

2023

# ENACTING LEGISLATION TO PROTECT

Democratic Republic of the  
Congo: Civil Society's Call for  
the Adoption and  
Implementation of the draft law  
on the protection and  
accountability of Human Rights  
Defenders

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# INTRODUCTION

**The aim of the PP-DDH project:** "Protection and Promotion of the Rights of Human Rights Defenders (HRDs) in the Democratic Republic of Congo" (hereinafter referred to as the PP-DDH project) aims to contribute to the promotion of human rights and the protection of HRDs and pro-democracy activists in the Democratic Republic of Congo (DRC). Starting in June 2022 and for a duration of 29 months, the programme seeks to support and protect HRDs by providing them with holistic assistance, and to enhance the operational capacity of civil society actors and local authorities in the field of human rights, while fostering spaces for dialogue and interactive exchanges.



# INTRODUCTION

**Agir ensemble pour les droits humains (Agir ensemble)** an international non-governmental organisation (NGO) based in France, is dedicated to defending and promoting human rights and fundamental freedoms. Agir ensemble's mission is to join forces with civil society actors engaged in the fight against human rights violations, and to support the emergence and strengthening of civil society organisations.



**Diakonia** is a Swedish NGO with expertise in the protection and capacity-building of HRDs, providing technical and organisational support to various civil society organisations, as well as HRDs and pro-democracy activists.



**Le Foyer de Développement pour l'Autopromotion des Personnes Indigentes et en Détresse (FDAPID)** is one of the organisations that make up the Synergie Ukingo Wetu (SUWE), a provincial protection mechanism initiated by human rights organisations in the North Kivu province of the DRC. FDAPID's aim is "to ensure that indigent and marginalised people enjoy all fundamental rights for their resilience, empowerment and well-being", and its mission is "to eradicate marginalisation, discrimination, injustice and enslavement of marginalised groups".



**SOS Information Juridique Multisectorielle (SOS IJM)** is a Congolese NGO that works to promote and defend human rights. It specialises in responding to requests for protection from human rights defenders and conducts advocacy activities at the provincial, national and international levels. It also works on civic and electoral education and access to justice.



**La Voix des Sans Voix pour les droits de l'Homme (VSV)** is a Congolese NGO with extensive experience in promoting and defending human rights. It contributes in strengthening the operational capacities of numerous civil society organisations (CSOs), and works to support victims of human rights violations.





# ABBREVIATIONS GUIDE



<b>ACHPR</b>	— African Commission on Human and People's Rights
<b>Agir ensemble</b>	— Agir ensemble pour les droits humains
<b>CNDH</b>	— National Human Rights Commission of the Democratic Republic of Congo
<b>CSO</b>	— Civil Society Organisation
<b>DRC</b>	— Democratic Republic of Congo
<b>FDAPID</b>	— Foyer de Développement pour l'Autopromotion des Personnes Indigentes et en Détresse
<b>HRD / Defenders</b>	— Human Rights Defenders
<b>ISHR</b>	— International Service for Human Rights
<b>MPs</b>	— Members of Parliament
<b>M23</b>	— 23 March Movement
<b>NGO</b>	— Non-Governmental Organisation
<b>PAL Committee</b>	— Political, Administrative and Legal Committee
<b>PP-DDH</b>	— Protection and promotion of the rights of human rights defenders in the Democratic Republic of Congo
<b>SOS IJM</b>	— SOS Information Juridique Multisectorielle
<b>SUWE</b>	— Synergie Ukingo Wetu
<b>UN</b>	— United Nations
<b>UNJHRO</b>	— United Nations Joint Human Rights Office
<b>UPR</b>	— Universal Periodic Review
<b>VSV</b>	— Voix des Sans Voix pour les Droits de l'Homme

# EXECUTIVE SUMMARY

Africa has the highest number of ongoing processes related to the adoption of laws for the protection of human rights defenders.

The DRC is thus part of a regional dynamic, even though it has not yet enacted a protective law. However, there are many challenges that make the promotion and defense of human rights a dangerous activity, and human rights defenders are subjected to numerous violations.

To address the absence of a national law and to motivate its adoption, three provinces have enacted protection edicts, which hold hope for the protection of HRDs.

However, the implementation of these edicts faces significant challenges and [a national protection law appears essential to protect HRDs throughout the territory and ensure enabling environment for their activities](#).

In 2017, coordinated advocacy efforts succeeded in putting a draft on the proposed law on the protection of HRDs on the parliamentary agenda. Despite being passed by the Senate, the draft law encountered divergences at the Joint Committee level of the two legislative chambers, which prevented its finalization.

In 2021, the DRC's National Human Rights Commission of the DRC (CNDH), civil society actors, the United Nations Joint Office for Human Rights (UNJHRO), international organisations working on this issue and certain embassies resumed their advocacy actions, [which were resulted in the adoption of the draft law by the members of the National Assembly on December 12th, 2022](#).

The draft law was subsequently sent to the Senate for a second review.

Congolese civil society played a prominent role, and was involved in various way, at every key stage of the process. During their mobilisation, the different actors were able to identify and share, within the framework of this report, their good practices that led to the success of these advocacy activities, which could be adapted to other contexts.

Some of these practices include :

- Mobilisation at different levels, particularly at the local level.
- Ongoing dialogue between state and non-state actors (Congolese civil society, MPs, media, NGOs, special mechanisms, authorities).
- Pooling resources for the adoption of advocacy tools (plan, arguments).

## Recommendations

The PP-DDH project consortium calls for :

- The Senate, to vote on the law while incorporating the considerations and recommendations of civil society regarding potential improvements to the text of the law, specifically by amending Article 7-3 concerning the requirements for the identification and registration of human rights defenders, ensuring that the definition of HRDs aligned with that of the United Nations.
- The President of the Republic, to promulgate the law and publish it in the Official Journal as soon as possible.
- The authorities of DRC, to establish an independent institution or designate the National Human Rights Commission as responsible for ensuring the implementation of the law and establishing a mechanism to prevent, protect and investigate all attacks and violations against HRDs.
- The authorities of DRC, to support local initiatives that promote interactive dialogues and facilitate closer collaboration between civil society actors, leaders and public and private stakeholders on the topic of HRDs protection.

# DISCLAIMER OF LIABILITY

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The data collected in questionnaires and/or expressed by the contributors during individual interviews, as well as external contributions, do not necessarily reflect the official position of the organisations and therefore solely represent the responsibility of their authors.

Under no circumstances can Agir ensemble and the four organisations in the consortium be held responsible for any damage that may result from the use of this report.

The content of this work does not necessarily represent the position of the programme's funders.

## METHODOLOGY

This report, titled "Enacting Legislation to protect", aims to shed light on the stages of the national law adoption process concerning the protection and accountability of HRDs in the DRC since 2011, and highlight the involvement of Congolese civil society as well as the identified advocacy good practices that led to the successful adoption of legislation by the upper house of Parliament. It is the result of collaborative work among the members of the PP-DDH project consortium [1].

Therefore, the information, testimonies, questionnaires, statements and images in this report were directly gathered from the consortium's teams in the DRC.

Through this report, the programme aims to document the process of adopting the draft of the proposed law on the protection and accountability of Human Rights Defenders, highlight the advocacy good practices identified by civil society in the Democratic Republic of Congo, and support the next stages of its promulgation and implementation.

### When ?

This report aims to cover the entire process of adopting the law, since 2011 until the present day, revisiting the significant milestones achieved. However, the contextual elements documented in the report particularly focus on recent events that occurred in 2021 and 2022, which led to multiple crises in the country, especially in the East, and a

deterioration in the situation of Human Rights Defenders, making the adoption of a legislation ensuring their protection essential.

### Where?

This report examines on the different stages of the law adoption process as well as the advocacy actions carried out at national level by the various stakeholders involved.

However, thanks to the numerous feedbacks received during the data collection process from actors in more remote areas, initiatives at the local and provincial level have also been documented and highlighted.

### How ?

This report directly relies on data collected by the Congolese organisations of the programme, through the distribution of questionnaires to a sample of individuals previously identified as experts on the subject.

Between January and March 2023, key stakeholders particularly involved in the legislative process, such as members of civil society, diplomatic missions, national and international NGOs, HRD protection networks, journalists and HRD involved in the adoption of edicts, were interviewed for this report. Other sources, such as press and research articles, interviews with analysts, NGO reports and legal texts, were also consulted during this period.

