Report Summary and Recommendations:

SEEKING ACCOUNTABILITY AND DEMANDING CHANGE: A REPORT ON GENDER-BASED VIOLENCE AND DISCRIMINATION AGAINST WOMEN AND GIRLS IN THE DEMOCRATIC REPUBLIC OF THE CONGO

A REPORT FOR THE UNITED NATIONS COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

In response to the EIGHTH PERIODIC REPORT OF THE DEMOCRATIC REPUBLIC OF THE CONGO

Submitted by: Female Solidarity for Integrated Peace and Development (SOFEPADI), MADRE & 152 Congolese women’s civil society organizations (See full report for list)
Introduction

This document summarizes a report supplementing the Government of Democratic Republic of the Congo’s (DRC) report to the Committee on the Elimination of Discrimination Against Women (CEDAW). The report was submitted by Female Solidarity for Integrated Peace and Development (SOFEPADI), a national Congolese women’s rights organization, and MADRE, an international women’s human rights organization, in collaboration with 152 Congolese women’s organizations. It describes violations of women’s and girls’ human rights throughout the DRC, and particularly in its eastern provinces, which have suffered over two decades of armed conflict.

The Congolese government has not met its obligations to adequately address gender-based violence and discrimination. While it states that domestic legislation regarding gender equality and enjoyment of rights has “developed significantly,” DRC’s laws are flagrantly insufficient for defending women’s and girls’ rights, and those legal protections that exist are inadequately implemented. This summary and the full report on which it is based highlight priority concerns related to discrimination, sexual and gender-based violence, access to justice, and women’s participation in public and political life as well as in peace processes. They offer recommendations aimed at ensuring DRC compliance with obligations under the Convention on the Elimination of All Forms of Discrimination Against Women. As the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) faces significant cuts, with little civil society input, and despite ongoing security challenges, the international community must remain vocal about and attentive to gender-based human rights in the DRC.

I. Articles 1-3, 10 and 14: Sexual and gender-based violence and discrimination committed against women and girls (Full report, p. 5-10)

1. Conflict-related sexual violence - CEDAW’s questions No 11, 12

Sexual violence in conflict-affected provinces has increased at staggering rates, at the hands of both armed groups and security officials. In 2017 there were 5,783 reported cases of sexual violence in conflict-affected provinces—more than twice as many reported cases compared to 2016. Conflict-related sexual violence spread to the three Kasai provinces in the center of the DRC in 2017, while 72 percent of the cases recorded that year occurred in the eastern provinces of Tanganyika and Ituri. North and South Kivu are also severely affected by conflict-related sexual violence, as the regions’ armed group presence increased from 70 to 120 between 2015 and 2017. The number of sexual violence incidents attributed to the Congolese army (FARDC) and the Congolese National Police (PNC) also increased in 2017, by 28 percent and 109 percent respectively. Over one third of incidents perpetrated by the national police occurred while the victim was in police custody. Disciplinary actions against high-ranking officers are still not the rule and are unevenly applied.

Recommendations to the Government of the DRC

The Government should:
1. Take immediate action to ensure, in cooperation with MONUSCO, gender-sensitive public security in conflict-affected areas, as well as the protection of civilians from conflict-related sexual violence.

2. Increase the accessibility of governmental and nongovernmental service offices for women and girls, including victims of gender-based violence in conflict-effected regions.

3. In compliance with the CEDAW Committee’s 2013 Concluding Observations, take all appropriate measures to prevent sexual and gender-based violence and impunity for such violations, monitor and document instances of sexual and gender-based violence, and thoroughly investigate and prosecute violence committed by non-state and state actors including those who have command responsibility.

2. Gender-based violence against women - CEDAW’s question No 10

The DRC does not have a legal framework that explicitly criminalizes and punishes domestic violence, including marital rape. Law No. 06/018 of July 20, 2006 modifies and complements the January 30, 1940 decree of the Congolese penal code that defines rape and enumerates punishments. However, this law speaks of rape in a general way and does not specifically address domestic violence. This generality could be interpreted as including marital rape and such a crime could potentially be prosecuted under the law— but there remains a lack of case law and customary understanding of marital rape as a crime. In tandem with patriarchal attitudes, this codified blindness to gender-based violence results in impunity. Congolese lawyers representing domestic violence victims confirm that this gap in the law means their clients do not receive justice. While the statutory offense of assault could be applied in many instances, in 2017, police rarely intervened on behalf of victims of domestic violence and there was no report of judicial authorities initiating prosecutions in cases of domestic violence or spousal abuse.

