WOMEN'S INTERNATIONAL LEAGUE FOR
PEACE & FREEDOM
DEMOCRATIC REPUBLIC OF THE CONGO

Democratic Republic of the Congo

SUBMISSION TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

73RD SESSION, 1-19 JULY 2019

CEDAW

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I. INTRODUCTION

1. This report was prepared by the Women's International League for Peace and Freedom's section in the Democratic Republic of the Congo (WILPF DRC) with the support of WILPF International Secretariat.

2. 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 actions relating to this issue, in particular in relation to the implementation of the United Nations Security Council Resolution (UNSCR) 1325 and related resolutions.[1] WILPF DRC also works to ensure the implementation of instruments to combat the proliferation and illegal flows of arms, women's empowerment and participation in political and public life, and fight against all forms of discrimination against women.

3. WILPF DRC has submitted a report to the Working Group for the List of Issues in 2019 and has also conducted advocacy for the Universal Periodic Review (UPR). The report submitted to the UPR Working Group is available on wilpf.org.

II. WOMEN'S RIGHT TO PARTICIPATION

A. Political and Public Life

4. In 2013, the Committee on the Elimination of all forms of Discrimination against Women (the "CEDAW Committee") recommended the DRC to make gender equality effective, including through the adoption of temporary special measures.[2] The DRC also received many recommendations to increase women's participation in political and public life during its last Universal Periodic Review in May 2019.[3]

5. The State report mentions among the measures taken to this end, law n°08/005 of June 2008 on the financing of the political parties and article 3 subparagraph 5 of law n°15/013 of 1 August 2015 on the modalities of implementation of women's rights and gender equality (the "gender parity law").[4] Despite these changes in the normative framework, women's participation in public

1 The United Nations Security Council Resolutions: 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013) and 2122 (2013).

2 CEDAW, Concluding Observations of the Committee on the Combined 6th and 7th Periodic Report of the Democratic Republic of the Congo, 30 July 2013, para. 26a, CEDAW/C/COD/CO/6-7, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCOD%2fCO%2f6-7&Lang=en

3 See, for instance, Recommendations 6.126 (Albania), 6.217 (Algeria), 6.219 (Bulgaria), 6.220 (Costa Rica), 6.221 (Djibouti), 6.222 (Egypt), 6.223 (Ethiopia), 6.224 (France), 6.225 (Gabon) , 6.226 (Haiti), 6.228 (Germany), 6.229 (Myanmar), 6.230 (Namibia), 6.231 (Serbia), 6.232 (Uganda), A/HRC/WG.6/33/L.2, 9 May 2019.

4 CEDAW, 8th periodic report submitted by the Democratic Republic of the Congo pursuant to article 18 of the Convention, CEDAW/C/COD/8, para. 15.

and political life remains extremely low, particularly regarding the number of women candidates.[5] Apart from an increase in the number of women in the Senate from 5 to 19 women[6], there is indeed only:

- 10.3% of women in the National Assembly[7]
- 10% of women elected at the provincial level[8]
- No female governor out of the 26 provinces[9]
- 13.7% of Public Administration Secretaries General are women[10]
- 7% of presidents of political parties are women[11]
- 8.1% of heads of Boards of Directors of public companies are women.[12]

6. Indigenous women are not represented in the government at the national, provincial, or national and provincial legislature levels; the same is true of women living with disabilities.[13]

7. This situation remains worrying, in particular because of the following obstacles:

- Article 3 (5) of the Law on the Financing of Political Parties, which conditions the access to public funding for parties that apply gender parity in drawing up their electoral list, has never been implemented, neither in the legislative elections of 2011, nor in the recent 2018 elections;[14]
- Article 13 (2) of the Electoral Law, which states that electoral lists are drawn up taking into account gender parity, is not implemented since no sanction is provided in case of non-compliance with this provision;[15]
- Article 31 of the Gender Parity Law provides that the Prime Minister must create by decree the implementing structures of the law on gender parity (the Inter-ministerial Committee and