[1] Association Agir ensemble pour les droits humains. PP-DDH - Protection and Promotion of the Rights of Human Rights Defenders in the Democratic Republic of Congo, available at: <https://agir-ensemble-droits-humains.org/fr/nos-projets/ppddh/>





# REVIEW OF THE NATIONAL CONTEXT IN THE DRC

## 1 - PERSISTENCE AND RESURGENCE OF ARMED GROUPS: ONGOING HUMANITARIAN CRISES

Despite efforts deployed to combat insecurity in the eastern part of the DRC, specifically in the provinces of North and South Kivu, Ituri, Maniema and Tanganyika, the over 252 active armed groups [2] – both foreign and national – active throughout the territory are responsible for severe human rights violations. The resurgence of the March 23rd Movement, known as "M23", which occupies territories in North Kivu, supported by Rwanda [3], exacerbates the situation and poses a threat to peace, security and stability in the region.

Violence and clashes have resulted in the displacement of 5.8 million people, particularly in the Ituri, North and South Kivu, Kasai and Tanganyika regions, with hundreds of thousands of refugees have fled to neighbouring countries [4].

The displaced populations live in extremely precarious conditions. The humanitarian consequences of this crisis are severe, and HRDs who denounce these conditions become the direct target of these armed groups. According to the United Nations (UN), "one Congolese in four is acutely food insecure [5].

[2] RTN "RDC: 266 armed groups active in five eastern provinces", available at: <https://www.rtn.ch/rtn/Actualite/Monde/RDC-266-groupes-armes-actifs-dans-cinq-provinces-orientales.html#:~:text=AP%2FSOCRATE%20MUMBERE-,Plus%20de%20260%20groupes%20arm%C3%A9s%20locaux%20et%20C%20A9trangers%20ont%20pr%C3%A9sents.cit%C3%A9%20par%20des%20m%C3%A9dias%20congolais>.

[3] Châtelot, C. (2022, 28 December). The UN confirms Rwanda's involvement alongside the M23 rebels in eastern Congo-Kinshasa. Le Monde.fr, available at: [https://www.lemonde.fr/afrique/article/2022/12/28/l-onu-confirme-l-implication-du-rwanda-au-cote-des-rebelles-du-m23-dans-l-est-du-congo-kinshasa\\_6155882\\_3212.html](https://www.lemonde.fr/afrique/article/2022/12/28/l-onu-confirme-l-implication-du-rwanda-au-cote-des-rebelles-du-m23-dans-l-est-du-congo-kinshasa_6155882_3212.html).

[4] Emergency in the Democratic Republic of Congo - UNHCR Belgium and Luxembourg. (n.d.). UNHCR Belgium and Luxembourg, accessible at: [https://www.unhcr.org/be/aide-durgence/urgence-republique-democratique-du-congo#:~:text=sporadiques%20de%20violences-,Des%20milliers%20de%20personnes%20ont%20C%20A9t%C3%A9%20forc%C3%A9s%20de%20fuir%20leurs,des%20colonies%20\(ao%C3%BB%202022\)](https://www.unhcr.org/be/aide-durgence/urgence-republique-democratique-du-congo#:~:text=sporadiques%20de%20violences-,Des%20milliers%20de%20personnes%20ont%20C%20A9t%C3%A9%20forc%C3%A9s%20de%20fuir%20leurs,des%20colonies%20(ao%C3%BB%202022)).

[5] UN Info (2023, 7 March). The UN is asking for 2.25 billion dollars to help the DRC, available at: <https://news.un.org/fr/story/2023/02/1132552>.

## 2 - BETWEEN THE EXTENSION OF THE STATE OF SIEGE AND IRREGULARITIES IN VOTER REGISTRATION : A TENSE PRE-ELECTION CONTEXT

Despite measures that raised hope during the inauguration of the President Félix Tshisekedi, allowing the Congolese civic space to evolve from being classified as "closed" to "repressed" in 2020 [6], the state of siege, proclaimed by presidential decree on May, 3rd 2021 [7] in the provinces of North Kivu and Ituri, was used to restrict movements and violently repress peaceful activists [8].

At the national level, at the upcoming presidential, legislative, municipal and local elections are scheduled for December 2023, the pre-electoral period is marked by difficulties related to the voter registration process. Some constituencies remain inaccessible, and cases of corruption and extortion have been reported by HRDs [9].

The Independent National Electoral Commission (CENI) faces significant challenges, and the security situation raises concerns about a postponement of the elections. Human rights defenders are committed to exposing irregularities and violations that may occur in the enrollment process. As such, the electoral period is considered partly dangerous for the population and specifically for HRDs, by Congolese civil society organisations.

## 3 - OVERVIEW OF VIOLATIONS AGAINST HUMAN RIGHTS DEFENDERS AND THE SHRINKING OF CIVIC SPACE

According to the United Nations, the term "human rights defender" refers to "any person who, individually or in association with others, works for the promotion or protection of human rights in a peaceful manner [10]".

Often, this mobilisation takes on a collective dimension, through groups, associations, citizens' movements or networks. They can be journalists, environmental activists, whistleblowers, trade unionists, members of associations or activists, who define themselves as HRDs by their actions in favour of human rights and not by their qualifications or status.

The Declaration on Human Rights Defenders, adopted in 1998, establishes that "everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels".

Due to their commitment and the nature of their activities, the positions they take and the issues they address, HRDs frequently come into confrontation with the interests of other stakeholders (state actors, companies, businesses, leaders, influential authorities, etc.).

As such, they face extreme pressure and expose themselves to numerous dangers, which highlights the need for their recognition and contribution to peace and the promotion of human rights [11].

The pressure and threats faced by HRDs are particularly notable in the DRC, as they are in the front line of denouncing human rights abuses and violations.

They are sometimes wrongly perceived as an inconvenience by holders of power and members of armed groups.

[6] Global Report - Civicus Monitor 2020. (n.d.), available at: <https://findings2020.monitor.civicus.org/fr.html>

[7] Presidential Order n°21/015 of 3 May 2021.

[8] Amnesty.be (2022). DRC: stop using the extension of the state of siege as a pretext to repress demonstrations. Amnesty International Belgium, available at: <https://www.amnesty.be/infos/actualites/article/faut-cesser-utiliser-prolongation-siege-pretexte-reprimer>

[9] Pierret, C. (2023, 9 March). In the war-torn east of the DRC, the difficult task of registering voters. Le Monde.fr, available at: [https://www.lemonde.fr/afrrique/article/2023/03/09/dans-l-est-de-la-rdc-en-guerre-le-difficile-enrolement-des-electeurs\\_6164851\\_3212.html](https://www.lemonde.fr/afrrique/article/2023/03/09/dans-l-est-de-la-rdc-en-guerre-le-difficile-enrolement-des-electeurs_6164851_3212.html)

[10] General Assembly Resolution A/RES/53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144 (8 March 1999), available at: <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/declaration-human-rights-defenders-different-languages>

[11] Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/52/29, (2022, 21 December). Perseverance and solidarity: the keys to twenty-five years of human rights success, available at: [A/HRC/52/29\(UN.org\)](A/HRC/52/29(UN.org))



Numerous are the challenges and violations that make the activity of promoting and defending human rights dangerous, and undermine the integrity of those involved. These include:

- Psychological harassment and stigmatisation
- Physical and digital threats
- Intimidation, tailing of HRDs or their relatives
- Sexual and gender-based violence
- Targeted assassinations, such as the case of Fidèle Bazana Edadi of the VSV, Cabral Yombo, Freddy Marcus Kambale, Patrick Shako, Katsuva Mumbere Ushindi and others.
- Extrajudicial executions
- Targeted kidnappings and enforced disappearances
- Torture and cruel, inhuman and degrading treatment
- Arrests, arbitrary detentions and prosecutions for offences such as criminal conspiracy, contempt of the army, defamation, rebellion, etc.
- Unjustified convictions following summary and unfair trials that do not respect the requirements of the right to a fair trial
- Administrative restrictions, violations of their privacy and infringements of the freedoms of opinion, expression, peaceful assembly and movement



*The vulnerability of HRDs is mainly caused by the lack of legal instruments and a framework for protection in the DRC. However, given the significant role played by HRDs, it is the responsibility of the State and national legislation to protect HRDs, including when they challenge government policies or measures.*



# FOCUS

## SPECIFIC RISKS FACED BY WOMEN HUMAN RIGHTS DEFENDERS

The sample of civil society actors who responded to the questionnaire unanimously express the fact that women human rights defenders are victims of specific threats and are exposed to particular dangers due to gender-related vulnerabilities.

In addition to running the same risks as men HRDs in relation to their work, women HRDs are indeed more prone to gender- and sexuality-based violence, including stigmatisation, arbitrary arrest and illegal detention, sexual harassment, rape, etc.

Despite the DRC's accession to key international legal instruments related to human rights, such as those prohibiting discrimination based on gender [12] – which are also part of the country's Constitution [13], defenders working for women's rights and the rights of people from sexual and gender minorities continue to be victims of numerous violations of their rights.

### FOR THE INTEGRATION OF A GENDER DIMENSION IN THE LEGISLATION

During the process of developing a protection law in a specific state, it is essential to bear in mind that each national context is different.

