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DRC: Persistent suppression of civic space despite official rhetoric

The Democratic Republic of Congo (DRC) remains in deep human rights and humanitarian crisis as political tensions continue to build over the long delayed elections which were supposed to be held in November 2016 but now rescheduled for 23 December 2018.

Amnesty International is deeply concerned by the persistent wide range of abuses including excessive use of lethal force during peaceful demonstrations, arbitrary arrests and detentions, intimidation and harassment. These abuses are committed with near total impunity in the context of a deliberate and systematic suppression of civic and political space ahead of elections. DRC authorities have ignored calls from the Congolese citizens and the international community to end the abuses by security forces in the context of the scheduled elections.¹

On 31 December 2017, 21 January 2018 and 25 February 2018, peaceful demonstrations organized by the Catholic Lay Coordination Committee (CLC) were brutally repressed by the security forces using excessive force, killing at least 17 people, wounding scores mostly by gunshot, and arbitrarily arresting at least 405 people. The demonstrators were demanding the full implementation of the confidence-building measures provided for in the 31

¹ See for example: United Nations, UN Security Council urges DRC authorities to urgently investigate any disproportionate use of force by security forces on peaceful protesters, so that suspected perpetrators of these acts are brought to justice, www.un.org/press/en/2018/sc13163.doc.htm. Office of the United Nations High Commissioner for Human Rights, "Unlawful, unjustified and disproportionate use of force against protesters in DR Congo", <https://news.un.org/en/story/2018/01/1000981>

December 2016 political agreement brokered by the Catholic Bishops. The confidence-building measures include the release of political prisoners and re-opening of civic and media space. In Kinshasa, where the most significant demonstrations took place, Amnesty International investigated and gathered evidence of how security forces, including the police, the army, the Presidential Guard and other security agents in civilian clothes attacked peaceful demonstrators and by-standers in the streets, homes, and even inside churches, parish courts and health facilities. Soldiers took the bodies of some victims killed during the demonstrations and deprived their families of burying them with dignity.

Most of these human rights violations by security forces are documented and acknowledged by a joint commission of inquiry set up by the government in February 2018. The commission of inquiry consisted of representatives of the Congolese government and local human rights organizations published its first findings on 10 March 2018, with a series of recommendations, notably to the government, the parliament and the judiciary. Yet two months later, most of these recommendations have not been implemented, raising questions about the political will and commitment of the authorities to hold suspected perpetrators to account and open civic space in DRC.

The commission recommended, among other things, the immediate lifting of the ban on demonstrations, which has been in force since October 2016. Article 26 of the Congolese Constitution guarantees the freedom of peaceful assembly. Public demonstrations are only subjected to “prior written notice to the competent administrative authority”.² This is consistent with DRC’s international human rights obligations under the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples’ Rights. Nonetheless, the authorities have continued to subject public demonstrations, and private meetings to prior authorization based on article 4 of the January 1999 decree³ which provided that demonstrations held in public or in open space could be subject to prior authorization. However, this provision is null and void because it contravenes article 26 of the current Constitution (entered into force in February 2006). Article 221 of the Constitution provides that the laws and regulations then in force remain in

² <http://leganet.cd/Legislation/JO/2011/JOS.05.02.2011.pdf>

³ www.leganet.cd/Legislation/Droit%20Public/Ordre/DL.29.01.1999.htm

force as long as they are not contrary to the new Constitution.⁴

Speaking at the Human Rights Council in Geneva on 20 March 2018, the Congolese Minister for Human Rights, Marie-Ange Mushobekwa, stated that “the suspension of political demonstrations has been lifted to allow all political parties and groups to prepare for elections”.⁵ Yet peaceful demonstrations continue to be systematically banned or violently repressed while opposition and civil society activists are constantly harassed through politically motivated charges and unfair trials.

