Women, Peace and Security in DRC

Individual Report submitted to the 33rd Session of the Working Group on the Universal Periodic Review

October 2018
This report was prepared by the section of the Women’s International League for Peace and Freedom in the Democratic Republic of the Congo (WILPF DRC). It was submitted to the Working Group on the Universal Periodic Review in October 2018 ahead of the actual review of the Democratic Republic of the Congo (DRC), which will take place in May 2019.

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FOR A PEACE BUILT BY WOMEN, FOR WOMEN AND FOR ALL.

WILPF DRC
I. Introduction

Since its establishment in December 2007, WILPF DRC has focused its actions on the implementation of the Women, Peace and Security (WPS) Agenda in the Democratic Republic of the Congo (DRC). In this regard, WILPF DRC conducts advocacy and awareness-raising initiatives relating to this issue, in particular on the implementation of United Nations Security Council Resolution (UNSCR) 1325 and of subsequent resolutions. WILPF DRC also works to ensure the implementation of instruments to combat illegal arms flows and arms proliferation, promote women’s empowerment and participation in political and public life, and fight against all forms of discrimination against women.

In the previous cycles of the Universal Periodic Review (UPR) of the DRC, more than a hundred recommendations on women’s rights have been accepted by the DRC, through which, the State committed to ensuring the protection of women from rights violations and from all forms of discrimination. In this report, WILPF DRC provides information regarding the implementation of some of these recommendations and suggests new recommendations on remaining concerns regarding women’s rights.

Such recommendations deal with (I) gender-based violence, in particular domestic violence, (II) women’s participation in public and political life, (III) the situation of women working in artisanal mining, and finally (IV) arms control.

This report was developed on the basis of information collected through interviews and questionnaires submitted to institutions and other State services in charge of implementing, respecting and protecting human rights. It was also developed based on consultations with specialised civil society organisations and on desk research.
II. Domestic Violence

In its General Recommendation 19, the Committee on Elimination of Discrimination against Women (“the Committee”) has noted that domestic violence is one of the most insidious forms of violence against women and that it impairs their ability to participate in public life on a basis of equality. In addition, the UN Special Rapporteur on violence against women emphasised in the 2008 report during her country visit to the DRC that, “If the sexual violence associated with war is addressed in isolation, gender-based discrimination and violence endured by women in “peace” will be grossly neglected and the war on women reinforced.”

In the previous UPR cycles, the DRC has accepted many recommendations aimed at preventing and punishing all forms of discrimination and violence against women, including sexual violence and domestic violence. In 2013, the Committee expressed its deep concern about domestic violence and the inadequacy of legal provisions prohibiting it, especially in relation to marital rape, as well as the lack of shelters for victims. The Committee recommended that the DRC ensure that domestic violence, including marital rape, is explicitly prohibited and that appropriate sanctions be applied. In 2017, the Human Rights Committee also recommended that the DRC enact legislation that duly protects women from domestic violence, inter alia, by criminalising domestic violence and marital rape. The Committee also recommended that the DRC carry out nationwide awareness-raising initiatives and training activities for State officials.

The current legal framework still does not help to prevent or combat domestic violence. Indeed, domestic violence is not yet specifically criminalised as it falls under the Penal Code’s general provisions, being assimilated with either assault and battery or rape. Furthermore, domestic violence is not covered by Law 06/018 of 20 July 2006 that amended and supplemented the Decree of 30 January 1940 on the Congolese Penal Code, nor by Law 06/019 of 20 July 2006 amending and supplementing the Decree of 6 August 1959 on the Code of Criminal Procedure, which had strengthened the punishment of sexual violence.


In addition, the national strategy against gender-based violence mentions domestic violence, but does not foresee any measures in this regard.⁶

Yet, a survey conducted by the DRC government in 2014 presents a disturbing picture: from the age of 15, 52% of women have experienced physical abuse; in 67.9% of cases, their husband/partner is cited as the perpetrator. Moreover, 53% of women in a relationship and who had been in one, experienced domestic, physical and/or sexual violence, and 75% of women find it justified.⁷ The proportion of women who did not seek for help and/or spoke to no one about their case is higher among women in a relationship than among other women.⁸ It is difficult for a woman who was beaten by her husband/partner to complain without fear of reprisal, since this form of violence is not perceived as such by society.

