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Human Rights Committee (HRCttee)  
Office of the High Commissioner for Human Rights  
Geneva, Switzerland

RE: Supplementary information for Democratic Republic of the Congo scheduled for review by the HRCttee during its 119th session in March 2017.

Dear Committee Members:

This shadow letter is intended to complement the periodic report submitted by the State of Democratic Republic of Congo for consideration of the Country Report Task Force of the HRCttee. Si Jeunesse Savait is an association of young feminists in the DRC. This letter is intended to provide the Committee with information about DRC's violations of CCPR that result from the State's restrictive abortion law.

The abortion law in DRC criminalizes abortion in all cases while a 1970 rule on medical ethics allows doctors to provide therapeutic abortion only to save a woman's life and with the approval of two additional doctors. The restrictive abortion law violates **Article 2(1)** of the Covenant (right to freedom from discrimination), **Article 6** (protecting the right to life of every human being) and **Article 9** (the right to liberty and security of person for all people).

This Committee has explicitly described illegal and unsafe abortion as a violation of Article 6, noting the link between illegal and unsafe abortion and high rates of maternal mortality.<sup>1</sup> The HRCttee also stated in General Comment 28 that "State parties should give information on any measures taken by the State to help women prevent unwanted pregnancies, and to ensure that they do not have to undergo life-threatening clandestine abortions."<sup>2</sup> The HRCttee has criticized legislation that criminalizes or severely restricts access to abortion in several sets of concluding observations.<sup>3</sup> This Committee has specifically recommended to several State parties that they

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<sup>1</sup> See e.g., **Bolivia**, 01/04/97, U.N. Doc. CCPR/C/79/Add.74, par. 22; **Chile**, 30/03/99, U.N. Doc. CCPR/C/79/Add.104, par. 15; **Mongolia**, 25/05/2000, U.N. Doc. CCPR/C/79/Add.120, par. 8(b); **Sudan**, 19/11/97, U.N. Doc. CCPR/C/79/Add.85, par. 10; **Zambia**, 03/04/96, U.N. Doc. CCPR/C/79/Add.62, par. 9.

<sup>2</sup> Human Rights Committee, *General Comment 28: Art. 3* (68th Sess., 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 228, U.N. Doc. HRI/GEN/1/Rev. 9 (2008).

<sup>3</sup> See e.g., **Argentina**, 03/11/2000, U.N. Doc. CCPR/CO/70/ARG, par. 14; **Bolivia**, 01/04/97, U.N. Doc. CCPR/C/79/Add. 74, par. 22; **Chile**, 30/03/99, U.N. Doc. CCPR/C/79/Add. 104, par. 15; **Peru**, 15/11/2000, U.N.

review or amend legislation criminalizing abortion, often referring to such legislation as violating the right to life.<sup>4</sup> The Committee has also acknowledged that restrictive abortion laws have a discriminatory and disproportionate impact on poor, rural women.<sup>5</sup> Furthermore, this Committee has previously expressed concern about the very high maternal mortality rates in the DRC.<sup>6</sup>

In its review of the DRC in 2013, the CEDAW Committee expressed concern about “The criminalization of abortion, accompanied by the application of severe penalties for abortion, despite the large number of unwanted pregnancies resulting from rape.”<sup>7</sup> The CEDAW Committee further recommended that the DRC “remove punitive legislative provisions imposed on women who undergo abortion, in line with general recommendation No. 24 (1999), in particular when pregnancy is harmful to the mother’s life and health and in instances of incest and rape, and more particularly in cases of rape perpetrated in the context of the conflict.”<sup>8</sup>

In its current report to this Committee, the government states that it has put in place a national strategy to combat maternal and infant mortality and an action plan on reproductive health, gender, and population. However, the Government fails to address unsafe abortion, which is a major contributor to maternal death in the region.<sup>9</sup> We urge this Committee to recommend that the government revise its abortion law to come into compliance with **Article 6** of CCPR.

### **The Legal Framework for Abortion**

Abortion is prohibited under articles 165 and 166 of the penal code, which were enacted in 1970 and punish women who have abortion with five to 10 years in prison.<sup>10</sup> In addition, a 1933 law criminalizes anyone who advertises or provides information on or the means to get an abortion.<sup>11</sup> The DRC has signed and ratified the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, which commits the State Party to authorize abortion in

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Doc. CCPR/CO/70/PER, par. 20; **Poland**, 29/07/99, U.N. Doc. CCPR/C/79/Add. 110, par. 11; **Senegal**, 19/11/97, U.N. Doc. CCPR/C/79/Add. 82, par. 12; **Venezuela**, 26/04/2001, U.N. Doc. CCPR/CO/71/VEN, par. 19.

<sup>4</sup> See e.g., **Argentina**, 03/11/2000, U.N. Doc. CCPR/CO/70/ARG, par. 14; **Chile**, 30/03/99, U.N. Doc. CCPR/C/79/Add. 104, par. 15; **Peru**, 15/11/2000, U.N. Doc. CCPR/CO/70/PER, par. 20; **United Republic of Tanzania**, 18/08/98, U.N. Doc. CCPR/C/79/Add. 97, par. 15; **Venezuela**, 26/04/2001, U.N. Doc. CCPR/CO/71/VEN, par. 19.

<sup>5</sup> See e.g., **Argentina**, 03/11/2000, U.N. Doc. CCPR/CO/70/ARG, par. 14.

