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DR Congo: Martial Law Brings Crackdown in East

Military Deepens Repression in Embattled Ituri, North Kivu Provinces



Jean Paul Ngahangondi, a provincial deputy for North Kivu, has been detained since February 6, 2022, for "contempt" of the head of state and the army: "After my arrest, I was taken to the ANR (National Intelligence Agency), where the agents told me that I had been arrested for questioning martial law. The prosecutor was clear when he told me that they have no problem with me but that they received a complaint from the governor who said that I was to be questioned and that there are others who are to be questioned. This is a way to intimidate and silence us." © Private





Didier Lukogho, a provincial deputy from Lubero in North Kivu, has been detained since November 21, 2021, for "incitement to attack the laws of the republic": "I consider my arrest to be arbitrary. Today, instead of benefiting from martial law, we are its victims. I was arrested and accused of having held a meeting." © Private



From right to left: Jeanpy Lufungula Muhindo, Esaïe Liko, Kabunga Joël, Eric Sankara (an accused from a different trial), and Kighama Dieu-merci. Eddy Mupika, Pamela Shabani, Kabambi Jireh, Georges Mumbere, Paluku Vihamba, Lwantumba Elysé, Archimede Ependa, Dimanja Dany, were also present in the court, but are not in the first row of the photograph. The 13 activists of the citizen movement Lucha were arrested on November 11, 2021 and are charged with "provocation and incitement to breaches of public authority." If found guilty they face sentences of between one and three years. © Private





Three activists of the citizen movement Jicho la Raia: Faustin Ombeni Tulinabo, Claude Lwaboshi Buhazi, and Serge Mikindo Waso were sentenced by a military court in Goma on February 25, 2022 to two years in prison for "damaging imputation and slanderous denunciation" after denouncing mismanagement in a health zone in Masisi in eastern Democratic Republic of Congo. Claude Lwaboshi, 32, and father of three children, is a member of Jicho la Raia: "Our trial began seven months after the fixing of our case at the court because of confusion in the military judicial administration during martial law. The procedure has dragged on a lot." © Private



Three activists of the citizen movement Jicho la Raia: Faustin Ombeni Tulinabo, Claude Lwaboshi Buhazi, and Serge Mikindo Waso were sentenced by a military court in Goma on February 25, 2022 to two years in prison for "damaging imputation and slanderous denunciation" after denouncing mismanagement in a health zone in Masisi in eastern Democratic Republic of Congo. Serge Muhindo, 33, is a member of Jicho la Raia: "I think that keeping us in prison is a way to silence us and silence others." © Private



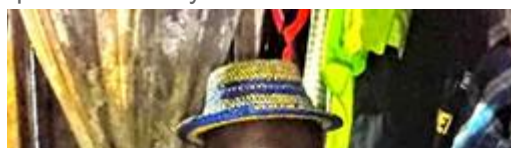


Three activists of the citizen movement Jicho la Raia: Faustin Ombeni Tulinabo, Claude Lwaboshi Buhazi, and Serge Mikindo Waso were sentenced by a military court in Goma on February 25, 2022 to two years in prison for "damaging imputation and slanderous denunciation" after denouncing mismanagement in a health zone in Masisi in eastern Democratic Republic of Congo. Faustin Ombeni Tulinabo, 26, is a member of Jicho la Raia: "I am a student. I have lost one year already, and I risk losing another because of delays. It hurts me a lot to think of all the time I've lost." ©

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Luc Malembe, 34, is a freelance journalist from Lamuka at Bunia in Ituri. He has been detained since November 24, 2021, for "spreading false information": "I have been very critical of martial law from the start and now I am being prosecuted for "spreading rumors." The public prosecutor has requested three years in prison, and I am awaiting the verdict. I am scared because the judicial system is not independent and because the governor ordered my arrest and controls justice. I fear I will be wrongly condemned. I work for a private company, and I lost my job, which will be a problem for my wife and kids." © Private





Christophe Adubango, 29, is a civil society leader from Bunia in Ituri province, who has been detained since October 24, 2021, for “spreading false information”:

“Soldiers took me to the Governor’s Residence where they tortured me. They kicked me with their boots, and they beat me with guns. I bled in my nose and mouth, and I had pain everywhere. I was at the o the military prosecutor’s office the next morning and then transferred to the central prison where two days later I became sick. My lungs became affected when I was beaten. My case in court is not progressing, and when I ask my lawyer, he tells me that the judges told him that for my case, they have to wait for the governor’s order to set the date.” © Private

(Kinshasa) – The [Democratic Republic of Congo](#)’s military has suppressed peaceful critics in the more than 10 months since the government imposed martial law in the conflict-ridden eastern provinces of North Kivu and Ituri, Human Rights Watch said today. The military and police have curtailed freedom of expression, put down peaceful demonstrations with lethal force, and arbitrarily detained and prosecuted activists, journalists, and political opposition members.

President Felix Tshisekedi’s administration [declared](#) martial law in North Kivu and Ituri provinces on May 6, 2021 to “swiftly end the insecurity which is killing our fellow citizens on a daily basis,” a government spokesman said at the time. The military quickly took over civilian authority in both provinces and, in September, Tshisekedi stated that martial law would only be lifted “when the circumstances which motivated it resolve.”