The proposed laws must be developed in accordance with the expectations of defenders who, in different regions, may not have necessarily expressed the need to highlight specific protections for the same categories of people.

Thus, the inclusion in the text of a specific provision on the protection of women defenders should not be seen as a generalised necessity for all States but should depend on the level of consideration given to it.

According to research by the International Service for Human Rights (ISHR) [14] in a majority of countries, women defenders believe that having a law that reflects non-gendered protection throughout the text is more effective than a law that only has a specific article dedicated to women HRDs.

Therefore, in some countries, it will be preferable to advocate for an inclusive text, which can include inclusive language and more inclusive terms.



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[12] Relevant examples include article 2 of the Universal Declaration of Human Rights (UDHR); articles 2 and 26 of the International Covenant on Civil and Political Rights (ICCPR); and the African Charter on Human and Peoples' Rights.

[13] Official Journal of the Democratic Republic of Congo, Office of the President of the Republic, Kinshasa (2021, 1 February, Act No. 11/002 January 20th, 2011 revising certain articles of the Constitution of the Democratic Republic of Congo of 18 February 2006, available at: <https://www.leganet.cd/Legislation/IO/2011/IOS.01.02.2011.pdf>

[14] For more information: <https://ishr.ch/>



# PART II

## TOWARDS THE ADOPTION OF A NATIONAL LAW TO STRENGTHEN THE PROTECTION OF HUMAN RIGHTS DEFENDERS IN THE DRC

### 1 - A CONTINENTAL DYNAMIC: THE DRC ON THE PATH TO BECOMING THE FIFTH AFRICAN STATE WITH A PROTECTIVE FRAMEWORK

Africa has the highest number of processes related to the adoption of protective frameworks for defenders. While debates on the adoption of a legislative instrument are taking place in several countries [15], four African countries - Côte d'Ivoire, Burkina Faso, Mali and Niger - have already passed legislation to protect HRDs. Thus, the DRC is part of a regional momentum.

On June 20th, 2014, Côte d'Ivoire passed Law No. 2014-388 [16] on the promotion and protection of human rights defenders, following numerous actions by civil society, which had been engaged since 2012. Promulgated [17] on February 22nd, 2017, the law marked the adoption of the first law on the African continent, and set a precedent for processes in neighbouring countries. Among the notable provisions of this text, Article 9 recognises

the needs of women HRDs and Article 18 provides the definition of a national protection mechanism [18].

Following this example and in response to a campaign led by civil society across West Africa, Burkina Faso adopted Law No. 039-2017/AN on the protection of human rights defenders [19] on June 27th, 2017, establishing rules for the protection of defenders and defining their responsibilities.

Awareness-raising sessions on the law were organised and fora have been held, to ensure its implementation.

[15] Protection International, The Observatory of Public Policies for the Protection of Human Rights Defenders, available at: <https://www.focus-obs.org/fr/>

[16] Official Journal of the Republic of Côte d'Ivoire, 2 July 2014, available at: [https://www.fidh.org/IMG/pdf/loi-no-2014-388-du-20-juin-2014-portant-pro-motion-et-protection-des-de\\_fenseurs-des-droits-de-lhomme.pdf](https://www.fidh.org/IMG/pdf/loi-no-2014-388-du-20-juin-2014-portant-pro-motion-et-protection-des-de_fenseurs-des-droits-de-lhomme.pdf)

[17] [1] Presidency of the Republic of Côte d'Ivoire, Decree No.2017-121 of 22 February 2017 on the terms of application of Act No. 2014-388 of 20 June 2014, on the promotion and protection of human rights defenders, available at: [https://www.fidh.org/IMG/pdf/di\\_bdi\\_bdcret\\_ni\\_bdi\\_bd\\_2017-121\\_du\\_22\\_fi\\_bdi\\_bdv\\_2017\\_promotion\\_et\\_protection\\_des\\_.pdf](https://www.fidh.org/IMG/pdf/di_bdi_bdcret_ni_bdi_bd_2017-121_du_22_fi_bdi_bdv_2017_promotion_et_protection_des_.pdf)

[18] Ibid

[19] National Assembly, Fourth Republic of Burkina Faso, Law No. 039-2017/AN on the protection of human rights defenders of 27 June 2017, available at: [loi\\_039-2017\\_defenseurs\\_droits\\_humains.pdf\(assembleenationale.bf\)](http://loi_039-2017_defenseurs_droits_humains.pdf(assembleenationale.bf))



In Mali, on January 12th, 2018, [Law No. 2018-003](#) on human rights defenders [20] was adopted, becoming the third country on the continent to strengthen its legal framework protecting human rights defenders.

However, in 2021, a decision requiring defenders to obtain a professional card to prove their status at national level considerably limited the implementation of the Malian law and restricted its application.

In 2021, Niger, in its national report for the Universal Periodic Review (UPR), agreed to "protect human rights defenders and ensure that they can carry out their work without being harassed or intimidated", stressing the need to draft a law.

Driven by civil society actors since 2016, [the law on the rights and duties of human rights defenders](#) [21] was finally adopted on June 15th, 2022 [22].

Although the adoption processes are specific to the context of each country, in the aforementioned four countries, civil society actors have played a decisive role in advocating for the adoption of laws to protect HRDs and to the transposition of the United Nations Declaration on Human Rights Defenders at the national level.

**While these processes are a source of hope for HRDs who benefit from a specific legal framework, the challenge of actual implementation remains significant.**

## 2 - PROVINCIAL LEGISLATIONS: A STEP TOWARDS THE ENACTMENT OF A NATIONAL LAW

On February 10th, 2016, following the promulgation by the Provincial Governor, South Kivu became the first Congolese province to adopt a legal framework protecting human rights defenders and journalists [23]. The first version of the edict was drafted in 2007, but several attempts at adoption had failed.

The activism of the local community over several years led to this first victory [24].

In the neighbouring province of North Kivu, the process began in February 2016. On November 8th, 2019, the edict was deemed admissible, and on November 30th, 2019, the Governor of North Kivu promulgated "Edict No. 001/2019 of 30 November 2019 on the protection of human rights defenders [25]». This adoption was also made possible by the long-term mobilisation of local civil society and HRDs.

In this sense, although the three provincial edicts adopted by the provincial Assemblies represent major advancements for the protection of HRDs in these provinces, their implementation comes up against major challenges. These include the lack of awareness among civil, military, police and judicial authorities, as well as by the HRDs themselves, regarding the relevant provisions of these texts, as well as certain opposition to the application of the text.

Nevertheless, although the edicts have not necessarily led to a reduction in violations against HRDs in these provinces, they may have encouraged the adoption of national legislation, by serving as a model to demonstrate collaboration between HRDs and provincial authorities.

Several experts, in fact, referred to these edicts as a step towards a national law during the debate in the National Assembly.

Although the scope of a provincial edict is limited to a single province, its impact on a national level has been measured through the engagement and involvement of various stakeholders.

[20] Official Journal of the Republic of Mali, January 12th, 2018, Law No. 2018-003 on human rights defenders, available at: [mali-jo-2017-03-2.pdf \(sgg-mali.ml\)](#)

[21] National Assembly of the Republic of Niger, 15 June 2022, the law on the rights and duties of human rights defenders, available at: [Loi-fixant-les-droits-et-les-devoirs-des-defenseurs-des-droits-de-l'Homme-au-Niger-2022.pdf \(ishr.ch\)](#)

[22] Focus : The Observatory On Public Policies For Defenders (2019). Niger: draft law for the recognition and protection of human rights defenders (n.d.). Available at: [https://www.focus-obs.org/fr/documents/niger-un-projet-de-loi-pour-la-reconnaissance-et-la-protection-des-defenseurs-des-droits-humains/](#)

[23] Reporters Without Borders (2016, 16 March). After the edict on the protection of journalists, a journalist from South Kivu wins a court case. (n.d.). Available at: [https://rsf.org/fr/apr%C3%A8s-l-%C3%A9dit-sur-la-protection-des-journalistes-un-journaliste-du-sud-kivu-gagne-un-proc%C3%A8s](#)

[24] Focus : The Observatory On Public Policies For Defenders (2016). Democratic Republic of Congo: edict No. 001/2016 protecting human rights defenders and journalists in South Kivu province, available at: [https://www.focus-obs.org/fr/documents/edit-no001-2016-du-fevrier-2016-portant-protection-des-defenseurs-des-droit-de-l'homme-et-des-journalistes-en-province-de-sud-kivu/](#)

[25] Focus : The Observatory On Public Policies For Defenders (2019). Democratic Republic of Congo: edict No. 001/2019 of 30 November 2019 on the protection of human rights defenders, available at: [Democratic Republic of Congo: Edict No. 001/2019 in North Kivu - Focus: The Observatory On Public Policies For Defenders \(focus-obs.org\)](#)

### 3 - ENSURING THE PROTECTION OF DEFENDERS THROUGH NATIONAL LEGISLATION

In the light of all the factors outlined above, the adoption of a national law protecting HRDs seems essential in the DRC, to guarantee an enabling environment for the exercise of their activities.