Furthermore, the State does not have specific mechanisms to protect survivors of domestic violence who may face the same obstacles as survivors of sexual violence in their search for justice, including the absence of specific units working on this issue in the judicial system and the lack of measures tailored to attend their specific needs.⁹ For example, judges have been reluctant to take basic measures to protect victims, such as removing the names of victims of sexual violence from depositions or not reading out their names during court hearings.¹⁰

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⁶ République Démocratique du Congo, Ministère du genre, de la famille et de l’enfant, Stratégie nationale de lutte contre les violences basées sur le genre (SNVBO), Kinshasa, November 2009, only available in French at: https://monusco.unmissions.org/sites/default/files/old_dnn/PlanNational.pdf


⁹ Office of the High Commissioner for Human Rights, Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo, 2014, p. 23, para. 54. available at: https://www.ohchr.org/Documents/Countries/CD/UNJHROApr2014_en.doc. There is no legal provision criminalizing intimidation and threats against victims. Congolese law only stipulates that judges have wide discretionary power to take action to protect victims and witnesses in sexual violence cases. Article 74 bis of the Sexual Violence law of 2006 requires judges to take all necessary measures to ensure the safety, physical and mental well-being, as well as the privacy and dignity of victims or any other persons involved in the trial.

¹⁰ Ibid., p. 23
RECOMMENDATIONS

• Amend the Penal Code by expressly criminalising domestic violence;

• Complete the review of the national strategy to combat gender-based violence by defining specific actions on domestic violence, including by raising public awareness and training competent police and judicial authorities, and by allocating the resources required for its implementation;

• Ensure free judicial procedures and take safety measures for survivors of domestic violence, including the establishment of shelters by 2020;

• Lead activities aimed at raising public awareness on domestic violence, particularly among boys and men, in order to challenge the normalisation of domestic violence and to have it recognised as a form of unacceptable gender-based violence by 2020;

• Enhance capacity building in fighting and suppressing domestic violence among Special Police Units for the Protection of Women and Children currently operating in the Eastern part of the country, and deploy these units across the national territory.
III. Women in Artisanal Mining

In the previous UPR cycles, Australia made two recommendations regarding mining and the management of natural resources, which were accepted by the DRC.\textsuperscript{11} In 2013, the CEDAW Committee recommended that the DRC protect women and girls working in the mining sector.\textsuperscript{12} The legal framework for labour protection in the mining sector has undergone major changes since the review of the Mining Code through Law No. 18/001 of 9 March 2018.\textsuperscript{13} In particular, Article 5 of this Code prohibits pregnant women from working in artisanal mines, and Article 28 prohibits the sale or exploitation of mining products from a site where a violation of human rights, including women’s rights, has been identified by a competent authority.\textsuperscript{14} Nevertheless, women’s working conditions in artisanal mines, which are still largely beyond the control of the State, remain a matter of serious concern.\textsuperscript{15}

According to a recent study, women constitute about 40% of workers in artisanal mining sites.\textsuperscript{16} They play a significant role in artisanal mining, being involved in different parts of the process, such as washing, grinding and sieving, as well as working in the trade of goods and services, such as selling food to miners. They may also be forced into prostitution.\textsuperscript{17} They depend on income generated from this informal mining economy to support their households. However, the participation of women in the artisanal sector as well as the gendered impacts of artisanal mining are not adequately taken into account by the regulatory measures of this sector, particularly regarding the need to reduce inequalities and discriminations faced by women. This contradicts the law on the implementation of women’s rights and equality, in particular Articles 7, 8 and 9 that guarantee women’s participation in the economic sphere.


\textsuperscript{12} Concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo, 30 July 2013, para. 30.a, CEDAW/C/COD/CO/6-7, available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCOD%2fCO%2f6-7&Lang=en

\textsuperscript{13} Available only in French at: https://www.leganet.cd/Legislation/Droit%20economique/Code%20Minier/Loi.18.001.09.03.2018.html


\textsuperscript{16} Groupe de la Banque Mondiale, Rapport de suivi de la situation économique et financière 2015, 3ème édition, RDC, septembre 2015.

A study carried out by WILPF DRC in 2016 in artisanal mines in Haut Katanga highlighted, among other things, that:

• Poverty and unemployment lead women to work in artisanal mines;
• If other lucrative means of livelihood arose, women would leave artisanal mines;
• Due to discriminatory traditional beliefs, women are relegated to subordinate tasks, which are particularly toxic, including pounding, sorting and sifting minerals and wastes;
• Many women experience multiple forms of gender-based violence and sexual violence, including rape, forced marriage, forced prostitution. Furthermore, women are more vulnerable to HIV and early pregnancies are also prevalent.

