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Democratic Republic of the Congo: Situation and treatment of human rights defenders by authorities; state protection (2021–March 2023) [COD201411.E]

Research Directorate, Immigration and Refugee Board of Canada

1. Situation of Human Rights Defenders

According to Amnesty International, human rights defenders and journalists are "targeted with attacks and threats," and rallies and protests "deemed to be critical of the government" are banned or "violently suppressed" (2022-03-29, 145). In its annual report covering the events of 2021, Human Rights Watch (HRW) states that "[j]ournalists, activists, whistleblowers, and critics of government policies were intimidated and threatened, beaten, arrested, and in some cases prosecuted by the authorities and security forces" (2022-01-13). The International Center for Not-for-Profit Law (ICNL), an organization focused on the legal environment for civil society (ICNL n.d.), notes that the government has "cracked down" on criticism, through the "'disappearance' of journalists and the blocking of opposition protests" (2022-12-23). HRW further notes that of 83 interviews it has conducted with victims of abuse, lawyers, activists, and journalists in 2020, there were 109 cases of "arbitrary arrests and harassment" with "at least 16 cases" involving the National Intelligence Agency (Agence nationale de renseignements, ANR) (2021-01-28). According to the UN High Commissioner for Human Rights, from 1 June 2020 to 31 May 2021, there were "numerous" cases of human rights defenders, members of civil society and journalists facing "threats, intimidation and attacks"; 433 people faced "arbitrary arrest or unlawful and arbitrary detention following their exercise of their right to freedom of opinion and expression, peaceful assembly or association" (UN 2021-07-15, para. 1.10). Similarly, Amnesty International states that human

rights defenders and whistle-blowers faced "attacks and threats by public institutions" and that "[d]ozens of pro-democracy and anti-corruption activists, environmental activists, trade union leaders and Indigenous peoples' rights defenders were arbitrarily detained, harassed and even sentenced by courts following unfair trials" (2022-03-29, 148). The UN Joint Human Rights Office (UNJHRO), which is made up of the Human Rights Division of the UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and the Office of the High Commissioner for Human Rights (OHCHR), also notes that the work of the UN and humanitarian organizations is "seriously" impacted by threats, hate messages, and "the propagation of false news," "often at the encouragement of politicians and economic operators" (UN 2021-06, para. 53). HRW states that on 10 February 2023, a comedian was arrested due to a video they posted on social media, which was considered insulting to the president, and over a week after the comedian's arrest, they still had not received legal assistance or been brought before judicial authority; HRW notes that the case is a reflection of "the climate of growing intolerance in Congo for dissenting voices with attacks targeting journalists, activists, government critics, and peaceful protesters" (2023-02-27).

1.1 Treatment by Security Forces

The US Department of State's *Country Reports on Human Rights Practices for 2022* notes that activists, journalists and members of the political opposition were arrested and detained by state security forces (SSF) with protesters and activists "regularly" held for "extended periods" without being charged (US 2023-03-20, 10). *US Country Reports 2021* notes that the locations of activists that were arrested were "unknown for long periods" (US 2022-04-12, 5). *US Country Reports 2022* notes that

[e]lements of the SSF continued to kill, harass, beat, intimidate, and arbitrarily arrest and detain domestic human rights advocates and domestic NGO workers, particularly when the NGOs reported on or supported victims of abuses by the SSF, or reported on the illegal exploitation of natural resources. (US 2023-03-20, 33)

US Country Reports 2020 also states that the Human Rights Ministry (ministère des Droits humains) made a public statement condemning the arbitrary arrests of journalists and human rights defenders (US 2021-03-30, Sec. 5). Citing the UN, the same source states that "SSF arbitrarily arrested at least 1,327 persons across the country as of June 30 [2020], compared with 2,947 persons during the same period in 2019" (US 2021-03-30, Sec. 1D). The report further indicates that human rights defenders continued to face "arbitrary arrest and detention without a fair public trial," noting the example of an activist arrested for "'contempt for a member of the government'" on 20 January who remained in detention until a trial on 7 July; while in detention, he experienced assault and "severe illness" due to prison conditions (US 2021-03-30, Sec. 1D).

According to the UN High Commissioner for Human Rights, the bodies of three activists displaying "signs of torture" were found in a river in July 2020, following one of the individuals last seen being held in detention (UN 2021-07-15, para. 9).