More generally, although the United Nations Declaration on Human Rights Defenders, adopted by the General Assembly in 1998 [26], serves as a reference framework for HRDs, it is not legally binding, and adapting this text at the national level is necessary to ensure effective protection for defenders.

In this regard, Michel Forst, former UN Special Rapporteur on the situation of human rights defenders, stresses the importance of taking measures at the state level, since intergovernmental bodies are not binding [27].

Similarly, Mary Lawlor, the Special Rapporteur on the situation of human rights defenders, notes that "the scrupulous application of human rights in national jurisdictions would make it possible to create a favourable civic space in which human rights defenders could fully carry out their legitimate and peaceful activities [28].



[26] Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/52/29, (2022, 21 December). Perseverance and solidarity: the keys to twenty-five years of human rights success, available at: [A/HRC/52/29 \(un.org\)](https://www.un.org/fr/press/docs/2022/11/221119.docstxt.pdf)

[27] Forst M. (2022). The best protection tool is solidarity". Secours Catholique - Caritas France, available at: <https://www.secours-catholique.org/m-informer/enquetes/michel-forst-le-meilleur-outil-de-protection-cest-la-solidarite>

[28] Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/52/29, (2022, 21 December). Perseverance and solidarity: the keys to twenty-five years of human rights success, available at: [A/HRC/52/29 \(un.org\)](https://www.un.org/fr/press/docs/2022/11/221119.docstxt.pdf)



# FOCUS

## THE RECOMMENDATIONS ADDRESSED TO THE DRC WITHIN THE FRAMEWORK OF THE 2019 UNIVERSAL PERIODIC REVIEW:

### DRIVING FORCE BEHIND FOR COMMITMENT TO HUMAN RIGHTS DEFENDERS

The DRC underwent its third Universal Periodic Review (UPR) in 2019, two years after the failure of the 2017 legislative process.

In this context, the mechanism overseen by the United Nations Human Rights Council had been a favorable support for restarting discussions on the adoption of a law for the protection of human rights defenders and for the advocacy activities carried out to this end.

During this cycle, 267 recommendations were addressed to the DRC. Of these, 239 were accepted (89.5%) and 28 (10.5%) were noted.

These figures demonstrated the willingness of the new Congolese government to prove itself to the international community.

**The majority of members of Congolese civil society members, who were consulted for the drafting of this report welcomed the positive impact of the 2019 UPR on the adoption of the national law for the protection of HRDs.**

However, while the review had a certain impact on the resumption of this process, nothing could have been achieved without the parallel mobilisation of civil society, the CNDH, the UNJHRO and international human rights organisations, which played a crucial role in advocacy, documenting the effects and monitoring the implementation of the recommendations.

Among the accepted recommendations, the DRC was invited to adopt a law that genuinely recognises and protects the activities of HRDs; to conduct thorough and independent investigations into the human rights violations to which they are allegedly subjected; to cease the use of violence and disproportionate force against opposition supporters and release those arbitrarily arrested in the exercise of their right to demonstrate peacefully; to ensure respect for the right to peaceful demonstration and the right to freedom of expression, assembly and association; to conduct effective and impartial investigations into reported cases and bring to justice those responsible for threats against them [28].

[28] Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/52/29, (2022, 21 December). Perseverance and solidarity: the keys to twenty-five years of human rights success, available at: [A/HRC/52/29\(un.org\)](https://www.un.org/press/en/2022/12/a-hrc-52-29-20220121.html)



# PART III

## THE LAW ON THE PROTECTION AND ACCOUNTABILITY OF HUMAN RIGHTS DEFENDERS: HISTORICAL ADVOCACY INITIATIVES

2011

### 1 - SINCE 2011, A REPEATEDLY STALLED PROCESS

In the DRC, the process of adopting a law for the protection of HRDs has been championed by members of civil society, for several years.

In May 2011, an initial draft law was adopted by the Government and then sent to the National Assembly, which unfortunately rejected it at the first plenary session examining its admissibility.

In fact, the 2011 presidential elections were the main focus of MPs' attention, and civil society's lack of coordination around this process was one of the reasons for this failure [29].

Indeed, civil society was facing a number of challenges, as the actors still struggled to unite around this common objective and lacked the resources to seize all national and international advocacy opportunities.

At the same time, other attempts to set up mechanisms to protect HRDs, such as the creation of national and provincial protection units [30] and a liaison entity [31] also ended in failure due to operational delays, various malfunctions as well as a lack of visibility and funding [32].

[29] Avocats Sans Frontières (2013, 30 October - 1 November), Conference report: National strategies for the protection of human rights defenders in the Democratic Republic of Congo, Kinshasa, available at: <https://www.asf.be/wp-content/uploads/2014/11/Rapport-conf%C3%A0gence-RDC-Final.pdf>, p. 9-10.

[30] Created by Ministerial Orders No. 219 of 25 June 2011 and No. 370 of 6 April 2012 - an alert mechanism that is triggered as soon as a HRD is threatened or assaulted, with a view to providing a solution.

[31] Created by decree No. 09/35 of 12 August 2009 - a framework for consultation and collaboration between the political and administrative authorities and civil society on all issues relating to human rights, including the rights of HRDs.

[32] Avocats Sans Frontières (2013, 30 October - 1 November), Conference report: National strategies for the protection of human rights defenders in the Democratic Republic of Congo, Kinshasa, available at: <https://www.asf.be/wp-content/uploads/2014/11/Rapport-conf%C3%A0gence-RDC-Final.pdf>, p. 7.

From 2017 onwards, the need for a protection law re-emerged in the public debate.

Civil society lobbied hard to get the draft law onto the parliamentary agenda. The text was first passed by the Senate, but was deemed to have been emptied of its substance by amendments made by the deputies.

The subsequent debates came to a standstill, due to a disagreement between the two parliamentary chambers regarding the definition of defenders.

In addition, the draft law was deemed worrying by the United Nations Human Rights Committee, and not in line with the Declaration on Human Rights: "According to the information we have received, the draft law as discussed in the National Assembly is rather detrimental for the protection of human rights defenders", declared the committee's expert José Manuel Santos Pais [33].

The controversial of the proposal, among others, was Article 2 of the draft law, which stipulated a requirement for HRDs to belong to a formal, organised structure in order to benefit from the legal framework. In addition, Articles 3 and 7 of the draft law set excessive and discriminatory conditions for HRDs, such as being a member of an NGO, being at least 18 years old, holding a state diploma and having undergone human rights training provided by an NGO [34].

The various stakeholders involved in the process had noted a lack of political will and a great deal of reluctance from MPs to advance the draft law.

The idea of such a law was rejected by the authorities, as they perceived it as interference from Western countries rather than a genuine national necessity.

**Now, civil society continues its advocacy plan with the aim of ensuring that the draft law is adopted by the Senate during the session to be held from March 15th to June 15th, 2023, and for the upper house of parliament to incorporate provisions that adequately protect human rights and comply with the standards established by the various existing international protection instruments.**



*Between theory and practice, we have well-crafted texts that unfortunately suffer from a lack of implementation.*



The lack of understanding of the work of HRDs led some to believe that such a legislative framework of protection was amounted to granting immunity rather than protection to activists.

However, Congolese civil society was not discouraged when the process of adopting the text came to a standstill in 2017 and the various reticence shown by decision-makers. From 2018 onwards, following the long-awaited presidential elections that brought to an end Joseph Kabila's term of office at the head of the country since 2001, a wind of hope reappeared that a protection law might be released. At the beginning of his term of office, the new president, Félix Tshisekedi, pledged to respect human rights, clean up civic life and protect defenders at risk [35].

With the aim of aligning the text with international legal instruments, members of civil society, alongside other stakeholders, have resumed their advocacy activities from 2021. A member of parliament from North Kivu, Honourable Jean-Paul Segihobe, agreed to endorse a protection draft law in March. In December 2021, the research department gave its approval to the text, paving the way for an initial debate in the National Assembly.

However, the mobilisation of the various stakeholders was not enough to ensure that the law was passed during the March 2022 parliamentary session, and consideration of the text was postponed to the end-of-year session in 2022.

[33] International Service for Human Rights (ISHR) (2017, 13 December), Democratic Republic of Congo: draft law on human rights defenders is dangerous, says UN Human Rights Committee, available at: <https://ishr.ch/fr/actualites/republique-democratique-du-congo-le-projet-de-loi-sur-les-defenseurs-des-droits-humains-est/>

[34] Ibid.

