries/ZR/ReportDRC_26Nov_25Dec2011_en.pdf>

Kinshasa, where at least 57 opposition party supporters (or suspected supporters) were killed by security forces mostly from Kabila's Republican Guard. Nearly 150 other people were killed in this period, and their bodies were dumped either in the Congo River, in mass graves on Kinshasa's outskirts, or dropped off at morgues far from the city center. People accused of opposing Kabila were arbitrarily detained by Kabila's Republican Guard soldiers and the police. Many were illegally held in detention centers where they were badly treated, and some were killed. Abuses against opposition supporters also occurred in other areas, including North and South Kivu, Katanga, and the Kasai provinces. Soldiers and militia members supporting Kabila used intimidation in some areas to force voters to vote for certain candidates.

19. International and national election observers criticized the presidential elections for lacking credibility and transparency. Congo's Roman Catholic Church was the largest network of independent observers during the elections. The church is influential in Congo, and its opinion carries particular weight when it comes to the elections because it deploys the largest independent monitoring team. After the elections, the Archbishop of Kinshasa, Laurent Monsengwo, said the results were illegitimate and he called for non-violent marches to be held.

20. During the General Assembly of the Symposium of "The Episcopal Conferences of Africa and Madagascar" (SECAM) held in the Congolese capital Kinshasa in 2013, the Bishops called "*on all parties involved in the search for a solution to this war to work actively for peace,*" referring to the UN, EU and AU. The Bishops agreed to raise awareness and educate political leaders to commit themselves to restore peace in the DRC. In order to fulfill their commitment, the Bishops adopted a "five-year strategic plan" in the period between 2013 and 2018, which includes projects in the areas of governance.

21. On December 2, 2011, judicial authorities opened an investigation into the election-related violence of 26 and 28 November 2011. However, in late 2011 and early 2012, government officials and security forces attempted to cover up evidence, deny access to human rights activists to hospitals and morgues, and intimidate witnesses and family members of the victims.

RECOMMENDATIONS

22. Implement an effective program to combat corruption and establishing an effectively financed judicial system.

23. Strengthen measures to ensure the independence of the judiciary, fight political interference and expand the State justice system to work effectively in rural territories.

24. Conduct an investigation to clarify the circumstances surrounding the transactions and contracts in the mining industry, and determine whether or not the mining assets are intentionally undervalued.

25. Implement legislation that obliges mining companies to publish their mining contracts and information concerning legal and financial transactions.

26. Increase efforts to combat sexual violence and acts committed with impunity, in line with the joint UN-DRC Government Strategy and Plan of Action Against Sexual Violence.

27. Conduct thorough investigations into reports of sexual violence and hold accountable persons suspected of committing such acts.
28. Raise awareness with government officials and security forces about the gravity of human rights violation and the importance of protecting the dignity of all people. This includes also reminding them that they may be held accountable by national tribunals and or the International Criminal Court.
29. Set up a public database with profiles of people who have perpetrated the most serious violations of human rights and humanitarian law in the DRC.
30. Provide adequate shelters for the victims of sexual violence, and safe-houses equipped to offer legal, psychological and medical care to victims, in both urban and rural areas.
31. Install solar-powered radios or other communication systems in villages to improve the communication between different villages and between the villages and the UN Peacekeeping teams.
32. Establish a special department in the judiciary that is responsible for conducting investigations into cases of sexual violence. Hire females for that special department and give them appropriate training in order to improve the communication between female victims of sexual violence and investigation teams.
33. Continue raising awareness on the issues of sexual violence, by radio and TV broadcasts and by creating pamphlets to give the survivors of sexual violence an opportunity to share their stories; this is necessary in order to eliminate the culture of shame that silences many survivors of sexual violence.
34. Translate the Congolese State Law No. 06/018 of 20 July 2006 (Criminal Code) into local languages in a way that would make it easily accessible and understandable for all in the DRC.
35. Ensure fair and transparent presidential elections by inviting the international community to conduct independent supervision of the entire electoral process in all its details.
36. Establish a standardized procedure for calculating the votes and publish those results at each voting station.
37. Complete the investigations into human rights violations including killings, disappearances and arbitrary detention, committed in Kinshasa by Congolese security forces in the context of the 2011 presidential and legislative elections in the DRC.
38. Re-introduce a second run off in presidential elections as is appropriate in a country as diverse as the DRC.