**Recommendations to the Government of the DRC**

The Government should:

1. In compliance with CEDAW’s 2013 Concluding Observation and the UN Human Rights Committee’s 2017 Concluding Observations, immediately “intensify its efforts to prevent and combat all forms of domestic violence against women,” including by enacting “legislation that duly protects women from domestic violence, inter alia by criminalizing domestic violence and marital rape;” bringing perpetrators to justice, and implementing “nationwide awareness-raising initiatives and training activities for State officials, especially judges, prosecutors, police officers and medical and paramedical personnel, to ensure that they respond effectively in all cases of domestic violence.”

2. Allocate adequate resources to initiatives and civil society organizations that focus on “rais[ing] awareness among women about the legal provisions on sexual violence, domestic violence, as well as other laws protecting women’s rights and mechanisms to reclaim these rights.

3. Education – CEDAW’s questions No 8, 17

Girls and women continue to be denied their rights throughout the education cycle and still face discrimination and disadvantage in access, progress, and their experience in schools. Attendance
rates for girl students lag behind their boy counterparts, especially from the secondary school level onwards. Girls’ lower secondary education enrolment rate is linked to long and unprotected walks to secondary schools, early and forced marriage, and early pregnancy. Girls also face sexual violence and rape perpetrated by teachers, with girls facing pressure from teachers to engage in sexual acts in exchange for higher grades, widely known as “sexually transmitted grades.”

**Recommendations to the Government of the DRC**

The Government should:

1. Take measures to increase women’s and girls’ access to secondary and tertiary education, including by taking “effective measures to implement its legislation and eliminate child marriages, including customary marriages” as well as early pregnancies, and by “[developing] and implement[ing] a policy to protect the rights of pregnant teenagers, adolescent mothers and their children and combat discrimination against them,” with a special focus on the education environment.
2. Train educators and implement mechanisms in schools to report sexual exploitation and make clear that such offenses are punishable under law, and educate the broader public about girls’ rights in schools.
3. Establish, disseminate, and vigorously enforce strong sexual harassment and antidiscrimination policies and procedures for reporting harassment and other forms of discrimination in education settings.

**Suggested questions on the issue of SGBV and discrimination to the DRC Government:**

- What measures is the Government taking to ensure gender-sensitive public security in conflict-affected areas, as a means to combat and eradicate conflict-related sexual violence; and to increase the service office accessibility for women and girls, including victims of gender-based violence, in areas most impacted by armed conflict?
- What steps has the Government taken to address and eliminate incidents of sexual and gender-based violence committed by security forces, including the Congolese army, police forces and intelligence services, and hold accountable security forces who commit crimes of sexual or gender-based violence, including those who have command responsibility?
- What measures is the Government taking to ensure all forms of domestic violence and rape, including marital rape, are expressly prohibited and perpetrators are brought to justice?
- What steps does the Government plan to implement to increase women’s and girls’ access to secondary and tertiary education, and to address discrimination regarding pregnancies and sexual and gender-based violence faced by girl students in educational environments?

**II. Articles 2-3, 5 and 15 Access to justice for victims of sexual gender-based violence (Full report, p. 10-13)**

Access to justice - CEDAW ‘s questions No 5, 6, 11

Victims often must navigate a complex system of barriers to access justice, which include excessive fees or bribes and the criminal justice system’s lack of resources and inability to search for perpetrators or collect evidence. Many women lack sufficient financial resources or are
prevented by ongoing security issues from traveling to distant judicial actors. Victims are often unable to pay high costs of legal proceedings and are frequently unable to access or are unaware of local women’s organizations and legal clinics that provide free legal assistance. Furthermore, victims fear stigma, humiliation, and reprisals for reporting SGBV. There is also a general lack of understanding of victims’ rights and justice processes. Consequently, many victims of SGBV, particularly rape victims, do not pursue formal legal action. As such, current official statistics do not fully reflect the number of incidents that occur. The Congolese criminal justice system does allow for monetary compensation as a form of reparation, but perpetrators are often too poor to pay reparations and the Congolese government has failed to allocate resources to pay for reparations.