[35] Fronline Defenders, #Democratic Republic of Congo (DRC), available at: <https://www.frontlinedefenders.org/fr/location/democratic-republic-congo>

## 2 - SINCE 2022, A STEP-BY-STEP OVERVIEW OF THE PARLIAMENTARY PROCESS

### Support within the National Assembly

Honourable Deputy Jean-Paul Segihobe, Member of Parliament, has been involved in the process of having the law adopted by the National Assembly in December 2022, by endorsing the new draft law [36].

He ensured the administrative act was transmitted and worked on the draft law proposed by civil society. He has been involved in mobilising other MPs, first by identifying MPs able to support the alignment and the general debate in the National Assembly.

To achieve this, the chairs of the parliamentary conferences that draw up the draft sessional timetables were asked to put the issue on the agenda.

Mr Segihobe has also encouraged the media and civil society organisations to get involved, in particular to present the arguments in favour of the draft law, through press conferences, interventions at formal and informal meetings and participation in advocacy dinners.

### The legislative process in the National Assembly



#### 1 SCHEDULING THE DRAFT LAW FOR GENERAL DEBATE IN PLENARY

The endorsing MP and the Standing Committee on Human Rights, chaired by the Honourable Simon - Pierre Iyanano, identified a group of influential MPs to contribute to the advocacy, so that the final Bureau of the National Assembly would accept and prioritise the scheduling of the draft law for general debate. As a result, the draft law was declared admissible.



#### 2 NATIONAL ASSEMBLY PERMANENT COMMITTEE ON HUMAN RIGHTS : IN-DEPTH REVIEW

The Standing Committee on Human Rights conducted an in-depth examination of the draft law during a three-day retreat, with the participation of civil society experts and MPs from the Political, Administrative and Legal Committee (PAL).

The retreat provided an opportunity to study the draft law and its alignment with DRC laws, as well as international legal instruments ratified by the DRC.



#### 3 PRESENTATION OF THE REPORT OF THE STANDING COMMITTEE ON HUMAN RIGHTS TO THE PLENARY SESSION

The in-depth examination of the draft law led to the production of a report by the Standing Committee on Human Rights, which was then defended in plenary before the National Assembly.



#### 4 THE WORK OF THE HUMAN RIGHTS SUB-COMMITTEE

The Sub-Committee's work consisted of incorporating the amendments made by MPs after the Committee's report had been presented to the National Assembly. The MPs who had made observations and amendments, and experts from civil society, were invited to attend to ensure that the law was not emptied of its substance. This essential session preceded the final adoption of the draft law by the National Assembly.



#### 5 ADOPTION OF THE LAW BY PARLIAMENT

Following this work in Committee and Sub-Committee, the draft law was voted on by the members of the National Assembly on December 12th, 2022. The draft law passed by the National Assembly was then sent to the Senate for a second review.

[36] Association Agir ensemble pour les droits humains (2022). The DRC is committed to protecting human rights defenders, available at: <https://agir-ensemble-droits-humains.org/fr/la-rdc-sinvestit-dans-la-protection-des-defenseurs-et-defenseuses-des-droits-humains/>



### 3 - DEBATES ON CONTROVERSIAL PROVISIONS OF THE DRAFT LAW PASSED BY THE NATIONAL ASSEMBLY

While the adoption of the draft law by the National Assembly is a major step forward for the recognition and protection of human rights defenders in the DRC, a number of civil society actors are nonetheless concerned about some of the provisions adopted.

Article 7-3 is one of the most problematic provisions, as it requires HRDs who do not work for a legally constituted association to register with the CNDH in order to obtain a national identification number.

These requirements are contrary to the 1998 United Nations declaration [37] which does not limit the recognition of the HRD status to people belonging to an organization.

In March 2023, the International Service for Human Rights (ISHR) and SOS IJM held a workshop with senators to raise awareness about the need to remove this provision, which infringes on international protection instruments [38].

On reading the draft law, a number of stakeholders also noted the absence of certain rights, such as the right to freedom of movement and the right to privacy, guaranteed only by Article 19, which prohibits searches of the homes or headquarters of HRDs without specific, express authorisation, and the right to protection against any act of defamation or stigmatisation.



*I would like to see a HRD who speaks out without being arrested. I dream of cooperation between activists and those in power. I dream of seeing a look of consideration for HRDs in the eyes of the authorities.*



In finalising its analysis of the law passed by the National Assembly, the Senate's PAJ Committee consulted both the CNDH and the Ministry of Human Rights. In their opinions, the CNDH considered that HRDs should be required to submit their annual reports to them, in addition to the obligation for them to register.

The Ministry, for its part, proposed that the status of HRD should be granted only to those who had completed a curriculum in legal studies.

The civil society working group accompanying this law considered these arguments to be regressive compared to the United Nations Declaration on Human Rights and the DRC Constitution.

However, the absence of such provisions should not necessarily be interpreted as an inadequacy of the protection law. As Mrs Adélaïde Etong Kame, Head of the Africa Programme at the ISHR, pointed out during our discussions, the different rights enshrined in protection laws for human rights defenders should primarily reflect the needs and expectations of defenders and therefore depend on the level of consideration they give to these rights.

So, despite the limitations identified in the text of the law, civil society actors are hopeful that the adoption of the draft law by Parliament will ultimately be a relief, and allow HRDs to work in peace.

[37] General Assembly Resolution A/RES/53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144 (8 March 1999), available at: <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/declaration-human-rights-defenders-different-languages>

[38] International Service for Human Rights (ISHR) (2023, 31 March. Senators meet civil society to strengthen protection of human rights defenders in the DRC, available at: <https://ishr.ch/fr/actualites/les-senateurs-rencontrent-la-societe-civile-pour-renforcer-la-protection-des-defenseurs-c2%b7e%2%b7s-en-rdc/>



## 4 - ENSURING ACCESSIBILITY, DISSEMINATION AND EFFECTIVE IMPLEMENTATION OF THE PROTECTION ACT

A number of civil society actors have expressed concerns regarding the real impact of the law on the activities of HRDs, both in the long and short term.

**The first major challenge identified as limiting the proper implementation of the law is the extension of the state of siege in certain provinces of the DRC.**

Several civil society actors have warned that in these provinces, the application of certain laws related to justice or human rights is limited by the state of siege. Some HRDs fear that the adoption of the law will not be sufficient to reduce human rights violations, due to this mode of governance characterised by brutality and abuses.

**The second major challenge, which is causing a great deal of concern within Congolese civil society, relates to the dissemination and knowledge of the law.**

To ensure that the national law on the protection of HRDs is applied, it will be a priority to disseminate the text to defenders, HRD networks and the general public, as well as to the authorities, courts and tribunals. If this legislative instrument is to have a real impact, the law must be known by all, so that it can be used and appropriated.

To this end, a number of stakeholders recommend that funds be mobilised to organise awareness-raising and popularisation workshops as soon as the text is promulgated.

**Particular attention should also be paid to the understanding of the law, given the illiteracy of part of the population [39], as well as its translation at least into the four official national languages.**

Finally, if the law is adopted and promulgated, vigilance and close monitoring will have to be carried out to ensure that it is applied in practice. Indeed, as mentioned in the latest report by the Special Rapporteur on the situation of HRDs, "the existence of international and national laws and policies is not enough to facilitate human rights activities, and adopting legal provisions without the political will to apply them can give a false impression of progress" [40].

Although the adoption of such a law in the DRC should be celebrated as a victory, "all too often, laws that support and protect human rights defenders are not properly applied" [41].

Some HRDs therefore recommend that this political should be put into practice by promoting fora for exchange and dialogue between decision-makers. Faced with possible limitations in the application of the law, and to ensure legislative protection of HRDs at provincial level, civil society actors also recommend relying on provincial edicts, for the provinces of South Kivu, North Kivu and Maniema.

### NEXT STEPS

*At the current stage, where the draft law must undergo a second review by the Senate, it is important to ensure its follow-up to guarantee the vote following the general debate in plenary. Civil society actors are therefore continuing their massive involvement and their advocacy efforts, through individual contacts with senators and the organisation of discussion forums, so that the draft law can get through this stage. Civil society's main concern is that if the Senate votes on the text in terms that differ from those of the National Assembly, there is a risk that the situation in 2017 will occur again, requiring the two chambers to work together in a Joint Committee. This exposes the text to the danger of seeing the current legislature end, once again, without the DRC having fulfilled its commitment to the United Nations Human Rights Council, as formulated by the President of the Republic on February 27th, 2023, during his speech at the 52ème session of this organization.*



[39] UN Info (2020, 8 September). Literacy Day: in the DRC, 29% of people aged 15 and over are illiterate, available at: <https://news.un.org/fr/audio/2020/09/1076772>

[40] Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/52/29, (2022, 21 December). Perseverance and solidarity: the keys to twenty-five years of human rights success, available at: [A/HRC/52/29\(un.org\)](A/HRC/52/29(un.org))

[41] Ibid.