1.2 Treatment of Protesters

According to Amnesty International, rallies and protests are banned, and security forces "violently suppre[ss]" ones that take place (2022-03-29, 147). According to a report from the UK Foreign, Commonwealth & Development Office, there are "constraints on the right to peaceful protest and increased censorship of political media and activists," with individuals that criticize the government facing arrest and "lengthy" prison sentences without a fair trial (UK 2022-12, 49). Sources note that in May 2021, Ituri and North Kivu provinces were put under a state of siege (UK 2022-12, 49; Germany 2022-04-25, 3) or martial law; a government spokesman stated that the reason was to "'swiftly end the insecurity which is killing ... citizens on a daily basis'," with the military taking control over civilian authority (HRW 2022-03-22). According to Germany's Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF), 37 civil society organizations and NGOs issued a statement on 13 April 2022 that under the state of siege, individuals critical of the government face "arbitrary arrest, prosecution, physical violence, and intimidation," with police and security forces using "excessive force" against people protesting (Germany 2022-04-25, 3). The same source further states that according to an April 2022 press release, the leader of the opposition party Engagement pour la citoyenneté et le développement (ECIDÉ) has criticized the "disregard" for human rights and the arrest of human rights defenders, journalists and activists in the north-western province of Équateur (Germany 2022-04-25, 2). HRW notes that demonstrators have faced "lethal force" from the military and security with activists, journalists and political opposition being "arbitrarily detained and prosecuted" (2022-03-22). According to Amnesty International, people that question the state of siege are "targeted"; two activists were killed by security forces at a protest and "dozens" have been injured, detained and prosecuted (2022-05-10, 15, 13).

Freedom House states that activists, students and civilians who attended marches and protests throughout 2021 faced "unnecessary force," arbitrary detention and were beaten and forcibly dispersed using means such as tear gas (2022-02-24, Sec. E1). According to Front Line Defenders (FLD), an international organization aiming to protect human rights defenders (FLD n.d.a), in January 2021 a member of SOS HANDICAP, an organization started by women with disabilities to protect the human rights of women and girls with disabilities, was arrested for planning a march against discrimination and held by police for four days without seeing a judge, before being released due to health concerns from injuries sustained during the arrest (2021-01-26). HRW states that in April 2021, 5 people were killed by security forces and "at least" 8 others were injured

at protests in Goma, Butembo, and Beni territory and in Nyiragongo territory, North Kivu "at least" 10 people were killed and 50 injured by "security forces and violent mobs" (2022-01-13). Sources note that at a sit-in at the Kinshasa parliament in April 2022, police used force to end the protest (Germany 2022-04-25, 2; HRW 2023-01-12) and injured "at least" 20 (HRW 2023-01-12) or 30 protesters (Germany 2022-04-25, 2). Amnesty International notes the death of a human rights defender in October 2021 when, according to the victim's colleagues, soldiers beat him and threw him from a window (2022-05-10, 15). According to Amnesty International, on the day another demonstrator was killed in Beni, the mayor had stated the following to the media: "'We have principles: the dog barks, the caravan cannot pass; we stop the caravan, we kill that dog. Here are the dogs in question that are making noise here in the city. We cannot tolerate such nonsense'" (2022-05-10, 15). On the same day, the Beni Police Commander stated that

"[a]nyone who is going to leave his house to go into nonsense should first look at the photos of their wife, their brothers, their sisters, their children. As they go out to demonstrate, will they get a chance to see the faces of their brothers and sisters at home again? When they go out saying they are above the law, woe to them, they will no longer see their brothers or their sisters." (Amnesty International 2022-05-10, 15)

The UNJHRO reported that in April 2021, at a protest calling for the removal of the MONUSCO, police used "excessive" force with protesters beaten and detained (UN 2021-06, para. 52). *US Country Reports 2020* states that three members of the Filimbi citizen movement were arrested after a protest and "tortured" by police while in custody (US 2021-03-30, Sec. 1C). Sources note that the leader of the youth league of the political party Together for the Republic (Ensemble pour la République) was arrested in July 2021 (RFI 2021-07-19; Politico 2021-07-20; HRW 2021-07-22) for being outspoken regarding their opposition to a bill which would require the president to have a Congolese mother and father (Politico 2021-07-20; HRW 2021-07-22). According to Radio France internationale (RFI), two colleagues of the youth leader were arrested and [translation] "tortured" before being released prior to the youth leader's arrest (2021-07-19). Sources report that the youth leader of Together for the Republic was sentenced to two years in prison for "incitement to civil disobedience" (HRW 2021-07-22; Politico 2021-07-20) and was fined 500,000 Congolese francs (CDF) [C\$332] (Politico 2021-07-20).

