



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of the Democratic Republic of the Congo and welcome the constructive engagement of your Government during the 33<sup>rd</sup> session of the UPR Working Group in May 2019.

As the final outcome report on the review of the Democratic Republic of the Congo has been recently adopted by the Human Rights Council at its 42<sup>nd</sup> session, I would like to take this opportunity to follow-up on a number of areas raised in the two reports that my Office had prepared for the review of the Democratic Republic of the Congo – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and/or recommendations made by 99 delegations and the presentation made and responses provided by the delegation of the Democratic Republic of the Congo. I have also considered the actions taken by the Government to implement the 190 recommendations supported during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

I welcome progress achieved, including the adoption of three laws to implement the Rome Statute of the International Criminal Court; the adoption and promulgation of Act No. 15/013 of 1 August 2015 on means of giving effect to women's rights and gender parity, guaranteeing women's participation in political life; the establishment of a National Human Rights Commission and the creation of various commissions of inquiry into cases of serious human rights violations; the ongoing reform of the justice system; the conviction of several perpetrators of sexual violence, including from within the Congolese National Police and the Armed Forces of the Democratic Republic of the Congo; and measures to combat trafficking in persons.

I remain, however, concerned at the persisting and considerable levels of sexual violence against women and children, perpetrated by armed groups and by members of the defense and security forces, particularly in the context of military operations or around camps for internally displaced persons. I am also extremely concerned about the high number of children still associated with most armed groups. Moreover, I further note with concern that death sentences are still handed down and that a large number of prisoners remain on death row.

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H.E. Ms. Marie Tumba Nzeza  
Minister of State, Minister of Foreign Affairs  
Democratic Republic of the Congo



I encourage the Democratic Republic of the Congo to develop a comprehensive national human rights action plan in order to achieve concrete results in the areas highlighted in the annex to this letter and to facilitate the preparations for the Democratic Republic of the Congo's fourth cycle of the UPR. My advice to all Member States is to develop and implement national action plans in close consultation and cooperation with all stakeholders, in particular the national human rights institution and all civil society organizations and, where necessary, with the support of international organizations, including my Office and other United Nations entities, under the leadership of the United Nations Resident Coordinator.

I also encourage the Democratic Republic of the Congo to pursue further efforts to strengthen the Inter-ministerial Committee on Human Rights for comprehensive reporting and follow-up and turn it into a permanent body in order to implement the recommendations received from all international and regional human rights mechanisms and to treaty obligations, linking this to the Sustainable Development Goals. I strongly recommend the use of the OHCHR practical guide on this topic, which is available at:

[http://www.ohchr.org/Documents/Publications/HR\\_PUB\\_16\\_1\\_NMRF\\_PracticalGuide.pdf](http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf).

Please, kindly note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can contribute positively to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I encourage the Democratic Republic of the Congo to consider submitting a mid-term report on follow-up to the third cycle of the review, by 2022.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office may assist the Democratic Republic of the Congo in relation to the areas identified in this letter and its annex.

Please, accept, Excellency, the assurances of my highest consideration.

Michelle Bachelet  
High Commissioner for Human Rights

cc: H.E. Mr. André Lite Asebea  
Minister for Human Rights  
Democratic Republic of the Congo



## **Annex**

### **Scope of international obligations and cooperation with international human rights mechanisms and bodies**

- Accessing to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption; the International Convention for the Protection of All Persons from Enforced Disappearance; the 2014 Protocol to the Forced Labor Convention, 1930 (No. 29) of the International Labor Organization; and the African Union Convention on Protection and Assistance to Internally Displaced Persons in Africa (Kampala Convention) and incorporating it into domestic legislation.
- Fulfilling its reporting obligations under international human rights treaties, including by cooperating with Treaty Bodies and the Special Procedures of the Human Rights Council and responding positively to the pending visit requests by the Special Procedures mandate-holders.

### **National human rights framework**

- Strengthening the national mechanism for reporting and follow-up on recommendations from previous universal periodic reviews and other human rights mechanisms.
- Establishing a national mechanism for the prevention of torture in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Increasing the resources of the National Human Rights Commission and guaranteeing its independence.
- Implementing the recommendations of the team of international experts on the situation in Kasaï, established by the Human Rights Council in accordance with its resolution 35/33, in order to prevent further violations of both international humanitarian law and human rights in the province.

### **Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **A. Cross-cutting issues**

##### *Equality and non-discrimination*

- Adopting comprehensive legislation that fully and effectively prohibits and protects individuals against all forms of discrimination, including on the basis of sexual orientation and gender identity.
- Adopting legislative measures to combat discrimination against pygmy populations, and organizing systematic prior consultations to obtain their free and informed consent before the adoption of measures that may affect their way of life.
- Taking concrete steps to eliminate the stigma and discrimination faced by people affected by leprosy and their families.