5 This shortcoming has been recognised by the DRC in its report to the Universal Periodic Review. See Human Rights Council, Working Group on the Universal Periodic Review 33rd session, 6-17 May 2019, submitted National Report pursuant to paragraph 5 of the annex to Human Rights Council resolution 16/21 Democratic Republic of the Congo, point K, para. 61, available at https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/055/14/PDF/G1905514.pdf?OpenElement

6 See https://data.ipu.org/node/47/data-on-women?chamber_id=13568

7 See https://actualite.cd/2019/04/01/rdc-50-femmes-103-siegent-lassemblee-nationale (French only).

8 See https://deboutcongolaises.org/moins-de-10-de-femmes-candidates-aux-elections-provinciales/ (French only).

9 See https://deboutcongolaises.org/elections-gouverneurs-7-gouverneure-0/ (French only).

10 Gender Thematic Bulletin No. 3, Female Leadership, Ministry of Gender, Child and Family, 2017, Table 3: Proportion of Women Secretaries General of Public Administration and Public Agents.

11 Idem.

12 Idem.

13 Alternative Report to the Periodic Report of the Democratic Republic of the Congo to the Committee on the Elimination of Discrimination against Women, para. 56, available at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/COD/INT_CEDAW_NGO_COD_13303_E.pdf

14 See http://www.leganet.cd/Legislation/Droit%20Public/Divers/L.08.005.10.06.2008.htm (French only).

15 See https://www.ceni.cd/assets/bundles/documents/La%20loi%20%C3%A9lectorale%20du%2024%2d%C3%A9cembre%2020170002.pdf: Article 13 para. 4.

the National Council of Gender and Parity). This has still not been done four years after the promulgation of this law;

- Article 32 of the Gender Parity Act, which requires the annual publication by national, provincial and local institutions, as well as by public institutions and services, of measures taken for the implementation of gender equality is not applied;
- The government indicates that it has conducted awareness-raising sessions with institutions regarding incentives to promote gender equality.[16] However, no measure providing such incentives has been adopted. In addition, a decision of the Constitutional Court of 24 January 2014 ruling on the constitutionality of quotas to improve women's access to civil service and which were included in the law of 1 August 2015 on parity, concluded that quotas were contrary to the principle of equality before the law (article 12 of the Constitution) and to the principle of the elimination of all forms of discrimination, particularly with regard to access to public functions (article 13 of the Constitution). This constitutes a major obstacle to the adoption of any temporary special measures;[17]
- Finally, the national strategy for the political participation of women is still not finalised.

RECOMMENDATIONS

- In accordance with Law No. 15/013 of 1 August 2015 on Women's rights and Parity, create without delay and with adequate resources the Inter-ministerial Committee and the National Council of Gender and Parity;
- Effectively implement Article 3 paragraph 5 of Law No. 08/005 of 10 June 2008 on the financing of political parties, which grants access to public funding only to parties that apply gender parity in the establishment of their electoral lists and in which women are significantly represented in decision-making positions and in elected positions;
- Impose sanctions in case of violation of Article 13 paragraph 2 of the electoral law n°11/003 of 25 June 2011, which states that electoral lists are established taking into account gender parity, to ensure its effective implementation;
- Take temporary special measures to ensure the representation of at least 30% of women in the government at national and provincial levels, and in the nomination, recruitment and assignment of public administration officials and of the judiciary;
- Take concrete steps to identify barriers to participation in public and political life of women belonging to marginalised groups such as, indigenous women, women with disabilities, rural women, women from ethnic, cultural or religious minority groups, and take steps to ensure their participation and involvement in all decision-making processes and positions;[18]

16 CEDAW, 8th periodic report submitted by the Democratic Republic of the Congo pursuant to article 18 of the Convention, CEDAW/C/COD/8, para.19.

17 See http://riensanslesfemmes.org/wp-content/uploads/2016/10/ANALYSE-CRITIQUE-DE-LA-LOI-PORTANT-MISE-EN-%C5%92UVRE-DE-LA-PARITE-Version-pr%C3%A9sentation1.pdf (French only).