1.2.1 Treatment of Members of Fight for Change (Lutte pour le changement, Lucha)

According to Lucha, they are [translation] "a non-partisan and non-violent Congolese citizen movement" which aims to mobilize citizens to fight for human dignity and social justice (n.d.). *US Country Reports 2021* states that, at a protest demanding schools be reopened following COVID-19, Lucha protesters were whipped, 17 were injured, and 21 were arrested and

released three hours later (US 2022-04-12, 28). According to sources, at a November 2021 protest against the state of siege, 13 Lucha activists were arrested (Radio Okapi 2021-11-11; Amnesty International 2022-03-29, 147; HRW 2022-01-13). According to sources, in April 2022, twelve of these activists were sentenced by a military court to one year in prison (Amnesty International 2022-04-01; HRW 2022-04-07), with the thirteenth activist not sentenced as they remained in the hospital following a "seriou[s]" head injury (HRW 2022-04-07). Amnesty International notes that in August 2021 Lucha called for a "dead city" [1] to protest the killings taking place in Beni (2022-05-10, 13). According to an article from Congolese news website Actualite.cd, shop owners claimed that they did not refuse to open their stores out of support for Lucha but out of fear of tension (2021-08-18). Sources note that on 19 December 2020, eight Lucha activists were arrested in Beni at a protest opposing a UN peacekeeping mission in the Democratic Republic of the Congo (DRC) (Amnesty International 2021-01-19; HRW 2021-01-21). HRW states that the activists experienced violence from police while in custody and faced charges of "sabotage and violence against state security guards" with a request from the government for a 10-year prison sentence, but were acquitted after a month in detention (2021-01-21). According to sources, in April 2021, two Lucha activists were arrested at a protest in Butembo against MONUSCO and charged with "incitement to civil disobedience" and "threats of attack" (Actualite.cd 2021-07-25; HRW 2021-07-19) and faced up to five years in prison (HRW 2021-07-19). Actualite.cd indicates that they spent three months in [translation] "deplorable hygienic conditions" before being released (2021-07-25). HRW notes that two Lucha activists were arbitrarily detained after claims [made by Lucha (2022-01-13)] that aid was diverted by the staff of a foundation established by the First Lady (HRW 2022-01-13; Amnesty International 2022-03-29, 147). HRW adds that those two activists were arrested in July and August 2021, respectively, and were released on bail in November 2021, and faced charges of "criminal defamation and criminal association" (2022-01-13). Another HRW article further notes that one of those two activists faces the death penalty and could receive a life sentence (2021-10-06).

According to sources, in May 2020 a Lucha activist was shot and killed by a police officer at a protest where 20 people were present (FIDH 2020-05-26; US 2021-03-30, Sec. 1A); the officer was found guilty of murder by a military court and sentenced to life in prison (US 2021-03-30, Sec. 1A). Sources note that a Lucha activist lost their leg in September 2021 due to a gunshot from a police officer at a demonstration in Beni town (Amnesty International 2022-05-10, 14; Lucha 2022-01-24). Lucha also states that in January 2022, a Lucha activist died from gunshot wounds received from security forces in Beni, making them the third Lucha activist killed in Beni in three years (2022-01-24). HRW states that 12 activists travelling from Butembo to Beni for the funeral of the killed Lucha activist were arrested and released after being detained for two days (2022-03-22).

For additional information on treatment of pro-democracy activists, including Lucha and the Filimbi movement, see Response to Information Request COD200925 of March 2023.

1.3 Treatment of Journalists

According to Amnesty International, [in 2021] "at least" 11 journalists were arbitrarily detained while carrying out their work and "[s]everal" faced threats or intimidation from state agents and political leaders (2022-03-29, 148). *US Country Reports 2022* states that the UNJHRO documented 43 cases of journalists and human rights defenders experiencing abuses of the right to freedom of opinion and expression in the first six months of 2022 (US 2023-03-20, 19). According to a report from Journalist in Danger (Journaliste en danger, JED), an independent non-partisan organization based in the DRC that promotes and defends press freedom (JED n.d.), there were 124 attacks against journalists in 2022, including the following:

[translation]

- 49 journalists threatened
- 37 journalists arrested
- 18 journalists assaulted
- 17 radio [stations] or broadcasts banned
- 2 journalists kidnapped
- 1 journalist killed. (2022-11-02, 5–6)

JED reported that there were 110 cases of attacks against journalists in 2021 (2021-11-01). According to the BAMF, in April 2022 a journalist in North Kivu was arrested for his reporting (Germany 2022-04-25, 3). The same source also notes in a different report that two editors-in-chief of radio stations in Lomami were arrested in January 2023 under charges of defamation (Germany 2023-01-09, 3).