RECOMMENDATIONS

• Establish an interministerial body to design a national strategy for the protection and safety of women who work in artisanal mines, while ensuring the participation of women’s civil society organisations in its development, by 2020;
• Enhance the knowledge of women who work in artisanal mines about their rights, particularly with regard to the new Mining Code, and on modalities for the establishment of cooperatives, in order to improve the working conditions of women working in artisanal mines and ensure their equal access to economic resources, in compliance with the Sustainable Development Goal 5;
• Identify all areas of undistributed artisanal mining operations to formalise these operations in compliance with the new Mining Code, and reallocate a quota of mining cooperatives to women in order to increase their access to mining economic resources;
• Facilitate women’s access to microcredit, enabling those working in artisanal mines to develop alternative livelihood activities to their mining labour;
• Ensure access to schooling and training for children of miners in order to break the vicious cycle of poverty.

IV. Women’s Participation in Political and Public Life

Since the previous UPR cycle, progress has been made in legal terms, particularly with regard to Law of 1 August 2015 that establishes measures for the implementation of women’s rights and gender parity, and which aims to guarantee equal representation in national, provincial and local institutions. The Law of 15 July 2016 that amended the Family Code abolished the need for a wife to obtain her husband’s consent for any legal act, and introduced the principle of spouses’ joint household management. Lastly, the Act of 15 July 2016, on the status of civil servants, abolished marital consent as a condition for the recruitment of a married woman in public administration.

Despite such developments and notwithstanding Article 14 of the Constitution, which establishes the principle of gender equality, to date, women’s participation in political and public life remains extremely low: 10% in the Central Government, 10.4% in the National Assembly, 5% in the Senate, 9% of provincial deputies and only one female governor out of 26 provinces. In addition, provisional electoral lists for the upcoming provincial and legislative elections show only 12% of female candidates. This situation is reinforced by the lack of State incentives to include more women in decision-making positions and electoral lists, despite Article 13 of the electoral law promoting women’s candidacies. No incentives have yet been put in place to support women’s participation in the government and public administration in accordance with the constitutional principle of gender parity.

19 Loi n° 15/013 du 1er août 2015 portant modalités d’application des droits de la femme et de la parité, available only in French at: https://leganet.cd/Legislation/Droit%20Public/DH/Loi.15.013.01.08.html. These provisions apply to political, administrative, economic, social, cultural, judicial and security areas (articles 1 and 2).

20 Loi modifiant et complétant la loi n°87-010 du 1er août 1987 portant Code de la Famille, available only in French at: https://www.leganet.cd/Legislation/Code%20de%20la%20famille/Loi.15.07.2016.html

21 Loi n° 16/013 du 15 juillet 2016 portant statut des agents de carrière des services publics de l’Etat, available only in French at: https://www.leganet.cd/Legislation/JO/2016/JOS.03.08.2016.pdf


RECOMMENDATIONS

• In accordance with Law 15/013 of 1 August 2015, on the implementation of women’s rights and gender parity, establish by 2019 and with adequate resources, the Interministerial Committee and the National Council on Gender and Parity;

• Finalise the National Strategy for women’s political participation by 2020;

• Effectively implement Article 3, Paragraph 5 of Act 08/005 of 10 June 2008 on the funding of political parties in which political parties are requested to consider gender parity in establishing electoral lists and ensure that women are significantly represented in high-level decision-making positions.

• Take affirmative discrimination measures by establishing training programs intended for women working in public administration by 2020, to increase their access to decision-making positions.
V. Arms Control

No recommendations relating to the issue of arms control was made in the previous UPR cycles. Yet, the illicit transfer, accumulation and diversion of small arms and light weapons (SALWs) remains of serious concern and is one of the main factors of armed conflict. Particularly since 2012, WILPF DRC has raised concerns about the impact of SALW proliferation on the safety of women and on their ability to participate in conflict resolution, peace building, elections and the national reconstruction process. The Committee has recognised the impact of SALWs on women’s safety in the DRC and recommended in 2013 that the country ensure the effective regulation of the arms trade, the control of illicit small arms flows, and ratify the Arms Trade Treaty (ATT).

According to the report submitted by the UN Security Council Group of Experts on the DRC in May 2018, several countries have delivered arms and related materials to the DRC in 2017, violating the arms embargo. Stocks of the Armed Forces of the DRC (FARDC) are also the main source of arms and ammunition for armed groups, obtained either during attacks by armed groups on these stocks or through resale by FARDC officers.

The National Plan on SALWs 2012-2016 noted that SALWs are connected with various types of violence, the main one being rape, followed closely by domestic violence. The March 2018 UN Secretary General’s Annual Report on Conflict-Related Sexual Violence also noted that “the rise or resurgence of conflict and violent extremism, with the ensuing proliferation of arms, mass displacement and collapse of the rule of law, triggers patterns of sexual violence.”