18 The 2011 UN General Assembly resolution on women's participation in politics (A/RES/66/130) stresses the importance of women's contribution in any context.

- Finalise the national strategy for women's political participation and allocate sufficient financial resources to the Ministry of Gender, Women and Family for its implementation.

B. Implementation of the Women, Peace and Security Agenda

8. In 2010, the DRC adopted its first National Action Plan (NAP) to implement UNSC Resolution 1325. Despite this, women's participation in peace negotiations remains weak. Indeed, between 2013 and 2018, the DRC organised five dialogues. The participation rate of women in the Framework Agreement for Peace, Security and Cooperation for the DRC and the region adopted in 2013 was of 6.2%.[19] The highest participation rate of women (18%) was achieved during the October 2016 negotiations at the African Union city in Kinshasa in order to define an electoral calendar.[20] However, women accounted for only 9.4% of negotiators in the New Year's Eve Agreement of 31 December 2016, which defined steps for the electoral process.

9. The low rate of women's participation in these negotiations has several causes: cultural factors, the low level of knowledge of UN Resolution 1325 and of the NAP 1325 by various actors, as well as the low budget allocated to the Ministry of Gender.[21] The DRC must step up its efforts to effectively implement its second National Action Plan 1325 adopted since September 2018. This concern was also expressed in several recommendations addressed to the DRC in the last UPR.[22]

RECOMMENDATIONS

- Effectively implement resolution 1325 by increasing women's and young women's participation rate to at least 30% in local, provincial, national, regional and international institutions and mechanisms for conflict prevention, management and resolution, as well as in the security sector;
- Allocate the necessary human, financial and technical resources for the effective implementation and monitoring and evaluation of the NAP 1325 (2019-2022).

19 National Action Plan for the Implementation of United Nations Security Council Resolution 1325 on Women, Peace and Security, 2nd Generation, 2019 -2022, p. 15, available at: https://www.peacewomen.org/sites/default/files/PAN%20 1325%20II%20VALIDE%20VERSION%20FINALE.pdf

20 Idem.

21 The budget allocated to the gender sector is insufficient. In 2015, it was 0.07% and in 2016, 0.08%. It decreased by 0.02% in 2018 (see Financial Law).

22 See, for example, Recommendations 6.61 (Norway) 6.186 (Spain), 6.230 (Namibia), A/HRC/WG.6/33/L.2, 9 May 2019.

III. DISCRIMINATION AT WORK

10. In its report, the government quotes among advances art. 21 of the law of 1 August 2015 on gender parity, which prohibits discrimination in hiring, assignment of duties, conditions of work, pay and other benefits, promotion and termination of employment. Law No. 16/013 of 15 July 2016 on the status of public service agents also removed the obligation to get marital authorisation for the recruitment of women. However, women working in public administration continue to face discrimination.

11. Indeed, Law No. 16/013 of 15 July 2016 on the status of public service career agents recognises as social benefits recipients "the public official, his spouse and his children".[23] However, female public servants who are married do not receive these benefits in practice. Indeed, women civil servants have testified to WILPF DRC not being able to make their family benefit from the social advantages attached to their status. They are confronted with the discriminatory argument that only their husband who is the head of the household, particularly under Article 444 of the Family Code,[24] is entitled to extend social benefits related to his work status to the family.

RECOMMENDATIONS

- Produce statistics on the number of women civil servants who receive social benefits related to their status and who can make their spouses and children benefit from such social coverage, in accordance with Law No. 16/013 of 15 July 2016 on the status of public services agents;
- Take all necessary measures to ensure awareness in public administration of provisions of the Convention and take sanctions in the event of discrimination, in order to ensure the equal and practical enjoyment of the benefits conferred to women civil servants, as well as to their spouses and children, in accordance with Law No. 16/013 of 15 July 2016 on the status of public services agents.

