

**TESTIMONY PRESENTED TO
THE INTERNATIONAL OPERATIONS
AND HUMAN RIGHTS SUBCOMMITTEE**

**House Committee on International Relations
House of Representatives
Washington D.C.**

Statement of Mr. Arsène Kirhero Nsibula
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2200 Rayburn House Office Building

**Hearing on:
The US State Department
Country Reports on Human Rights Practices for 2001**

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Introduction

I am Arsene Kirhero, Coordinator of the International Human Rights Law Group's office in Bukavu, South Kivu province, in the Eastern part of the Democratic Republic of Congo. The mission of the Law Group is to strengthen the capacity of Congolese organizations that promote and protect human rights.

Thank you for the opportunity to testify at this hearing related to the publication of the U.S. State Department's country reports on human rights practices for 2001. I will briefly comment on the report as pertains to the Democratic Republic of Congo, with an emphasis on its presentation of the human rights situation in Eastern Congo, where I live and work.

Observations on the Congo country report

The Congo country report generally reflects the reality we have witnessed on the ground in the last year. The report acknowledges the difficulties in obtaining access to, or verification of certain information – a reflection in itself of the challenges Congolese human rights organizations face in their work. I would like to commend the report's examination of the problems of sexual and gender-based violence in the armed conflict, as well multiple violations of the rights of the child. Nevertheless, in its analysis of state human rights practices, the State Department report does not adequately nuance the violations of international human rights and humanitarian law that are being committed by various actors throughout government and occupied territories. My statement will raise five comments and critiques on its treatment of the human rights situation in the Democratic Republic of Congo:

First, the State Department could more elaborately address the *responsibility* of external actors in Congo in the deteriorating human rights situation, especially their role in fanning local conflicts and using militias and armed groups to attain their strategic objectives;

Second, the report inadequately recognizes the *nature* of the presence of external actors in Eastern Congo and the degree of control and influence they have over the human rights situation;

Third, exploring the extent to which economic and other strategic interests versus interests of national security, explain the heavy foreign military presence, armed confrontations and ensuing human rights violations;

Fourth, with respect to the part of the country under government control, the report discusses Congo's military justice system, but fails to sufficiently highlight the political context in which this military court system operates and consistently violates fundamental fair trial standards;

Fifth, the report appropriately acknowledges the impact of widespread impunity enjoyed by perpetrators of the blatant violations that have been documented and reported.

Firstly, it is important to highlight the role played by external actors, even when acting behind the scenes, through support to an array of armed groups that have committed massive violations. In South-Kivu and Ituri provinces, the armies of Uganda and Rwanda deliberately create chaos to justify their

presence. In Ituri, for example, violent clashes between Hema and Lendu tribal militia have resulted in hundreds of civilian casualties and thousands of displaced persons. This rivalry has extended to other ethnic groups and now engulfs nearly the entire region. Support by elements of the Ugandan military to diverse Congolese warring factions – including the Hema and Lendu – has intensified the conflict significantly. Similarly, in South Kivu, in the mountainous regions of South Kivu, fighting has broken out between RCD soldiers and dissenters from the Banyamulenge ethnic group. In this case, one group of Banyamulenge are reportedly receiving military and logistical support from external actors to crush a Banyamulenge uprising. Recent reports from Bukavu confirming significant numbers of wounded persons admitted in hospitals attest to the on-going nature of the fighting. The support received by RCD combatants from the Rwandan army is strikingly similar to the role played by Uganda's army in Ituri. This trend of foreign armies exacerbating conflict warranted more specific attention in the country report.

Secondly, while noting the heavy military presence of Uganda and Rwanda in Eastern Congo, the report could go further in establishing the responsibility of these armies for the upsurge of violence in areas effectively under their control. As noted by other international human rights observers on Congo, the report does not characterize the presence of the Rwandan Patriotic Army (RPA) and the Ugandan People's Defence Force (UDPF) as "occupying forces", which would entail a responsibility to protect the civilian population. The report re-states the position adopted during the initial deployment of these troops in Congo – that it was primarily explained by the need to counter a number of hostile armed groups, such as the Interahamwe, ex-FAR, Mayi-Mayi, and the Ugandan ADF. In cataloguing dozens of grave violations of human rights and humanitarian law committed by the foreign armies, as well as abuses perpetrated by groups closely allied to, and receiving direction from them, the report itself implicitly provides a foundation for more authoritatively establishing the responsibility that these external actors bear for the deteriorating human rights situation.

Third, the report notes the integration of the economies of the occupied provinces into the economies of the respective external actors – Rwanda and Uganda. However, it does not explore the extent to which economic and other strategic interests – as opposed to national security interests -- explain the heavy foreign military presences, combat activity and ensuing human rights violations in areas under their effective control. However, consistent reports from human rights organizations on the ground, from UN bodies, including the U.N. Panel of Experts on the Illegal Exploitation of Natural Resources and other Forms of Wealth of the Democratic Republic of the Congo, and several international human rights and humanitarian organizations all conclude that economic interests have taken on increasing significance in the conflict in Congo. These economic interests fuel the war and the ensuing human rights violations. It also appears noteworthy and far from coincidental, that armed confrontations between Congolese groups supported by external actors and other armed groups, or even between external actors themselves in Congolese territory, occur in areas of strategic importance for mineral extraction, particularly diamonds and coltan.

Fourthly, while the report appropriately notes the systematic abuses that pervade the military justice system in areas under government control, an explanation of the political context that surrounds abuses related to Congo's Military Order Courts would provide a more complete understanding of the nature of these violations. In the last year, as the report notes, the military justice system, armed with courts that have extensive jurisdiction and operate largely outside of the purview of any civilian authority, has meted out harsh justice in proceedings that do not conform to fundamental standards of due process. Imposition of the death penalty in summary trials, trials of civilians in military courts, accused persons lacking proper representation, detention of accused persons in conditions that violate international norms, and the imposition of convictions, including death sentences with no right to appeal have plagued proceedings in these courts. Several Congolese and international human rights observers have decried the arbitrary nature of this justice system, and the unwillingness to reform, apparently due to resistance from

the military and the military justice system hierarchy. This phenomenon, which raises questions about the influence or control exerted by the country's authorities over the military, deserves special mention.

Fifth, in noting the lack of any real commitment on the part of the main protagonists in the DRC conflict to hold persons to account for widespread abuses committed, the country report appropriately highlights the impunity that prevails. The widespread impunity enjoyed by those – on all sides – who commit, instigate, or tolerate severe human rights abuses constitutes in reality a signal to the multiple belligerents that these actions do not entail any consequences. Addressing impunity must therefore remain a key objective, in breaking the chain of violations and abuse that has characterized the on-going conflicts in the DRC.

In conclusion, I would ask what are the implications of this country report that documents persisting human rights abuses on a massive scale ? How will this comprehensive inventory of systematic attacks on the rights to life, to freedom from torture, to health, to an adequate standard of living for millions of Congolese, concretely influence the policy of the United States in the Great Lakes region of Central Africa, and towards all actors in the war in Congo? The U.S. possesses, and is perceived to possess by actors in the region, the potential to exert pressure on perpetrators of abuses to desist from them, and to hold accountable those responsible for these acts, as it has done elsewhere in the world. The view constantly expressed by Congo's civil society and human rights movement – that deserves support and reinforcement -- is that through the instruments of U.S. foreign policy – aid, trade, diplomacy, and human rights, amongst others – the U.S. can send signals that positively impact upon the human rights situation in the Democratic Republic of Congo.

Thank you for your attention.