Reporters Without Borders (Reporters sans frontières, RSF) states that in August 2020 in Sankuru, a manager of a local radio station and two journalists were arrested and "tortured while detained," and the radio station manager was arrested again in September following a "complaint" from the Sankuru governor (2020-09-18). According to RSF, in October 2020, an editor of a community radio station in Goma went into hiding when she overheard threats from army generals due to questions she asked the president at a press conference (2020-10-14). RSF also states that in May 2022 three journalists were "tortured" by the ANR following their participation in a radio broadcast discussing irregularities of exams for secondary school graduation (2022-05-23). According to the International Federation of Journalists (IFJ), an organization representing "600,000 media professionals" from "more than 140 countries" that

"promotes collective action to defend human rights, democracy and media pluralism" (IFJ n.d.), in August 2021 a journalist working with the Congolese National Radio and Television (Radio-télévision nationale congolaise, RTNC), who hosted a show that called on youth to embrace peace, was killed by unidentified attackers (2021-08-12). Sources note that in August 2021, the director of Radio Communautaire Babombi and his wife were attacked and killed in Ituri province (JED 2021-08-14; CPJ n.d.). Sources also note that militiamen from the Mai-Mai, a local militia, were the suspected attackers, as the Director had received threats after hosting a segment looking into the activities of the armed group (IFJ 2021-08-17; CPJ n.d.).

2. Laws Protecting Human Rights Activists

According to sources, the draft law on human rights defenders which was proposed in 2017 has not progressed (FLD n.d.b; Amnesty International 2022-03-29, 148; FIDH 2022-06-07, 25). The International Federation for Human Rights (Fédération internationale pour les droits humains, FIDH) states that the bill has "worrying provisions that risked hindering the legitimate and peaceful activities of human rights defenders and threatened recognition of their status" (FIDH 2022-06-07, 25). FLD states that it includes terms which pose a "threat" to the work of human rights defenders and imposes conditions such as reports of activities being sent to the Ministry of Human Rights (n.d.b).

The ICNL states that in May 2018, three bills which present a "threat to civic space" were drafted and those include the following: a human rights defenders bill which requires human rights defenders or individuals working on human rights to register with authorities; an NGO bill "similar to other restrictive NGO bills around the world," and "a counterterrorism financing bill that also targets civil society," but as of December 2022 there were no recent developments on the bills (2022-12-23). Further information on the content of these laws could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Note

[1] According to Amnesty International,

In the DRC, "dead cities" are a kind of civil disobedience consisting of the general blockade of the city, town or village (with the closure of schools

and markets, the cessation of main commercial, social activities and public transport) to assert a claim or denunciation. (2022-05-10, 13)

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Oral sources: African Commission on Human and Peoples' Rights; Friends of the Congo; Global Alliance of National Human Rights Institutions; Health-Education-Community Action-Leadership (HEAL) Africa; professor of political science at an American university whose research focuses on the DRC; researcher who focuses on environmental policy and conflict in the DRC; social scientist whose research focuses on power and resistance of land grabbing for natural resources, including in the DRC; UN – Office of the High Commissioner for Human Rights; La Voix des sans voix.

Internet sites, including: Addis Ababa University – Institute for Peace and Security Studies; Africa Center for Strategic Studies; African Commission on Human and Peoples' Rights; African Court on Human and Peoples' Rights; Anadolu Agency; Australia – Department of Foreign Affairs and Trade; Austrian Red Cross – eoi.net; Belgium – Commissariat général aux réfugiés et aux apatrides; CNBC Africa; Denmark – Danish Immigration Service; EU – EU Agency for Asylum; Freedom from Torture; Global Alliance of National Human Rights Institutions; Global Centre for the Responsibility to Protect; *The Guardian*; mediacongo.net; The New Humanitarian; Physicians for Human Rights; Reuters; UK – Home Office; UN – Human Rights Council, Office of the High Commissioner for Human

Rights, ReliefWeb, Security Council, UNHCR, World Food Programme; La Voix de l'UCG.

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