# PART IV

## ADVOCACY ON MULTIPLE SCALES: STRATEGIES AND GOOD PRACTICES IDENTIFIED BY CONGOLESE CIVIL SOCIETY

### 1 - CONGOLESE CIVIL SOCIETY DRIVING THE NATIONAL ADVOCACY IN ALL PROVINCES LEADING TO THE ADOPTION OF THE LAW

Throughout the process leading up to the adoption of the law by the National Assembly, Congolese civil society has played a leading role, and its involvement was multifaceted, at every key stage of the process.

Despite the failure, in 2011, of the first attempts to adopt a law on the protection of HRDs, Congolese CSOs did not give up and relaunched the process in 2017.

Despite the lack of structure in the actions undertaken, the stakeholders initiated a draft law, then organised several meetings and workshops with the national MPs in order to designate the MP who would endorse the draft law. It was also thanks to their initiatives that the proposal was put on the parliamentary agenda, even though the process was ultimately unsuccessful, as the two houses of parliament were unable to reach agreement.

The major and collective involvement of civil society actors has also been a factor in encouraging the commitment of other international partners, allies and supporters, in particular through the creation of a working group dedicated to monitoring the process [42].

Despite further disappointment in 2017, civil society organisations, diplomatic missions, international organisations working on this issue, and some embassies, have resumed their advocacy to relaunch the process of adopting the national law at the beginning of 2021.

[42] See next section: The creation of a working group to federate initiatives and coordinate advocacy actions.

Overall, several approaches have been used: participatory observation, formal or informal exchanges with MPs, including the MP who tabled the draft law, the appointment of civil society "experts" to take part in committee work, the organisation of workshops with stakeholders, the mobilisation of regional or international mechanisms, and grassroots action through citizens' marches.

The draft law's success in the National Assembly is the culmination of a collective effort, made possible by the massive mobilisation of civil society, which found many allies. While it is important to highlight the involvement of a number of MPs, it is equally important to underline the unwavering motivation demonstrated by the actors engaged in the process.

## THE ROLE OF THE MEDIA AND JOURNALISTS

The broadcasts and press conferences carried out, particularly by the community media, highlighted the work of HRDs and the benefits of this law for decision-makers and citizens in general. In addition, several media outlets took care to cover almost all the advocacy actions undertaken, as well as broadcasting the various parliamentary sessions and the adopted resolutions. According to many civil society actors, it is thanks to this documentation and media coverage that the HRD community and citizens in general were able to understand the adoption process.



## 2 - ESTABLISHMENT OF A WORKING GROUP FOR FEDERATING INITIATIVES AND COORDINATING ADVOCACY ACTIONS

Since 2021, thanks to the mobilisation of many civil society actors, a working group for the adoption of the protection law has been set up, bringing together the various advocacy initiatives carried out by national and international organisations, diplomatic missions and embassies.

Within this framework, weekly meetings were held between the key actors in this process, enabling them to :

- **Submit, evaluate and update an advocacy plan based on good practices and possible solutions, and identify activities to be implemented ;**
- **Coordinate the mobilisation of stakeholders, in particular through the creation of collective communication channels ;**
- **Coordinate the mobilisation of stakeholders, in particular through the creation of collective communication channels ;**
- **Foster collective reflection on the political environment, the mobilisation of civil society actors, MPs and the general public on this priority issue, and establish an advocacy strategy based on good practices and possible solutions to the obstacles already encountered ;**

- **Organise various awareness-raising events to encourage national MPs to get involved, such as press conferences, radio broadcasts and webinars with protection networks in the 26 provinces ;**
- **Coordinate overall monitoring to ensure that the law is registered in the National Assembly.**

Many members of this working group and human rights defenders were also encouraged to take action through direct advocacy in their provinces of work, engaging with the MPs present in the area, and urge them to vote massively in favour of the draft law, during awareness-raising sessions with them. It was these formal and informal advocacy actions, and this close monitoring, that helped to convince a number of elected representatives that they could also benefit from the protection afforded by this law if they became involved in human rights activities.

The Congolese organisations in the PP-DDH consortium were particularly involved in this working group, in the many actions taken with the national authorities and at regional level, for example by carrying out advocacy actions with the African Commission on Human and Peoples' Rights (ACHPR), through panels and oral statements.

### 3 - INVOLVEMENT OF INTERNATIONAL HUMAN RIGHTS PROTECTION STAKEHOLDERS

Since 2017, thanks to the intense advocacy efforts carried out by Congolese civil society organisations, many international stakeholders have taken an interest in the process of adopting the national law on the protection of HRDs: several prominent figures from the DRC, the ACHPR, diplomatic missions, international NGOs and United Nations special rapporteurs.

The involvement of these partners mainly took the form of :

- Experience-sharing on legislations to protect human rights, based on initiatives in other African countries, and on compliance with international standards ;
- Experience-sharing on the advocacy strategies implemented ;
- Sharing and facilitating contacts and advocacy meetings with key stakeholders such as MPs, the Minister for Human Rights, the Congolese government and experts from regional and international mechanisms ;
- Providing technical and diplomatic contribution ;
- A financial contribution to facilitate the mobilisation of funds and the holding of activities planned at national level.

More specifically, some partners, such as ISHR, which drafted the Model Law for the Recognition and Protection of Human Rights Defenders [43], were able to become specifically involved in the content of the draft of the proposed law.

Working directly with CSOs, they supported the drafting of the first version of the draft law and the organisation of workshops with other West African HRDs wishing to share their good practice.

When questioned by Agir ensemble and SOS IJM, Adélaïde Etong Kame, Head of the Africa Programme at ISHR, also stressed the importance of advocating with international bodies, making declarations to the United Nations and referring cases to special rapporteurs, for example in 2017, to draw attention to the limitations of the proposed law.

In this process, the special rapporteurs and commissioners of the regional and international mechanisms have also demonstrated their commitment to the adoption of a national law on the protection of human rights. For example, the President of the ACHPR, the Honourable Commissioner Rémy Ngoy Lumbu, was able to get involved by contacting several people in the Congolese political sphere, following the advocacy work carried out by Congolese organisations in October 2022, during the 73rd session of the ACHPR. Already in 2017, the United Nations Special Rapporteur on HRDs, Michel Forst, had visited the DRC and engaged with civil society and the authorities, more specifically the President of the Senate and the Prime Minister.



*It is important for political decision-makers to bear in mind that new protection laws will not be judged on their adoption and promulgation, but rather on their effectiveness in protecting human rights defenders.*



[43] International Service for Human Rights (ISHR) (2017, January), Model Law for the Recognition and Protection of Human Rights Defenders, available at: [https://ishr.ch/sites/default/files/documents/model\\_law\\_french\\_january2017\\_screenversion.pdf](https://ishr.ch/sites/default/files/documents/model_law_french_january2017_screenversion.pdf)

## 4 - GOOD PRACTICES IDENTIFIED BY STAKEHOLDERS IN THE ADVOCACY PROCESS

The massive mobilisation of Congolese civil society as a whole, but also of international partners and the media, is one of the main reasons for the success of the advocacy work on the national law for the protection of HRDs. During their mobilisation, the various stakeholders were able to identify and share, within the framework of this report, their good practices that led to the success of these advocacy activities, which could be adapted to other contexts:

1

### MOBILISATION AT DIFFERENT LEVELS, AND PARTICULARLY AT LOCAL LEVEL

In each of the 26 provinces, a mapping of MPs was drawn up, making it possible to identify MPs with whom direct exchanges could be initiated. This step was all the more important given the regular reshuffles within the institutions. Also, in each constituency, several HRDs were identified and put in charge of local follow-up, to bring this advocacy to the attention of local stakeholders.

2

### DEVELOPMENT OF AN EFFECTIVE ARGUMENTATION FOR MPS

The production of a joint document summarising the arguments relating to the law ensured that everyone took ownership of the advocacy elements and that the arguments were consistent.

3

### ONGOING DIALOGUE BETWEEN STATE AND NON-STATE ACTORS

Civil society actors emphasise that it is thanks to the ongoing interaction between civil society and MPs that communication has become institutionalised and information has been exchanged, thereby reducing the mistrust and hostility that could sometimes be observed. This ongoing dialogue has led to a better understanding by the authorities of the work of HRDs, and has taken the form of numerous formal and informal meetings, creating a working framework between state and non-state actors. Several of the activities carried out have been identified as good practice, including workshops on the appropriation of the text of the law, retreat sessions with MPs, workshops on the legitimisation of the endorsing MP, and several context analysis meetings.



## SUSTAINED AND CONSTANT COMMUNICATION BETWEEN THE VARIOUS PEOPLE INVOLVED

The creation of a Whatsapp group bringing together the stakeholders involved in each province and media coverage of the advocacy activities carried out were identified as practices that would enable news to be disseminated on a massive scale, in order to avoid information being withheld. In addition, the sending of multiple SMS messages targeting the President and Vice-President of the National Assembly (SMS Marmites) highlighted the importance of this law for many Congolese.