IV. DOMESTIC VIOLENCE

12. In 2013, the CEDAW Committee had expressed serious concerns about domestic violence and the lack of legal provisions prohibiting it, including marital rape, as well as the lack of reception facilities for victims. The Committee recommended that the DRC prohibit domestic violence,

23 Article 52: "The following shall be taken into account for the granting of family allowances: 1. the spouse; 2. the children of the agent; 3. adoptive children; 4. children for whom the agent is a food debtor; 5. the children whose agent obtained custody following a divorce; 6. children under guardianship. For the granting of family allowances, the link of the children mentioned in points 3 to 6 of the preceding paragraph with the agent is established by an irrevocable judgment ". Article 55: "The agent shall be entitled to medical, health, surgical, obstetrical, dental, ophthalmological and hospital expenses, as well as medicines, medical glasses, orthopedic and prosthetic appliances, dental prostheses, which are required by his state of health, that of his spouse and that of the children involved in the granting of family allowances."

24 Art. 444: "The husband is the head of the household. The spouses owe each other mutual protection." Family Code, available at: https://www.leganet.cd/Legislation/Family%20Code/Law.15.07.2016.html (French only).

including marital rape with appropriate sanctions.[25] In 2017, the Human Rights Committee also recommended that the DRC adopt legislation offering appropriate protection against domestic violence, including by criminalising domestic violence and marital rape.[26] The DRC also received recommendations from the UPR on this subject, including during its last review in May 2019.[27]

13. To date, there is no specific legal framework on domestic violence. As indicated by the Government in its report, this type of violence falls under the ordinary provisions of the Penal Code, being assimilated either to assault or rape. Domestic violence is not included in the law of 20 July 2006, which strengthened the repression of sexual violence.[28] In addition, the national strategy to combat gender-based violence mentions domestic violence, but does not foresee any measures in this regard.[29]

14. However, a 2014 survey conducted by the government presents a worrying picture: since the age of 15, 52% of women have suffered physical violence and the husband/partner is cited as the perpetrator of this violence in 67.9% of cases. 53% of married women or who have been married have suffered acts of domestic, physical and / or sexual violence, and 75% of women find them justified.[30]

15. In addition, the State does not have specific mechanisms for the protection of survivors of domestic violence and these may face the obstacles already faced by survivors of sexual violence in their search for justice, including the absence of specialised courts working on this type of violence and of measures adapted to their specific needs. A judge interviewed by WILPF DRC said that many women complain of domestic violence, but they are forced to withdraw their complaints under the threat of reprisals from their families. This was also emphasised by the Minister of Human Rights at the latest UPR review of the DRC.[31] These undisclosed cases of violence lead in some cases to femicides, for which investigations rarely succeed.

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25 Concluding Observations of the CEDAW Committee on the Combined 6th and 7th Periodic Report of the Democratic Republic of the Congo, 30 July 2013, para. 22 CEDAW/C/COD/CO/6-7.

26 Concluding Observations on the 4th Periodic Report of the Democratic Republic of the Congo, Human Rights Committee, 30 November 2017, para. 18, CCPR/C/COD/CO/4.

27 Report of the Working Group on the Universal Periodic Review, Democratic Republic of the Congo, A / HRC / 27/5, 7 July 2014, Recommendations 133.11 (Philippines), 133.17 (Lithuania), 134.21 (Netherlands), 134.57 (Namibia), 134.61 (Sudan), 134.63 (Togo), 134.70 (Costa Rica); Report of the Working Group on the Universal Periodic Review, Democratic Republic of the Congo, A / HRC / 13/8, 4 January 2010, recommendations 35 (Germany), 37 (South Africa), 40 (Austria), 41 (Argentina)), 42 (Burkina Faso), 81 (Angola); Recommendations 6.209 (Australia), 6. 211 (Georgia), 6.212 (Italy), 6.213 (Netherlands), 6.214 (Tunisia), A/HRC/WG.6/33/L.2, 9 May 2019.

