



ADF INTERNATIONAL

ECOSOC Special Consultative Status (2010)

UNIVERSAL PERIODIC REVIEW - THIRD CYCLE

**Submission to the 33rd session of the Human Rights
Council's Universal Periodic Review Working Group**

April 2019, Geneva, Switzerland

DEMOCRATIC REPUBLIC OF CONGO

Submission by:

ADF International
Chemin du Petit-Saconnex 28
1209 Geneva, Switzerland

Web: www.ADFinternational.org
Email: gmazzoli@ADFinternational.org

Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.

2. This report explains why the Democratic Republic of Congo must take urgent steps to end the violence that is ravaging the country and ensure a peaceful transition of power by thoroughly investigating and prosecuting all human rights violations perpetrated against its own people, including its violent repression of peaceful protest and religious worship; and why the country must allocate increased resources to its healthcare system, especially for basic obstetric care, with the goal of reducing its high levels of maternal mortality.

(a.)Freedom of Religion

3. The Democratic Republic of Congo is facing a deadly political and humanitarian crisis, particularly in the Kasai region, where armed forces and militias terrorize local populations amid growing incidents violence, rape, and killings.¹ The conflict has created one of the worst humanitarian emergencies in the world, with widespread displacement and hunger,² and the current climate of violence has reached such levels that the UN Special Rapporteur on Torture has warned that the situation could potentially escalate into genocide.³

4. In 2016, the stark confrontation between President Joseph Kabila and his opposition culminated in the Saint Sylvester “Global and Inclusive” political agreement, mediated by the Congo’s Catholic Bishops Conference (CENCO)—under which Kabila agreed to step down from power in 2017 and hold free and fair elections. Upon his refusal to comply with the deal, protests broke out across the country.

5. Article 61 of the DRC’s Constitution ensures the freedom of thought, of conscience and religion for citizens even during a time of national emergency.⁴ However, peaceful Christian protestors have been the target of bloody repression and violence on the hands of the security forces, including arbitrary detention, torture and extrajudicial killings.⁵ Security forces have also been raiding places of worship by attacking worshippers, arresting religious leaders, and desecrating churches.⁶

¹ <https://www.irinnews.org/special-report/2018/08/28/new-phase-lawlessness-grips-congo-s-kasai-region>

² <https://www.cfr.org/interactives/global-conflict-tracker#!/conflict/violence-in-the-democratic-republic-of-congo>

³ <https://www.reuters.com/article/us-congo-violence-un/conflict-in-congos-kasai-could-be-prelude-to-genocide-u-n-expert-warns-idUSKBN1JU1XO>.

⁴

⁵ <https://www.irinnews.org/analysis/2018/02/01/praying-change-congo-catholic-church-takes-kabila>

⁶ <https://www.hrw.org/news/2018/01/19/dr-congo-security-forces-fire-catholic-churchgoers>

Armed rebels have also reportedly contributed to escalate the climate of persecution against Christians, particularly in Eastern DRC.⁷

6. The DRC is party to the ICCPR, which stipulates in Article 18 that, “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” Furthermore, Article 19 protects the human right to freedom of expression, including the freedom “to seek, receive and impart information and ideas of all kinds.” In this persistent climate of political crisis and escalating human rights violations and restrictions to civil and political rights, the actions of the Kabila government have blatantly failed to respect these rights.

(b.) Maternal Health

7. Maternal health in the DRC is in acute crisis. In 2015, the maternal mortality ratio in the DRC was 693 per 100,000 live births, accounting for 22.3% of all deaths of women of reproductive age. This is one of the highest maternal mortality rates in sub-Saharan Africa.⁸ Although maternal mortality is slowly improving in the country with a 1.3% annual improvement from 2005 to 2015, maternal mortality nevertheless remains alarmingly high, well below the world-wide improvement rate of 2.3%.⁹

8. Almost all maternal deaths are preventable, particularly when skilled birth attendants are present to manage complications and the necessary drugs are available. As the WHO states, “Most maternal deaths can be prevented if births are attended by skilled health personnel – doctors, nurses or midwives – who are regularly supervised, have the proper equipment and supplies, and can refer women in a timely manner to emergency obstetric care when complications are diagnosed. Complications require prompt access to quality obstetric services equipped with life-saving drugs, including antibiotics, and the ability to provide blood transfusions needed to perform Caesarean sections or other surgical interventions.”¹⁰

Furthermore, according to UNICEF, “Experts agree that the risk of stillbirth or death due to intrapartum–related complication can be reduced by about 20 percent with the presence of a skilled birth attendant.”¹¹

9. Additionally, before the birth, the WHO recommends a minimum of four prenatal visits with trained health workers, in order to prevent, detect, and treat any health

⁷ <http://www.catholicherald.co.uk/news/2016/08/19/villages-obliterated-as-christian-persecution-grows-in-eastern-congo/>; <https://cruknow.com/global-church/2017/03/15/congo-illustrates-new-look-christian-martyrdom/>

⁸ World Health Organization, Maternal Mortality in 1990-2015, origin.who.int/gho/maternal_health/countries/cod.pdf; UNICEF, Maternal Mortality, February 2017, <https://data.unicef.org/topic/maternal-health/maternal-mortality/>.