“The military’s [reassurances](#) last year that human rights would be respected under martial law have long been forgotten and a wide range of rights have been stifled,” said [Thomas Fessy](#), senior Congo researcher at Human Rights Watch. “With no clear timeline from the Tshisekedi administration, this backsliding on fundamental

rights and democratic space seems to have no end in sight.”

Under [martial law orders](#), military authorities are able to search people’s homes day and night, ban publications and meetings deemed against public order, restrict people’s movements, and arrest anyone for disrupting public order. Civilians are prosecuted before military courts contrary to regional standards.

Human Rights Watch has documented more than two dozen cases of arbitrary arrests, intimidation, beatings, and abusive prosecutions in Ituri and North Kivu since September. Security forces killed at least one activist during a protest. Martial law has also strained an already weak judiciary in both provinces. Military courts, which in any event should not be trying cases involving civilian defendants, are unable to cope with the number of cases.

On January 24, 2022, security forces shot Mumbere Ushindi, 22-year-old member of the citizen movement Lucha, in the stomach while breaking up protests against martial law in Beni, North Kivu province. Ushindi [succumbed](#) to his wounds shortly thereafter. He is the third Lucha activist killed by security forces in Beni in three years.

Speaking to journalists the previous day, Beni’s police commander, colonel Jean-Sébastien Kahuma, had publicly threatened protesters. They “will not see their brothers and sisters again [and] they won’t be with their family any longer,” he said. Kahuma also said that “We don’t need human rights defenders, I am the president of human rights.... [T]here are duties before rights. These people should stay at home rather than disrupting order outside.”

A few hours after Ushindi was shot, the police official serving as mayor of Beni, Narcisse Muteba, described protesters as “dogs making noise in town, and we can’t tolerate such nonsense.” He added, “We arrest and kill these dogs.”

A day after the killing, the police arrested 12 activists from Butembo who were on their way to Ushindi’s funeral in Beni. They spent two nights in detention before being released.

A lawyer in Ituri province told Human Rights Watch there was an uptick in arbitrary arrests and detention under martial law. “Military justice is used as an instrument of oppression,” he said. “First they make arrest, then request money so one has to negotiate, if you don’t have money it will be very difficult for you.” The lawyer also said the military prosecutor’s office was “overwhelmed with cases ... and there’s a

lot of interference from military authorities.”

In its 2021 annual report, the United Nations Joint Human Rights Office notes that “prison overcrowding worsened” under martial law, “pos[ing] security and health risks” due to “the lack of personnel in the military courts ... with an extremely high number of detainees in pre-trial detention.”

A lawyer based in Goma, North Kivu, said the military courts were using interns to compensate for the lack of magistrates given the ever-increasing backlog of cases. The lawyer said that “these interns investigate cases, interrogate the accused or defendants and when done, they get a magistrate to sign off.... At times, interns decide whether arrest is needed or not,” warning that such practices are illegal.

On November 24, the local opposition spokesman, Luc Malembe, was [arrested](#) in Bunia, Ituri province. He remains in detention and was charged with spreading “false information” following a publication in which he criticized martial law as a failure. Malembe is awaiting his verdict and faces up to three years in prison.

The authorities arrested at least four members of national and provincial parliaments for criticizing or opposing martial law. Two of them remain in pretrial detention.

Thirteen Lucha activists who were [arrested](#) in Beni during a peaceful demonstration on November 13 remain in detention and face sentences of between one and three years for “provocation and incitement to breaches of public authority.” All were tried before a military court in early February and are [awaiting](#) the verdict.

Everyone currently detained or serving sentences for expressing their opinion on martial law in North Kivu and Ituri provinces should be immediately released and the charges against them dropped, Human Rights Watch said.

Under the International Covenant on Civil and Political Rights (ICCPR), certain rights may be derogated under a state of emergency such as martial law, which must be tailored to the “exigencies of the situation,” and be lawful, necessary, and proportionate. Human Rights Watch has grave concerns that Congo’s martial law permits vague and overbroad restrictions beyond those permitted under the ICCPR that threaten basic rights to free expression, peaceful assembly, and association. So long as martial law is in place, all actions inconsistent with the

derogation provisions of the ICCPR should be promptly repealed or revised. Congo should also recognize that it remains obligated to uphold all articles of the African Charter on Human and People's Rights, which has no derogation provisions. Individuals arbitrarily detained under the provisions or otherwise subject to violations of their human rights should receive redress, including prompt release and appropriate compensation.

President Tshisekedi should acknowledge that the military rulers in the two provinces have been using their powers to crack down on peaceful critics and ensure that martial rule in both provinces does not curtail people's fundamental rights. Congo's international partners should publicly condemn the ongoing repression in North Kivu and Ituri.

"Facing continual conflict, people in North Kivu and Ituri provinces have been living in heavily militarized environments for years," Fessy said. "Martial law has not meant the end of atrocities in eastern Congo, but it is suffocating people's rights to peaceful assembly, free speech, and access to fair justice."

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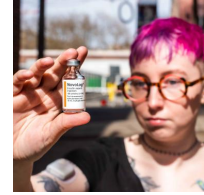
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