The authorities including governors and mayors have continued to openly prevent the opposition and civil society groups from holding meetings and demonstrations. The provincial interior minister for Kinshasa, Emmanuel Akweti, told the press on 3 April that the government directive to ban public demonstrations is still in effect⁶ thus openly contradicting the Minister for Human Rights and creating confusion on the government policy. The authorities have further deployed security forces to intimidate and harass protesters and suppress peaceful assemblies, as several recent incidents show. On 26 March 2018, the police used excessive force to disperse the peaceful demonstration organized by the citizen movement Fight for Change (Lutte pour le changement, LUCHA) in the towns of Beni and Goma in eastern DRC, injuring at least five and arresting 11 among them.⁷ On 7 April 2018, security forces prevented members of opposition platform Ensemble pour Changement⁸ from attending a political rally in Lubumbashi, and arbitrarily arrested 28 among them.⁹ On 24 April 2018, civil society youth leader Matheus Kanga was sentenced to 6 months in prison for organizing a peaceful demonstration to denounce the growing insecurity in the town of

⁴ Official Gazette of the DRC, the Constitution of the Democratic Republic of Congo of 18 February 2006 as revised by law n° 11/002 of 20 January 2011, <http://leganet.cd/Legislation/JO/2011/JOS.05.02.2011.pdf>

⁵ <https://actualite.cd/2018/03/24/rdc-mesure-de-suspension-manifestations-politiques-place-publique-a-ete-levee/>

⁶ <https://actualite.cd/2018/04/03/kinshasa-autorites-provinciales-maintiennent-suspension-manifestations-publiques/>

⁷ <https://afrique.lalibre.be/17148/rdc-manifestations-de-la-lucha-dispersees-a-goma-et-a-beni/>

⁸ Ensemble pour le changement (Together for Change) is a political platform supporting opposition leader Moïse Katumbi

⁹ <https://actualite.cd/2018/04/12/rdc-28-membres-de-ensemble-pour-le-changement-detenus-a-lubumbashi/>

Kisangani.¹⁰ On 27 April 2018, a peaceful demonstration organized by youth activists from LUCHA was banned in Lubumbashi and one of the leaders was kidnapped by security agents. He was eventually released later the same day.¹¹ On 1 May 2018, in the town of Goma, the police forcefully dispersed a peaceful demonstration organized by LUCHA activists to denounce the recurrent killings of civilians in the country. Thirty-one demonstrators were arbitrarily arrested and detained for several hours. In an intimidation tactic against any form of unauthorized activity, the police went to the extent of arbitrarily arresting and detaining four young activists for several hours while they were working voluntarily to collect dirt and clean the gutters in their neighbourhood in Kinshasa, on the pretext that the cleaning activity had not been authorized by the mayor of the commune. Across the country, people continue to be regularly intimidated and prevented from holding meetings and demonstrating peacefully, and subjected to arbitrary arrest, detention and trumped-up charges for simply exercising their constitutional and human rights.

In an interview on Radio France International on 3 May 2018, the Congolese Minister for Human Rights regretted the continued violations of the right to freedom of peaceful assembly, particularly with regard to the LUCHA citizen movement, blaming the restrictive measures on "overzealous local authorities" whose action would not be ordered or supported by the government.¹² However, the authorities have not taken any measures to stop the abuses and hold suspected perpetrators, including mayors and police officers, to account.

Even in cases where victims have had the courage to file complaints, suspected perpetrators including higher-ups in the security forces and administrative authorities, have rarely been held to account. On the contrary, those who organize or participate in peaceful demonstrations and the relatives of victims are harassed and intimidated.