⁹ UNICEF, Maternal Mortality, February 2017, <https://data.unicef.org/topic/maternal-health/maternal-mortality/>

¹⁰ UNICEF, Maternal Mortality, February 2017, <https://data.unicef.org/topic/maternal-health/maternal-mortality/>

¹¹ UNICEF, Delivery Care, June 2018, <https://data.unicef.org/topic/maternal-health/delivery-care/>.

problems. However, only 48% of DRC women were able to receive this number of visits in 2010.

9. Between 2011 and 2016, 80% percent of births in the DRC were assisted by skilled birthing attendants.¹² Efforts to increase this percentage would likely result in a substantial reduction in maternal mortality in the DRC. Unfortunately, funding for healthcare in the DRC is among the lowest in the world, being estimated at 15 USD per capita in 2015.¹³ Improved funding for healthcare, especially for basic obstetric care and skilled birthing attendants would save the lives of hundreds of women and children in the DRC.

These issues must be remedied, but frequent calls to increase access to legal abortion as a necessary precondition to solving maternal mortality are misguided. Legalizing abortion does not help pregnancy and childbirth become safer in any way. The focus must remain on improving the country's healthcare infrastructure. Providing more access to abortion will mean more women will suffer from abortion complications.

(c.)Abortion

10. Articles 165 and 166 of the Penal Code of the Democratic Republic of Congo prohibit abortion apart from in the case of saving the mother's life; a recent decision of the government to base their national laws on the regional Maputo Protocol, ratified in 2008, expanded the legalization of abortion when necessary to protect a woman's physical and mental health, as well as in cases of rape, incest and fetal anomaly.¹⁴

11. The government adopted the new stance towards abortion because of pressures to comply with the Maputo Protocol. However, this pressure is illegitimate as the right to life is firmly grounded in international law.

The Right to Life in International Law

12. A so-called international "right to abortion" is incompatible with various provisions of international human rights treaties, in particular provisions on the right to life. Article 6(1) of the ICCPR states, "Every human being has the inherent right to life." The ICCPR's prohibition of the death penalty for pregnant women implicitly recognizes the right to life of the unborn.

13. Although the ICCPR allows for the death penalty to be imposed on both adult men and women, it explicitly prohibits applying the death penalty to pregnant women. Article 6(5) states that the sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women." This clause must be understood as recognizing the unborn child's distinct identity from the mother and protecting the unborn child's right to life.

¹² UNICEF, Delivery Care, June 2018, <https://data.unicef.org/topic/maternal-health/delivery-care/>

¹³ <https://www.globalfinancingfacility.org/democratic-republic-congo>.

¹⁴ <https://www.ipas.org/news/2018/July/legal-access-to-abortion-expands-in-democratic-republic-of-congo>.

14. The *travaux préparatoires* of the ICCPR explicitly state that “the principal reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death sentence should not be carried out on pregnant women was to *save the life of an innocent* unborn child.” Similarly, other early UN texts note that the intention of the paragraph “was inspired by humanitarian considerations and by consideration for the interests of the unborn child.”

15. The protection of unborn life is also found through an ordinary reading of the language in the preamble of the Convention on the Rights of the Child (CRC). The preamble states that “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.”

16. Article 1 of the CRC defines a child as “every human being below the age of eighteen years.” This provides an upper limit as to who is a child, but does not provide a lower limit on when the status of “child” attaches. Moreover, Article 6 of the CRC holds that “States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child.” Viewed in the context of the preamble, both Articles 1 and 6 of the CRC indicate recognition and protection of unborn life.

Reducing recourse to abortion

17. The DRC must focus on introducing measures to reduce recourse to abortion, in line with paragraph 8.25 of the Programme of Action of the International Conference on Population and Development, rather than diverting resources to expand its practice through liberalization of its abortion laws. Measures to reduce abortion include improving access to education, which empowers women and leads to social and economic development, as well as facilitating healthy decision-making.

18. It must also focus on helping women get through pregnancy and childbirth safely, rather than helping women end their pregnancies. Given the maternal health crisis in the DRC, resources must focus on improving conditions for pregnant women, women undergoing childbirth, and postpartum women.

(d.) Recommendations

In light of the aforementioned, ADF International suggests the following recommendations be made to the Democratic Republic of Congo:

1. Strengthen the efforts to resolve the political crisis of the country, and create an environment conducive for free, fair and peaceful election.;
2. Effectively fight impunity by investigating and prosecuting all cases of unlawful killings, executions of civilians and enforced disappearances committed by the police, the armed forces or non-State actors.
3. Take measures to prosecute the perpetrators of human rights violations that specifically target members of religious groups, in order to safeguard freedom of religion and ensure the right to security of the person.
4. Recognize that the liberalization of abortion laws is not required under international law, and that international law in fact requires the protection of

the right to life at all stages.

5. Recognize that the legalization of abortion in a country with high levels of maternal mortality and morbidity and problems with access to proper health care does not make pregnancy and childbirth any safer; and
6. Improve health care infrastructure, access to emergency obstetric care, midwife training, and resources devoted to maternal health, with a focus on safely getting mothers and babies through pregnancy and childbirth, with special focus on improving health-care access for women from poor and/or rural backgrounds.



VIENNA
HEADQUARTERS

BRUSSELS

GENEVA

STRASBOURG

LONDON

NEW YORK

WASHINGTON, DC

MEXICO CITY



ADF INTERNATIONAL

© 2018

ADFinternational.org

 facebook.com/ADFinternational

 [@IntIADF](https://twitter.com/IntIADF)