**Recommendations to the Government of DRC**

The Government should:

1. In compliance with CEDAW’s 2013 Concluding Observations, “ensure the effective implementation, including through the provision of sufficient resources, of the 2006 law on sexual violence, the 2009 National Strategy against gender-based violence and the zero-tolerance policy,” as well as the 2015 law on Gender Equality.

2. In compliance with CEDAW’s 2013 Concluding Observations, encourage women “to file complaints rather than to opt for mediation.” Moreover, the Government should provide gender-sensitive training to law enforcement and judicial actors, including on the legal obligation to prosecute all acts of violence against women, and ensure that judicial actors encouraging or involved in out-of-court settlements are held accountable for those violations.

3. Provide adequate resources to ensure victims of sexual and gender-based violence have full access to justice mechanisms, redress and reparations, including through legal aid, elimination of legal filing fees for victims, and by increasing the number and reach of courts and prosecutor’s offices. Take all appropriate measures to provide adequate protection to victims, witnesses and their lawyers, and to eliminate corruption by police and judicial actors.

**Suggested questions on barriers to accessing justice to the DRC Government:**

- What technical and financial measures has the Government taken to “ensure the effective implementation, including through the provision of sufficient resources, of the 2006 law on sexual violence, the 2009 National Strategy against gender-based violence and the zero-tolerance policy,” as well as the 2015 law on gender equality and the reviewed provisions of the family code?
- What measures has the Government taking to ensure victims of sexual and gender-based violence have access to justice, including by providing free legal aid, accessible courts, justice mechanisms, protection, and redress and compensation?
- What measures is the Government taking to provide gender-sensitive training to law enforcement and judicial actors that handle sexual and gender-based violence cases?

**III. Articles 1-3, 7-8 Women’s participation in civic and peace building processes and negotiations (Full report, p. 14-18)**

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1. Participation in political and public life - CEDAW’s question No 15

Women’s participation rates in high-level decision-making processes remain low in the DRC. In 2017, four of 108 senators were women, women held 50 of 500 seats in the National Assembly and 43 of 690 seats in the country’s provincial assemblies. Women are also underrepresented in the justice and security sectors. For instance, women accounted for only about 20 percent of judges in South Kivu province local courts in 2015, and eight of the 13 courts did not have any women judges. Strikingly, only one out of a total of 94 civil prosecutors was a woman in South Kivu province. In 2015, women constituted only around six percent of South Kivu’s police forces. Discriminatory provisions in the 2015 revised election review law, Law 15/001, further disadvantage women. Under the law, all political positions require a higher education diploma or at least five years of related experience, despite the massive gap in access to higher education between women and men. Consequently, most women continue to be limited to the positions of head of quarters or head of neighborhoods with less representation in higher positions.

Recommendations to the Government of DRC

The Government Should:
1. Ensure that women are meaningfully included in the 2015 election law and its implementation, to better connect the election law with the objectives of the 2015 law on gender equality and ensure greater participation from women candidates in elections.
2. Take measures to establish legal quotas, affirmative action policies, or other mechanisms, in line with the objectives of the 2015 law on gender equality, to increase women’s participation in decision-making positions, both elected and nominated.

2. Women, peace and security - CEDAW’s questions No 3, 4

In 2014, civil society organizations’ participation in task forces and committees relating to implementation of UNSC Resolutions 1325 and 1820 had deteriorated compared to previous levels. Between 2013 and 2017, some Government-organized dialogues had a rate as low as four percent by women participants. Additionally, the negotiation process for the Peace, Security and Cooperation Framework for the Democratic Republic of Congo (DRC) and the Region, lacked women’s formal representation. Only a few women from civil society received observer status but lacked decision-making power. Civil society also had extremely limited participation in the first round of national implementation benchmark development for the Framework, with only a few gender-related indicators (ten out of 247 proposed in 2014) proposed.