Since the previous review, WILPF DRC has noted some progress in the disarmament of armed groups by FARDC with the support of MONUSCO. Indeed, between 2015 and 2016, MONUSCO’s support for phase III of the National disarmament, demobilisation and reintegration programme has facilitated the demobilisation of 5583 ex-combatants from Congolese armed groups.

The adoption of the new National Action Plan on the Control of Small Arms and Light Weapons in March 2018

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is also a significant step forward.\textsuperscript{31} However, the national normative framework remains inadequate. Indeed, the Law on the prevention, control and reduction of SALWs and their ammunition, adopted by the Senate on 3 December 2013, has not yet been promulgated by the President of the Republic.\textsuperscript{32}

Pending that promulgation, the current legislation on weapons remains the Ordinance-Law 85-035 of 3 September 1985 governing arms and ammunition, supplemented by Ordinance 85-212 of 3 September 1985 about implementing measures.\textsuperscript{33} However, this legislation is only partially implemented and is obsolete, since it is no longer in line with international commitments made in recent years by the DRC, including the Kinshasa Convention on SALWs signed by the DRC in 2010.\textsuperscript{34} This law had been drafted in an era of relative safety, quite different from the current context where, mainly in the Eastern part of the country, possession and trafficking of weapons of war is proliferating. In addition, the main weakness of this law relates to the vagueness or the lack of definitions of key terms such as “small arms”, “light weapons” “weapons of war”, “ammunition”, “brokering”, “tracing” that are essential for the effective regulation of SALWs. Furthermore, the Arms Trade Treaty, which is pivotal for controlling the illicit proliferation of weapons in the DRC, has still not been ratified, as recognised in the DRC periodic report.\textsuperscript{35}

Finally, although women are the main victims of SALWs, particularly as a result of sexual violence generated by these weapons, they remain excluded from decision-making processes for developing measures to prevent and eliminate the illicit trade of SALWs. Therefore, the DRC should take measures to promote women’s participation and effective representation in decision-making, planning and implementation related to the control of SALWs.

\textsuperscript{31} http://cd.one.un.org/content/unct/rdc/fr/home/actualites/elaboration-d_un-nouveau-plan-daction-national-pour-la-gestion-e.html

\textsuperscript{32} Voir rapport du GRIP, Armes artisanales en RDC : enquête au Bandundu et au Maniema, Georges Berghezan, 2015, p.11. Available only in French.


\textsuperscript{34} The Democratic Republic of the Congo has signed the Kinshasa Convention on 19 November 2010 but still has not ratified it: https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=xxvi-7&chapter=26&lang=fr

RECOMMENDATIONS

• Ratify the Arms Trade Treaty and the Kinshasa Convention on arms control by 2020;

• Launch immediate legal proceedings against any person who possesses, distributes or engages in illicit sales of weapons in order to put an end to impunity;

• By 2019, enact the law on the prevention, control and reduction of small arms and light weapons and their ammunition, which has been pending since 2013;

• Arrange for the safe and effective management, storage and security of stockpiles of weapons and ammunition, with the support of MONUSCO, to address the threat posed by the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons; 36

• Involve civil society in the development and implementation of disarmament and arms control programmes, including women’s organisations, to ensure the collection of accurate information and an implementation of disarmament programmes that is gender-sensitive and tailored to the local context. 37

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WILPF DRC was founded in 2007 and officially became a WILPF section in August 2011. The section has quickly grown and has developed close working relationships with national and international organisations. WILPF DRC’s main objectives are to work towards the elimination of gender-based discrimination and to participate to the consolidation of peace in the country.

The Section works in several parts of the DRC mainly in relation to the implementation of the United Nations Security Council Resolution (UNSCR) 1325. WILPF DRC notably gives awareness-raising and training workshops on the Women, Peace and Security Agenda. WILPF DRC also played an important role in consolidating WILPF’s network in the African region notably by supporting the creation of other sections, such as WILPF Cameroon and WILPF Uganda.
The Women’s International League for Peace and Freedom (WILPF) is a worldwide non-governmental organisation with national sections covering every continent, an international Secretariat based in Geneva, and an office in New York focused on the work of the United Nations.

Since our establishment, we have brought together women from around the world who are united in working for peace. Our approach is always nonviolent, and we use existing international legal and political frameworks to achieve fundamental change in the way states conceptualise and address issues of gender, militarism, peace and security.