## POOLING FORCES TO ADOPT ADVOCACY TOOLS (PLAN, ARGUMENTS)

Many stakeholders were involved: HRDs identified as influential and emblematic experts, provincial protection networks, embassies, CNDH, national and international NGOs, UN and ACHPR Special Rapporteurs, and the UNJHRO. The actions of these actors and planned activities were framed by the adoption of a formal advocacy plan.



To sum up, at the regional level, ISHR identifies 3 recommendations drawn from actions carried out in other African countries:

- Ensure that a large part of civil society, working on a variety of issues, is involved in the process of adopting a law to protect HRDs; the law can only be adopted if civil society is involved and associated, both in large cities and in remote areas.
- Depending on the context, it may be more effective to focus on draft laws rather than draft legislation, and to target the government rather than Parliament.
- Carry out a mapping exercise of allies who can support advocacy efforts in the long term, to identify representatives who will provide support.



# PART V

## RECOMMENDATIONS

### TO THE AUTHORITIES AND COURTS OF THE DRC

#### FOR THE ADOPTION AND PROMULGATION OF THE LAW

##### To the Senate

- Speed up the vote on the draft of the proposed law on the protection and responsibility of HRDs, taking into account the considerations, expectations and recommendations of civil society regarding possible improvements to the text of the law, more specifically :
- Amend Article 7-3 regarding the requirements for the identification and registration of HRDs, thereby ensuring that the definition of HRDs is in line with that of the United Nations [44].

##### To the President of the Republic :

- Enact the law and publish it in the Official Journal as soon as possible.

#### FOR THE EFFECTIVE APPLICATION AND IMPLEMENTATION OF THE LAW

##### To the authorities of the DRC :

- Designate an independent national institution responsible for ensuring the application of the text and implementing a mechanism to prevent, protect and investigate all attacks and violations against defenders.

- Support local initiatives to promote interactive dialogue and bring together civil society actors, as well as public and private stakeholders, on the issue of protecting human rights.

- Participate in disseminating the law to HRDs, civil society and provincial and national authorities, and to ensure that it is translated into the four national languages.

- Take account of the law on the protection and responsibility of HRDs in all judicial decisions, using it as a legal basis.

- Guarantee the independence of the judicial system and provide it with the necessary capacity to carry out independent and impartial investigations into allegations of human rights violations and systematically prosecute the perpetrators

##### To the CNDH :

- Implement and ensure the effective application of the law on the protection of HRDs in collaboration with the Congolese authorities and civil society.

[44] General Assembly Resolution A/RES/53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144 (8 March 1999), available at: <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/declaration-human-rights-defenders-different-languages>

## TO CSO'S WORKING TO DEFEND HUMAN RIGHTS

- Continue and coordinate advocacy actions until the law is promulgated and published, and work in synergy with other civil society organisations to increase the visibility of the law and its effects.
- Use and refer to the text of the law in all advocacy and communication initiatives (statements, urgent appeals, press releases, petitions, etc.).
- Familiarise themselves with the text of the law, and organise workshops throughout the country to popularise and appropriate the law for provincial and national authorities, HRDs and civil society, while documenting its effects.
- Train HRDs to be fully aware of their rights and duties as enshrined in law and in national, regional and international legal instruments for the protection of human rights defenders
- Raise awareness among HRDs of the need for effective collaboration with national human rights institutions and state authorities, in order to guarantee optimum protection coordinated by the state and in compliance with international and national law.

## TO OTHER AFRICAN STATES

**To Members of civil society wishing to support the adoption of a national law to protect human rights:**

- Continue and coordinate advocacy actions of members of parliament on this issue, organising individual contacts and inviting diplomatic actors to get involved in the actions being taken.
- Advocate the protection of HRDs in accordance with regional and international human rights protection instruments.
- Create frameworks for consultation and dialogue bringing together state and non-state actors to contribute to better protection of HRDs.
- Pursue dialogue with Congolese civil society to encourage the sharing of good practice.

**To the authorities of other African States :**

- Work closely with non-state actors and members of civil society to ensure effective protection of HRDs.

**To MPs wishing to support a draft law to protect human rights:**

- Involve other MPs before or at the beginning of the process of adopting the law in order to make them aware of the importance of adopting a law to protect human rights.
- Lobby the chairs of the parliamentary committees to influence the inclusion of the draft law in the parliamentary timetable.
- Consult civil society to draw up a text in line with international protection instruments and their expectations.

## TO INTERNATIONAL MECHANISMS

### To the United Nations:

- Ensure that the implementation of the protection law is well underway by the time of the DRC's next Universal Periodic Review in July 2024.
- Arrange the visit of the DRC by the United Nations Special Rapporteur on Human Rights Defenders once the law has been adopted by the Senate, in order to support the promulgation of the law by the President of the Republic and its publication in the Official Journal.
- Facilitate the translation and dissemination of the 1998 UN Declaration on Human Rights Defenders to make it accessible in all four national languages.
- Maintain comprehensive support for CSOs and HRDs to protect, promote and defend human rights.
- Encourage other African states to adopt legislation to protect HRDs and involve civil society more closely in this mechanism through national consultations.

### To the African Commission on Human and Peoples' Rights (ACHPR) :

- Organise a delegation's visit to the DRC to support the promulgation of the law by the President of the Republic and its publication in the Official Journal.
- Promote and support, at regional level, advocacy initiatives in favour of the adoption of laws to protect human rights in pioneering African states.

### To international human rights organisations:

- Continue and coordinate their advocacy work with the Congolese government to ensure that the law protecting HRDs, once passed by the Senate, is promulgated by the President of the Republic and published in the Official Journal as soon as possible.
- Support advocacy initiatives by civil society for the protection of HRDs and, in particular, to encourage the organisation of workshops on identified good practice.

# BIBLIOGRAPHY

## ARTICLES

Agir ensemble pour les droits humains. "Maniema: adoption of an edict protecting human rights defenders", 9 November 2022, available at: <https://agir-ensemble-droits-humains.org/fr/maniema-adoption-dun-edict-de-protection-des-defenseurs-des-droits-humains/>

Agir ensemble pour les droits humains. "The DRC invests in the protection of human rights defenders. Agir ensemble pour les droits humains, 15 September 2022, available at <https://agir-ensemble-droits-humains.org/fr/la-rdc-sinvestit-dans-la-protection-des-defenseurs-et-defenseuses-des-droits-humains/>

Amnesty.be. "DRC: stop using the extension of the state of siege as a pretext to repress demonstrations". Amnesty International Belgium, 27 September 2022, available at: <https://www.amnesty.be/infos/actualites/article/faut-cesser-utiliser-prolongation-siege-pretexte-reprimer>.

Châtelot, C. (2022, 28 December). The UN confirms Rwanda's involvement alongside the M23 rebels in eastern Congo-Kinshasa. Le Monde.fr, available at: [:Châtelot, Christophe. "UN confirms Rwanda's involvement with M23 rebels in eastern Congo-Kinshasa "](https://www.lemonde.fr/afrique/article/2022/12/28/1-onu-confirme-l-implication-du-rwanda-au-cote-des-rebelles-du-m23-dans-l-est-du-congo-kinshasa_6155882_3212.html)

Focus: The Observatory On Public Policies For Defenders. "Democratic République of Congo : edictNo. 001/2016 protecting human rights defenders and journalists in South Kivu province", n. d, available at: <https://www.focus-obs.org/fr/documents/edit-no001-2016-du-fevrier-2016-portant-protection-des-defenseurs-des-droit-de-lhomme-et-des-journalistes-en-province-de-sud-kivu/>.

Focus: The Observatory On Public Policies For Defenders. "Niger: a draft law for the recognition and protection of human rights defenders", available at <https://www.focus-obs.org/fr/documents/niger-un-projet-de-loi-pour-la-reconnaissance-et-la-protection-des-defenseurs-des-droits-humains/>.

International Service for Human Rights (ISHR) (2023, 31 March) "Senators meet civil society to strengthen protection of human rights defenders in the DRC", available at: <https://ishr.ch/fr/actualites/les-senateurs-rencontrent-la-societe-civile-pour-renforcer-la-protection-des-defenseurs-des-droits-humains-en-rdc/>.