Recommendations to the Government of the DRC

The Government should:
1. Take further steps to enforce existing laws to ensure, “full implementation of Security Council resolutions 1325 and 2122 on women, peace and security, including by increasing the active and equal participation of women in peacebuilding initiatives and decision-making processes at all levels.”
2. Promote widespread diffusion of the country’s second generation national action plan implementing Resolution 1325 for the years 2018 to 2022 with a particular focus on rural areas, and allocate sufficient resources through gender-sensitive budgeting. Ensure meaningful inclusion of women and women-run civil society in its implementation and monitoring, which should emphasize women’s representation in all peace building and decision-making processes, as well as increased representation in institutions and mechanisms.\(^{59}\)

3. Regarding the Peace, Security and Cooperation Framework for the Democratic Republic of Congo and the Region, take immediate measures to establish a formal national channel for civil society and women’s organizations to monitor and implement the Framework, including by developing “minimum quotas for women in key monitoring and implementing bodies.”\(^{60}\)

**Suggested questions on barriers to women’s participation in civic and peace building processes to the DRC Government:**

- What measures will the Government undertake to ensure that women are better included in the 2015 election law and its implementation, to better connect the election law with the objectives of the 2015 law on gender equality, and to ensure greater participation from women candidates in elections?
- What steps is the Government taking to implement the second-generation national action plan for implementing Resolution 1325 for the years 2018 to 2022, including by allocating sufficient implementation resources through gender-sensitive budgeting; and emphasizing women’s inclusion in official peace building and decision-making processes, as well as increased representation in institutions and mechanisms, and meaningful participation of women’s organizations in the formulation of the plan?
- How will the government support women, peace, and security programs for both civil society and governmental activities that include capacity strengthening of women and women’s organizations to ensure women’s meaningful and equal participation in peace negotiations as well as in the implementation and monitoring of peace agreements?\(^{61}\)

**IV. Articles 1-3, 11, 14-16 Women’s economic security (Full report, p. 18-20)**

**Rural women - CEDAW’s question No 20**

Despite the importance of land rights and ownership for women’s economic survival, women in the DRC rarely own land. The use and distribution of land is regulated and organized by both national and customary law, enacted by local chiefs. The local chiefs’ power to decide on land issues is anchored in the DRC’s law concerning the statutes of customary chiefs,\(^{62}\) and these inherited leadership positions are exclusively reserved for men. Up to 97 percent of land is distributed through these customary power structures at the community level.\(^{63}\)

**Recommendations to the Government of DRC**

The Government should:
1. Take measures to comply with CEDAW’s 2013 Concluding Observations and “raise the awareness of traditional leaders on the importance of eliminating discriminatory practices [...] and the customary practice that discriminates against women with regard to land inheritance.”

2. Allocate sufficient funds for initiatives to support women’s access to land inheritance as well as to ensure the overall legal protection of women’s economic rights, for instance, in the case of divorce.

Suggested questions on economic barriers to the Government of the Democratic Republic of the Congo:

- What measures is the government taking to “raise the awareness of traditional leaders on the importance of eliminating discriminatory practices [...] and the customary practice that discriminates against women with regard to land inheritance?”
- What steps has the government taken to allocate sufficient funds for initiatives to support women’s access to land and inheritance, as well as to assure the overall legal protection of women’s economic rights, including steps taken to reform inheritance laws and train local chiefs and land distributors on the importance of land rights for women?