*Development, the environment, and business and human rights*

- Strengthening legal provisions on business and human rights, by developing and adopting a national plan of action to implement the Guiding Principles on Business and Human Rights in order to put an end to human rights violations related to the exploitation of natural resources.
- Establishing a clear regulatory framework to ensure that extractive industries comply with international and national norms and standards relating, inter alia, to human rights, labour and the environment, including with respect to the rights of the child.
- Adopting concrete measures to ensure that all mining companies pay taxes.

**B. Civil and political rights**

*Right to life, liberty and security of person*

- Ensuring systematic, prompt and impartial investigations into all reported cases of extrajudicial killings, including by members of the defense and security forces; and identifying perpetrators with a view to bringing them to justice.
- Commuting the sentences of detainees currently on death row and initiating a process to abolish the death penalty.
- Adopting measures to prevent and effectively address the accumulation and illicit transfer of small arms and light weapons through improved inventory management, prosecution of unauthorized vendors and distributors and the application of legislative control.

*Administration of justice, including impunity, and the rule of law*

- Fighting against impunity for human rights and international humanitarian law violations, including by setting up a transitional justice system to deal with past violations and ensuring investigations to identify perpetrators and prosecute them; and ensuring that victims or their families have effective remedies and access to reparation.
- Strengthening the capacity of Kasai military prosecutors for the investigation, prosecution and trial of perpetrators of human rights violations, including by increasing human and logistical resources.
- Pursuing cooperation with the International Criminal Court in its investigations into allegations of war crimes and crimes against humanity committed in the Democratic Republic of the Congo since 2002.

*Fundamental freedoms*

- Ensuring that members of political parties, journalists and human rights defenders can freely exercise their rights to freedom of expression, association and peaceful assembly without intimidation, harassment or reprisal.
- Adopting a law that effectively recognizes and protects the work of human rights defenders, and ensuring that comprehensive and independent investigations be systematically and promptly carried out into any threats and attacks they may face.

- Putting an end to the use of violence and disproportionate force by security forces, including against political opponents, civil society actors and in the context of protests; and releasing all individuals who have been arbitrarily arrested and detained in relation to the peaceful exercise of the right to assembly.

### **C. Economic, social and cultural rights**

#### *Right to social security*

- Strengthening social programmes for the most vulnerable groups, especially programmes designed to support women and children.

#### *Right to an adequate standard of living*

- Ending intimidation and/or threats against, as well as extortion of civilians perpetrated by armed groups and elements of the defense and security forces, especially against women engaged in agricultural activities and trade.

#### *Right to health*

- Increasing funding allocated to the health sector, including to better address sexual violence and emergency obstetric and neonatal care.
- Increasing efforts to prevent the spread of the Ebola virus and provide support to survivors.
- Introducing legislative changes to ensure safe, legal and effective access to abortion when the life and health of the pregnant woman or girl are at risk, when completing the pregnancy would cause harm to the woman or girl, when the pregnancy is the result of rape or incest, or when it is unsustainable.

#### *Right to education*

- In accordance with the National Education Policy and in partnership with relevant United Nations agencies, intensifying efforts to ensure free primary education for all children, including those with disabilities, those living in rural areas, and migrant children.
- Implementing relevant measures and launching campaigns to combat early pregnancy and to reintegrate and integrate young mothers into the education system.

### **D. Rights of specific persons or groups**

#### *Women*

- Systematically applying the laws on discrimination and violence against women and girls, including the enforcement of sanctions against individuals responsible for discrimination and/or violence against women and girls.
- Intensifying the fight against sexual violence, including by ensuring that those responsible are brought to justice and by ensuring the protection of victims and witnesses.
- Taking measures to effectively provide compensation as well as adequate support and services to survivors of sexual violence.



- Launching information campaigns on the new provisions of the Family Code to promote a cultural shift towards a more equitable society based on gender equality.

#### *Children*

- Implementing current laws and rules on children accused of witchcraft in order to bring perpetrators of crimes against children to justice.
- Eliminating all forms of exploitation of child labour in the mining sector.
- Implementing inclusive measures for non-discrimination against persons with disabilities, children living in rural areas, street children and adolescents in detention.

#### *Persons with disabilities*

- Strengthening the protection of the human rights of persons with disabilities, including measures for the inclusion of persons with disabilities in the labour market.

#### *Indigenous peoples*

- Adopting the 2014 Bill on Basic Principles for the Promotion and Protection of the Rights of Indigenous Peoples of the Democratic Republic of the Congo.

#### *Refugees and internally displaced persons*

- Adopting measures to address the issue of lack of birth certificates, particularly for children who are repatriated, refugees and internally displaced persons.

#### *Stateless persons*

- Reforming the law on statelessness and promoting systematic birth registration and issuance of identity documents.