The ban or repression of peaceful demonstrations remain the rule.¹³ It is as

¹⁰ www.radiokapi.net/2018/04/25/actualite/societe/le-president-de-la-jeunesse-de-la-societe-civile-de-la-tshopo-condamne

¹¹ www.rfi.fr/afrique/20180428-rdc-criminalite-lubumbashi-manifestation-lucha-interdite-militant-enleve

¹² www.rfi.fr/afrique/20180503-rdc-ministre-droits-humains-regrette-dispersion-une-marche-lucha

¹³ For example, authorities allowed opposition party Union pour la Démocratie et le Progrès Social (UDPS) to hold a rally in Kinshasa on 24 April. The rally took place without incident. However, a few days later, on 6 May,

if the rights to freedom of expression and peaceful assembly are favours that authorities can grant at will to whom and when they wish, not rights that must be enjoyed without unlawful restrictions. The persistent bans and suppression of demonstrations with impunity are not merely isolated incidents by overzealous security officers but illustrative of a deliberate and systematic government policy to intimidate and harass opposition and civil society activists and punish views and actions deemed critical of the government.

The United Nations, which in March 2018, had welcomed the Congolese government's announcement that the ban on demonstrations had been lifted,¹⁴ is sounding the alarm again. In his report to the Security Council on the situation in the DRC earlier this month, UN Secretary-General António Guterres said, "Lifting the ban on public demonstrations would greatly contribute to the opening of political space" and allow the Congolese to "freely exercise their political and civil rights."¹⁵

Amnesty International is concerned about the persisting human rights violations and climate of intimidation and repression in the context of the forthcoming elections.

Amnesty International calls on DRC authorities to implement the following measures:

1. The Congolese minister of Interior affairs should immediately and formally lift the government directive imposing ban on public demonstrations in violation of the constitution, and ensure that all law enforcement authorities across the country respect the rights to freedom of expression and peaceful assembly;
2. The Congolese government must bring to justice all those suspected to be responsible for human rights violations including members of the security forces and administrative authorities who committed, ordered or abetted the use of excessive force to disperse peaceful

authorities banned and attempted to prevent a similar peaceful rally by the same UDPS in the city of Uvira, in South Kivu province.

¹⁴ www.radiokapi.net/2018/03/28/emissions/conference-des-nations-unies/lonu-salue-lannonce-de-la-levee-de-la-suspension

¹⁵ www.nytimes.com/aponline/2018/05/07/world/africa/ap-un-united-nations-congo-elections.html

demonstrations organized by the Catholic Lay Coordination Committee on 31 December 2017, 21 January 2018 and 25 February 2018;

3. All those who are detained solely for exercising their rights to freedom of expression and peaceful protest must be immediately and unconditionally released, including the four Filimbi activists detained in Kinshasa since 30 December 2017;
4. Authorities must fully and without further delay implement all recommendations of the joint commission of inquiry on the events of 31 December 2017 and 21 January 2018; and
5. The minister for human rights should extend the mandate of the joint commission of Inquiry and the government should provide it with the means so that it can continue to investigate other human rights violations committed during demonstrations in Kinshasa and other parts of the country.

BACKGROUND

The long-awaited elections in the DRC are now scheduled for December 23, 2018. Because of the government failure to organize elections within constitutional deadlines in November 2016, a political agreement also known as the New Year's Eve Agreement, was signed on 31 December 2016 between the ruling majority and the opposition. Among other things, the agreement provides for a series of confidence-building measures including respect for the right to freedom of peaceful assembly, the release of political prisoners and the reopening of media houses. However, most of the provisions of the agreement with respect to the shrinking civic space have not been implemented.

At the call of the Catholic Lay Coordination Committee (CLC), a group close to the Catholic Church that helped brokering the agreement, thousands of Congolese demonstrated peacefully on December 31, 2017, January 21 2018 and February 25, 2018, to urge President Joseph Kabila and his government to fully implement the agreement. The demonstrations however were met with repression. At the end of February 2018, the CLC decided to suspend the demonstrations to "give the opportunity to the authorities to implement their demands". On 1 May, the CLC made a statement noting the government's failure to address people's concerns about the electoral

process, and announced the end of the suspension on demonstrations.

Without concrete measures to enforce the rights to freedom of expression and peaceful assembly and hold accountable suspected perpetrators, the risk of further human rights violations is high.