28 CEDAW, 8th periodic report submitted by the Democratic Republic of the Congo pursuant to article 18 of the Convention, expected in 2017, 1 June 2018, CEDAW/C/COD/8, para. 81.

29 Democratic Republic of the Congo, Ministry of Gender, Family and Children, National Strategy to Combat Gender-Based Violence (SNVBG), Kinshasa, November 2009, available in French at: https://monusco.unmissions.org/sites/default/files/old_dnn/PlanNational.pdf

30 Ministry of Planning and Follow-up of the Implementation of the Modernity Revolution (MPSMRM), Ministry of Public Health (MSP) and ICF International, 2014. Demographic and Health Survey in the Democratic Republic of the Congo 2013-2014. Rockville, Maryland, USA: MPSMRM, MSP and ICF International, p. 317. Available in French at: https://dhsprogram.com/pubs/pdf/FR300/EN300.pdf

31 Video review of the Democratic Republic of the Congo - 33rd session of the Universal Periodic Review, see passage from 1:26 to 1:30, available at: http://webtv.un.org/meetings-events/watch/democratic-republic-of-congo-review-33rd-session-of-universal-periodic-review/6033768681001/?term=#player

RECOMMENDATIONS

- Produce statistics on the number of complaints filed and of prosecutions initiated for domestic violence cases on the basis of the provisions of the Penal Code and of the Law on the Suppression of sexual violence (Law No. 06/018 of 20 July 2006), as well as statistics on the extent of domestic violence in the country following-up on the 2014 survey;
- Revise the penal code by expressly criminalising domestic violence;
- Finalise the revision of the national strategy to combat gender-based violence by defining specific actions on domestic violence, including public awareness and training of the relevant police and judicial authorities, as well as the provision of social and psychological support and rehabilitation services for survivors by allocating substantial resources for its implementation;
- Ensure free legal proceedings for survivors of domestic violence and take measures to secure survivors, including the adoption of protection orders against their husbands and families and the creation of shelters;
- Conduct public awareness campaigns on domestic violence, particularly involving boys and men, in order to put an end to the normalisation of this phenomenon so that domestic violence is recognised as an unacceptable form of gender-based violence;
- Strengthen the capacity to fight and repress domestic violence of the Special Police units for the protection of women and children, which already exist in the eastern part of the country and disseminate these units throughout the country.

V. IMPACT OF THE PROLIFERATION OF SMALL ARMS AND LIGHT WEAPONS ON GENDER-BASED VIOLENCE

16. 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 and of women's and girls' insecurity in the DRC. The Committee had recognised such impacts and recommended the DRC in 2013 to ensure the effective regulation of the arms trade, the control of illicit small arms flows and to ratify the Arms Trade Treaty (ATT).[32] The National Plan on SALWs 2012-2016 had also noted that SALWs cause various types of violence, the main one being rape, followed closely by domestic violence. The adoption of the new National Action Plan on the Control of Small Arms and Light Weapons since March 2018, as well as the announcement by the Government of the forthcoming deposit of the instruments of ratification of the Kinshasa Convention on SALW, constitute progress.[33]

32 EDAW, Concluding Observations on the Combined 6th and 7th Periodic Report of the Democratic Republic of the Congo, CEDAW/C/COD/CO/6, 30 July 2013, para. 10H, available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCOD%2fCO%2f6-7&Lang=en

33 http://cd.one.un.org/content/unct/rdc/fr/home/actualites/elaboration-d_un-nouveau-plan-daction-national-pour-la-gestion-e.html; https://www.radiookapi.net/2019/05/28/actualite/securite/unsac-la-rdc-invite-les-participants-examiner-les-moyens-de-lutter (French only).