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1 All further mentions in the text of “Congolese” refer to the country of the Democratic Republic of the Congo, differing from the Republic of the Congo.
2 The Report focuses especially on the eastern provinces of the DRC, in consultation and collaboration with women’s organizations from or active in the provinces of Ituri, North Kivu, Maniema, South Kivu, and Tanganyika.
7 Id. para. 37.
8 Id. para. 36 - 37.
12 Id.
13 Id.
14 CEDAW Committee, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Democratic Republic of Congo, para. 10 (b), UN Doc. CEDAW/C/COD/CO/6-7 (July 30, 2013).
16 Correspondence with DRC legal expert (January 18, 2019), on file with MADRE.
19 CEDAW Committee, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Democratic Republic of Congo, para. 21(c), UN Doc. CEDAW/C/COD/CO/6-7 (July 30, 2013).
21 CEDAW Committee, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Democratic Republic of Congo, para. 12(b)(iii), UN Doc. CEDAW/C/COD/CO/6-7 (July 30, 2013).
23 According to the country’s 2017 Gender Development Index (GDI), men and boys have 8.4 years of schooling on average, while women and girls were schooled for 5.3 years on average. The 2017 Gender Inequality Index (GII) points out that amongst the population with at least some secondary education, only 36.7 percent were constituted by women in contrast to 65.8 percent of male secondary school attendees. UN Development Programme, Human Development Reports (2017).
26 Commissioned by the Swedish Embassy, Laura Davis et al., DRC Gender Country Profile, p. 26, 27 (2014); USAID, Gender Assessment for the Democratic Republic of the Congo, p. 30 (July 2012).
27 Committee on the Rights of the Child, Concluding observations on the combined third to fifth periodic reports of the Democratic Republic of the Congo, para. 28, UN Doc. CRC/C/COD/CO/3-5, (February 2017).
28 Id. para. 36(b).
30 CEDAW Committee, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Democratic Republic of Congo, para. 10(b), UN Doc. CEDAW/C/COD/CO/6-7 (July 30, 2013).
32 Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo, para 11(b), UN Doc. CEDAW/C/COD/CO/6-7, (July 30, 2013); Monusco/OHCHR, Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo, p. 21, para 52 (April 2014).
33 Monusco/OHCHR, Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo, p. 21, para 53 (April 2014).
35 The University of Sydney, University of Technology, Sydney, ActionAid, and Australian Aid, Making Justice Work for Women: Democratic Republic of the Congo Country Report, p. 96-97(August 2016); Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo, para 11(b), UN Doc. CEDAW/C/COD/CO/6-7 (July 30, 2013).
36 United States Department of State, DRC 2018 Human Rights Report, p. 37 (March 13, 2019); Commissioned by the Swedish Embassy, Laura Davis et al., DRC Gender Country Profile, p. 18 (2014).
37 Law number 06/018, modifying and completing the Congolese penal code, July 20, 2006; Law number 06/019 modifying and completing the Congolese criminal procedure code, July 20, 2006.
38 Mukwege Foundation, Mobile court in Eastern Congo awards reparations to sexual violence victims, (February 2018); See also Lauren Wolfe, Congo’s Soccer Players Get Cars. Its Rape Victims Get Nothing, Foreign Policy (March 30, 2016).
39 CEDAW Committee, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Democratic Republic of Congo, para. 22(a), UN Doc. CEDAW/C/COD/CO/6-7 (July 30, 2013).
40 Id. para. 12 b (iii); See also Monusco/OHCHR, Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo, p. 21, para 51 (April 2014).
42 CEDAW Committee, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Democratic Republic of Congo, para. 12(b)(i), UN Doc. CEDAW/C/COD/CO/6-7 (July 30, 2013); See also Human

CEDAW Committee, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Democratic Republic of Congo, para. 22(a), UN Doc. CEDAW/C/COD/CO/6-7 (July 30, 2013);


Id. at 20.

Id. at 22.

Law n° 15/001 of 12 February 2015 modifying and completing law n° 06/006 of 09 Mars 2006 on the organisation of presidential, legislative, provincial, urban, municipal and local elections, previously modified by law n° 11/003 of 25 June 2011.

Law n° 15/001 of 12 February 2015, Art. 103, para. 4, Art. 120, para. 5, Art. 131, para. 5, Art. 148, para. 5.


Id. at 9.


Ministry of Gender, Children and Family (DRC), Draft Report on the second-Generation national Action Plan for the implementation of Resolution 1325 for the years 2018 to 2022, as shared on 05 September 2018 before its planned validation on 06 September 2018, p.13.

Henceforth referred to as the Framework.


Id. at 31.


See also COCAFEM/GL, Etat des Lieux de la Mise en œuvre de la Déclaration de Kampala sur les Violences sexuelles et basées sur le Genre et la Résolution 1325 du Conseil de Sécurité des Nations Unies en République Démocratique du Congo, p. 44 (February 2016); CEDAW Committee, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Democratic Republic of Congo, para. 10(g), UN Doc. CEDAW/C/COD/CO/6-7 (July 30, 2013), on ensuring the effective implementation of the first-generation national action plan for the implementation of Security Council resolution 1325 (2000).


FAO, Gender and Land Rights Database – Congo – Discrepancies/gaps between statutory and customary laws.

CEDAW Committee, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Democratic Republic of Congo, para. 38 (c), UN Doc. CEDAW/C/COD/CO/6-7 (July 30, 2013)

Id.