International Service for Human Rights (ISHR) (2017, 13 December), "Democratic Republic of Congo: draft law on human rights defenders is dangerous, says UN Human Rights Committee", available at: <https://ishr.ch/fr/actualites/republique-democratique-du-congo-le-projet-de-loi-sur-les-defenseurs-des-droits-humains-est/>

Le Monde.fr, 28 December 2022, available at: [https://www.lemonde.fr/afrique/article/2022/12/28/1-onu-confirme-l-implication-du-rwanda-au-cote-des-rebelles-du-m23-dans-l-est-du-congo-kinshasa\\_6155882\\_3212.html](https://www.lemonde.fr/afrique/article/2022/12/28/1-onu-confirme-l-implication-du-rwanda-au-cote-des-rebelles-du-m23-dans-l-est-du-congo-kinshasa_6155882_3212.html).

Le Monde.fr "In the east of the DRC, the common front of the military and armed groups against the M23 rebels", 17 February 2023, available at [https://www.lemonde.fr/afrique/article/2023/02/17/dans-l-est-de-la-rdc-le-front-commun-des-militaires-et-des-groupes-armes-face-aux-rebelles-du-m23\\_6162303\\_3212.html](https://www.lemonde.fr/afrique/article/2023/02/17/dans-l-est-de-la-rdc-le-front-commun-des-militaires-et-des-groupes-armes-face-aux-rebelles-du-m23_6162303_3212.html).

Pierret, Coralie. "In the war-torn east of the DRC, the difficult task of registering voters". Le Monde.fr, 9 March 2023, available at: [https://www.lemonde.fr/afrique/article/2023/03/09/dans-l-est-de-la-rdc-en-guerre-le-difficile-enrolement-des-electeurs\\_6164851\\_3212.html](https://www.lemonde.fr/afrique/article/2023/03/09/dans-l-est-de-la-rdc-en-guerre-le-difficile-enrolement-des-electeurs_6164851_3212.html).

Reporters Sans Frontières (RSF). "After the edict on the protection of journalists, a journalist from South Kivu wins a court case", n.d., available at <https://rsf.org/fr/apr%C3%A8s-l-%C3%A9dit-sur-la-protection-des-journalistes-un-journaliste-du-sud-kivu-gagne-un-proc%C3%A8s>.

RTN "RDC: 266 armed groups active in five eastern provinces", available at: <https://www.rtn.ch/rtn/Actualite/Monde/RDC-266-groupes-armes-actifs-dans-cinq-provinces-orientales.html#:~:text=AP%2FSOCRATE%20MUMBERE-,Plus%20de%20260%20groupes%20arm%C3%A9s%20locaux%20et%20%C3%A9trangers%20ont%20pr%C3%A9sents,cit%C3%A9%20par%20des%20m%C3%A9dias%20congolais%20>.

Secours Catholique - Caritas France " Michel Forst : " The best protection is solidarity ", 19 October 2022, available at: <https://www.secours-catholique.org/m-informer/enquetes/michel-forst-le-meilleur-outil-de-protection-cest-la-solidarite>.

UN Info. "Literacy Day: in the DRC, 29% of people aged 15 and over are illiterate", 8 September 2020, available at <https://news.un.org/fr/audio/2020/09/1076772>.

UN Info. "Literacy Day: in the DRC, 29% of people aged 15 and over are illiterate", 8 September 2020, available at <https://news.un.org/fr/audio/2020/09/1076772>

UN Info. "UN asks for 2.25 billion dollars to help the DRC". 7 March 2023, available at <https://news.un.org/fr/story/2023/02/1132552>.

UNHCR Belgium and Luxembourg. "Emergency in the Democratic Republic of Congo - UNHCR Belgium and Luxembourg. available at: [https://www.unhcr.org/be/aide-durgence/urgence-republique-democratique-du-congo#:~:text=sporadic%20of%20violence.-,Des%20milliers%20de%20personnes%20ont%20%C3%A9t%C3%A9%20forc%C3%A9es%20to%20flee%20their%20colonies%20\(ao%C3%BBt%202022\)](https://www.unhcr.org/be/aide-durgence/urgence-republique-democratique-du-congo#:~:text=sporadic%20of%20violence.-,Des%20milliers%20de%20personnes%20ont%20%C3%A9t%C3%A9%20forc%C3%A9es%20to%20flee%20their%20colonies%20(ao%C3%BBt%202022)).



## REPORTS AND RESOURCES

Avocats Sans Frontières (2013, 30 October - 1 November), "Conference report: national strategies for the protection of human rights defenders in the Democratic Republic of Congo, Kinshasa", available at: <https://www.asf.be/wp-content/uploads/2014/11/Rapport-conf%C3%A9rence-RDC-Final.pdf>, p. 9-10.

Civicus, Global Report - Civicus Monitor 2020, available at <https://findings2020.monitor.civicus.org/fr.html>. Frontline Defenders, #Democratic Republic of Congo (DRC), available at: <https://www.frontlinedefenders.org/fr/location/democratic-republic-congo>

International Service for Human Rights (ISHR), Model Law on the Recognition and Protection of Human Rights Defenders, available at [https://ishr.ch/sites/default/files/documents/model\\_law\\_french\\_january2017\\_screenversion.pdf](https://ishr.ch/sites/default/files/documents/model_law_french_january2017_screenversion.pdf)

Protection International, The Observatory of Public Policies for the Protection of Human Rights Defenders, available at: <https://www.focus-obs.org/fr/>

Report of the Special Rapporteur on the situation of human rights defenders (A/HRC/52/29) entitled "Perseverance and solidarity: the keys to twenty-five years of success for human rights defenders", available at: <https://documents-dds.ny.un.org/doc/UNDOC/GEN/G22/610/63/PDF/G2261063.pdf?OpenElement>

## EDICTS, DECREES, LAWS AND RESOLUTIONS

Edict No. 001/2016 of 10 February 2016 on the protection of human rights defenders and journalists in the province of South Kivu, available at: <https://ishr.ch/wp-content/uploads/2023/04/DRC-South-Kivu-Edict-001-2016.pdf>

Edict No. 001/2019 of 30 November 2019 on the protection of human rights defenders in the province of North Kivu, available at: [https://ishr.ch/sites/default/files/documents/edit\\_portant\\_protection\\_des\\_defenseurs\\_des\\_droits\\_humains\\_au\\_nord-kivu.pdf](https://ishr.ch/sites/default/files/documents/edit_portant_protection_des_defenseurs_des_droits_humains_au_nord-kivu.pdf)

Law establishing the rights and duties of human rights defenders in Niger, 15 June 2022, available at: <https://ishr.ch/wp-content/uploads/2022/07/Loi-fixant-les-droits-et-les-devoirs-des-defenseurs-des-droits-de-l'Homme-au-Niger-2022.pdf>

Law No. 039-2017/AN, on the protection of human rights defenders in Burkina Faso, available at: [https://www.assembleenationale.bf/IMG/pdf/loi\\_039-2017\\_defenseurs\\_droits\\_humains.pdf](https://www.assembleenationale.bf/IMG/pdf/loi_039-2017_defenseurs_droits_humains.pdf)

Office of the High Commissioner for Human Rights, OHCHR. "The Declaration on Human Rights Defenders", n.d., available at: <https://www.ohchr.org/fr/special-procedures/sr-human-rights-defenders/declaration-human-rights-defenders#:~:text=The%20D%C3%A9claration%20pr%C3%A9sente%20that%20the%20rights%20of%20the%20human'rights>.

Official Journal of the Republic of Côte d'Ivoire, 2 July 2014, Act No. 2014-388 on the promotion and protection of human rights defenders, available at: <https://www.fidh.org/IMG/pdf/loi-no-2014-388-du-20-juin-2014-portant-pro-motion-et-protection-des-defenseurs-des-droits-de-l'homme.pdf>

Official Journal of Democratic Republic of Congo, Office of the President of the Republic, Kinshasa - 1 February 2011, Act No. 11/002 of 20 January 2011 revising certain articles of the Constitution of the Democratic Republic of Congo of 18 February 2006, available at: <https://www.leganet.cd/Legislation/JO/2011/JOS.01.02.2011.pdf>

Official Journal of the Republic of Mali, Act No.2018-003/ of 12 January 2018 on human rights defenders, available at: <https://sgg.mali.ml/JO/2017/mali-jo-2017-03-2.pdf>

Presidency of the Republic of Côte d'Ivoire, Decree No. 2017-121 of 22 February 2017 on the modalities of application of Law No. 2014-388 of 20 June 2014 on the promotion and protection of human rights defenders, available at: [https://www.fidh.org/IMG/pdf/di\\_bdi\\_bdcret\\_ni\\_bdi\\_bd\\_2017-121\\_du\\_22\\_fi\\_bdi\\_bdv\\_2017\\_promotion\\_et\\_protection\\_des.pdf](https://www.fidh.org/IMG/pdf/di_bdi_bdcret_ni_bdi_bd_2017-121_du_22_fi_bdi_bdv_2017_promotion_et_protection_des.pdf)

Resolution A/RES/53/144 of the United Nations General Assembly, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144 (8 March 1999), available at: <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/declaration-human-rights-defenders-different-languages>



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