17. However, according to the May 2018 report by the UN Security Council Group of Experts on the DRC, several countries have delivered arms and related materials to the DRC in 2017 in violation of the arms embargo.[34] 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.[35] The upsurge of illicit arms trafficking also concerns the civilian population, among which it is estimated that around 300,000 weapons are in circulation. The manufacture of artisanal arms has also been documented particularly in North Ubangi and Tshopo.[36]

18. The proliferation of weapons is fuelling the resurgence of violence, including sexual violence, massive population displacements and kidnappings by armed men. This is particularly the case in the territory of Masisi where Doctors Without Borders has documented 207 cases of rape for the first quarter of 2019.[37] Most victims, in 98% of cases, are women and in 75% of reports, assaults are committed by armed men, often in the fields, in the bush, on the road or at home.[38]

19. In view of these challenges, the control of the proliferation of SALW is most urgent. However, the applicable legal framework is inadequate. Indeed, the law on the prevention, control and reduction of SALW and their ammunition adopted by the Senate since 3 December 2013, has still not been promulgated by the President of the Republic. Meanwhile, the applicable law remains the ordinance-law no 85-035 of 3 September 1985 on the regime of arms and ammunition.[39] However, this legislation is partially implemented and obsolete, since it is no longer in line with the international commitments made in recent years by the DRC, including the Kinshasa Convention on SALW signed by the DRC in 2010, which is currently in the process of being ratified.[40] The National Action Plan 2018-2022 on SALW also recognised that it is a priority to harmonise the legal framework.[41] Furthermore, the Arms Trade Treaty, which is pivotal for the control of the illicit proliferation of weapons in the DRC, has still not been ratified.

20. Finally, although women are the main victims of SALWs, particularly as a result of sexual violence, 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.

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34 Mid-term report of the Group of Experts on the Democratic Republic of the Congo available at: https://www.undocs.org/en/S/2018/1133%20%20%20%20%20 , paras. 47, 48, 71-79

35 Final report of the Group of Experts on the Democratic Republic of the Congo, S/2018/531, para. 180, available at: https://reliefweb.int/sites/reliefweb.int/files/resources/N1812836.pdf

36 Ministry of Interior and Security, National Commission for the Control of Small Arms and Light Weapons and Reduction of Armed Violence "CNC - SALW", National Action Plan for the Control and Management of Small Arms and Light Weapons DRC, 2018-2022, para. 37.

37 See http://www.rfi.fr/afrique/20190427-rdc-masisi-insecurite-deplacements-viols-msf-denonce-benoit-vasseur (French only).

38 Idem.

39 Supplemented by Order No 85-212 of 3 September 1985 on implementing measures.

40 See: https://www.digitalcongo.net/article/5bf7e8b1f95d87000454b8ad/

41 Ministry of Interior and Security, National Commission for the Control of Small Arms and Light Weapons and Reduction of Armed Violence "CNC - SALW", National Action Plan for the Control and Management of Small Arms and Light Weapons RDC, 2018-2022.

RECOMMENDATIONS

- Ratify without delay and ensure the effective implementation of the Arms Trade Treaty in order to respond to the impact of international arms transfers on civilians and in particular on women;
- Promulgate by the end of 2019 the law on the prevention, control and reduction of small arms and light weapons and their ammunition pending since 2013 and ensure its compliance with the Kinshasa Convention, which is currently being ratified;
- Immediately initiate legal proceedings and sanctions against anyone involved in the illegal possession, distribution and sale of weapons in order to end impunity;
- Safely and effectively organise the management, marking, storage and security of stockpiles of weapons and ammunition, to counter the threat posed by the illicit transfer, destabilising accumulation and diversion of small arms and light weapons and make the necessary logistical and financial arrangements to accelerate the tracing of weapons and the disarmament of foreign and local armed groups;
- Involve women's organisations in the development and implementation of disarmament and arms control programs to ensure accurate information gathering and the implementation of gender-sensitive disarmament programs tailored to the local context;
- Investigate and prosecute direct and indirect perpetrators of conflict-related sexual violence and ensure holistic care of survivors, including through access to justice, access to care and access to income-generating activities and reintegration.

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The Women's International League for Peace and Freedom is an international NGO with national sections and local partners. Since our foundation in 1915, we have brought together women from around the world to work for peace.

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