<sup>6</sup> Human Rights Committee, *Concluding comments of the Human Rights Committee: Democratic Republic of the Congo*, para. 14, April 2016.

<sup>7</sup> Committee on the Elimination of All Forms of Discrimination Against Women, *Concluding comments of the Committee on the Elimination of All Forms of Discrimination Against Women: Democratic Republic of the Congo*, para. 32(e), July 2013.

<sup>8</sup> CEDAW Concluding comments, note 7 at para. 31(e) (July, 2013).]

<sup>9</sup> World Health Organization. 2011. Unsafe abortion: global and regional estimates of the incidence of unsafe abortion and associated mortality in 2008. Sixth Edition. Geneva: WHO.

<sup>10</sup> Democratic Republic of Congo Penal Code, article 165, 166.

<sup>11</sup> Democratic Republic of Congo Penal Code, article 178.

cases of rape, incest, and when a woman's life or health is threatened by the continued pregnancy.<sup>12</sup>

Although abortion is criminalized, a 1970 order on medical ethics provides that when an abortion is needed to save a woman's life, a medical doctor may provide therapeutic abortion but only with the approval of two other doctors.<sup>13</sup> For the majority of women in the DRC, which has among the fewest doctors per capita (at .107 physicians per 1000 population<sup>14</sup>), legal abortion is totally inaccessible.

We urge this Committee to recommend that the government reform the abortion law in order to address the problem of unsafe abortion.

**We request the Committee include the following questions to the State of Democratic Republic of the Congo in the List of Issues:**

- 1. How will the State address the alarming rate of maternal mortality and specifically reduce death from unsafe abortion?**
- 2. What steps will the State take to review the restrictive abortion law, which contributes to high rates of maternal death from unsafe abortion, in violation of women's right to life?**
- 3. Since abortion is criminalized and carries a penalty for women, we ask that the Committee question the state on the law's implementation and if there are women in prison for having illegal abortions.**

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<sup>12</sup> African Commission on Human and Peoples' Rights. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Published 2003, art. 14(2(c)).

<sup>13</sup> Democratic Republic of Congo. Ordonnance 70-158 du 30 avril 1970 d déterminant les règles de la déontologie médicale, art. 32.

<sup>14</sup> World Health Organization. 2015. Global Health Observatory data repository. Density per 1000 data by country.

## Background information

Women in the Democratic Republic of the Congo suffer from alarming rates of maternal mortality, a significant proportion of which stem from unsafe abortion. In fact, since the Human Rights Committee last reviewed the Democratic Republic of the Congo, maternal mortality rates have actually increased to 846 deaths per 100,000 live births (compared to 549 deaths per 100,000 live births recorded in 2007).<sup>15</sup> Unsafe abortion accounts for 14% of maternal deaths in Sub-Saharan Africa. Without access to safe abortion, women in DRC risk their health and lives by resorting to unsafe abortion.<sup>16</sup>

The human rights of women in the Democratic Republic of the Congo are of particular concern as the country has experienced horrific levels of rape as armed groups operating in eastern Congo perpetrate sexual violence.<sup>17</sup> Perpetrators have acted with impunity, which lead to the establishment of an OHCHR presence in DRC in 1996. While the DRC government has shown the will to fight against perpetrators of sexual violence, high levels of conflict-related sexual violence remain.<sup>18</sup> For example, from January to September 2014, the United Nations Population Fund recorded 11,769 cases of sexual and gender-based violence in the provinces of North Kivu, South Kivu, Orientale, Katanga and Maniema.<sup>19</sup> In countries like the DRC, “where conflict-related sexual violence is most prevalent, safe abortion is inaccessible or illegal,”<sup>20</sup> women face consequences from unsafe abortion, including death.<sup>21</sup>

The criminalization of abortion prevents women with unwanted pregnancy—including victims of conflict-related sexual violence—from being able to safely end their pregnancy. Because of this, the abortion law contributes to unsafe abortion and maternal mortality, in violation of Article 6 of the ICCPR.

Very Sincerely,  
Si Jeunesse Savait

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<sup>15</sup> Measure DHS, Deuxième Enquête Démographique et de Santé. 2014. Rockville: Measure DHS, ICF International.

<sup>16</sup> World Health Organization. 2011. Unsafe abortion: global and regional estimates of the incidence of unsafe abortion and associated mortality in 2008. Sixth Edition. Geneva: WHO.

<sup>17</sup> Human Rights Watch. 2014. Democratic Republic of Congo: Ending Impunity for Sexual Violence. New York: Human Rights Watch.

<sup>18</sup> United Nations Organisation Stabilization Mission in the Democratic Republic of the Congo. 2016. Accountability for Human Rights Violations and Abuses in the DRC: Achievements, Challenges and Way forward (1 January 2014 – 31 March 2016).

<sup>19</sup> UN Security Council. 23 March 2015. Report of the Secretary-General on Conflict-related sexual violence. S/2015/203, para. 23.

<sup>20</sup> UN Security Council. 23 March 2015. Report of the Secretary-General on Conflict-related sexual violence. S/2015/203, para. 11.

<sup>21</sup> Burkhardt, G et al. Sexual violence-related pregnancies in eastern Democratic Republic of Congo: a qualitative analysis of access to pregnancy termination services.