Action pour les Droits Solidaires

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Action pour les Droits Solidaires (ADS)[i] reflection on:

Rule of Law, Due Process, and Citizens' Protection in Conflict-Affected Governance Systems

ADS has reviewed the *"Arrêté Départemental No 001/AFC-M23/DF/2026 du 13 mars 2026 portant nomenclature des impôts et taxes à percevoir dans les zones libérées par l'AFC/M23"* and notes that the document extends beyond a conventional taxation and revenue collection framework.

While presented primarily as a fiscal and taxation instrument, the *arrêté* also introduces fines, sanctions, and regulatory provisions covering a broad range of areas ordinarily associated with criminal law, morality regulation, immigration management, telecommunications regulation, traffic offenses, administrative enforcement, and public order governance. For example, the document includes sanctions relating to offenses such as racism, tribalism, disclosure of professional secrets, theft, robbery, corruption, social conduct, and various other forms of behavior and administrative infractions.

ADS recognizes that communities affected by prolonged armed conflict, displacement, poverty, institutional fragility, and social disruption require functioning systems capable of maintaining public order, social cohesion, and community stability. In fragile environments where state institutions have weakened or become inaccessible, governance challenges become particularly complex, and communities often seek mechanisms capable of regulating public life and reducing disorder.

At the same time, the breadth and multidimensional nature of the measures contained in the *arrêté* raises important legal, institutional, and governance questions that deserve careful reflection.

From a legal and constitutional perspective, the document appears to consolidate multiple dimensions of governance; fiscal authority, criminal regulation, morality enforcement, administrative control, regulatory oversight, etc. within a predominantly sanction and revenue-oriented framework. In most constitutional systems, these functions are ordinarily exercised through distinct institutions operating under clearly defined legal mandates, procedural safeguards, and oversight mechanisms staffed with trained professionals.

Criminal offenses such as theft, robbery, racism, tribalism, or disclosure of professional secrets typically involve investigative procedures, evidentiary standards, judicial

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hearings, defense rights, proportional sentencing principles, and appeal mechanisms. The central legal concern in this situation is not necessarily whether certain acts should be sanctioned but rather the institutional framework through which sanctions are imposed, interpreted, and enforced.

This raises important questions for citizens in fragile contexts such as Eastern DRC:

- ⇒ Which institutions investigate alleged offenses?
- ⇒ What procedural safeguards exist for accused persons?
- ⇒ What standards of evidence are applied?
- ⇒ What recourse mechanisms exist in case of abuse, false accusations, or arbitrary enforcement?
- ⇒ Which bodies exercise oversight over those responsible for implementing these measures?

These questions become particularly important where social, criminal, and moral regulation are integrated into systems of fines and financial penalties. The purpose of governance and social regulation should fundamentally be prevention, protection, rehabilitation, accountability, social stability, and preservation of human dignity — rather than creating perceptions that morality, criminality, and public order are being approached primarily through punitive and revenue-generating mechanisms.

Without clear judicial safeguards and civilian oversight mechanisms, even well-intentioned regulatory measures may create risks of inconsistent application, abuse, selective enforcement, extortion, or perceptions of injustice among the population. In conflict-affected societies where communities already experience economic hardship, trauma, displacement, and institutional uncertainty, such perceptions may further weaken public trust.

ADS nevertheless recognizes the legitimate importance of addressing issues such as tribalism, racism, public disorder, theft, violence, and harmful social behavior, particularly in a region that has experienced prolonged cycles of conflict and social fragmentation. However, sustainable social order requires more than sanctions alone. It also requires credible institutions, procedural fairness, civilian oversight, prevention mechanisms, and community trust.

ADS further believes that governance and protection efforts in Eastern DRC should continue to prioritize some of the gravest threats affecting communities, particularly sexual and gender-based violence (SGBV), conflict-related sexual violence,

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exploitation of vulnerable women and girls, family vulnerability, child protection concerns, and barriers to access to justice for survivors.

For many communities, these remain among the most urgent threats to human dignity, social cohesion, and long-term recovery. Sustainable moral and social order is therefore not only built through punitive measures, but also through systems that actively protect vulnerable populations, prevent violence, strengthen accountability for serious abuses, and restore citizens' confidence in justice and protection mechanisms.

ADS respectfully encourages that governance and regulatory initiatives in conflict-affected areas be accompanied by:

1. Clear and transparent recourse and complaint mechanisms for citizens;
2. Strong procedural safeguards and civilian oversight mechanisms;
3. Greater emphasis on prevention, mediation, awareness, and community protection alongside sanctions;
4. Engagement with civil society organizations, legal professionals, community leaders, and protection actors in order to benefit from local expertise and community-based perspectives;
5. Progressive strengthening of civilian and justice mechanisms capable of ensuring fairness, accountability, proportionality, and equal treatment under the law.

Civil society organizations operating within affected communities possess important lived experience and direct engagement with populations impacted by conflict, displacement, trauma, and social vulnerability. Their participation in governance reflection and policy discussions can contribute to more inclusive, protection-sensitive, and community-responsive approaches.

More broadly, this situation reflects the complex governance realities that emerge in areas affected by prolonged conflict, where questions of public order, legal authority, taxation, morality regulation, criminal enforcement, institutional legitimacy, and citizens' rights become deeply interconnected. Sustainable peace and social cohesion ultimately depend not only on regulation and sanctions, but also on institutions and approaches that strengthen justice, protection, dignity, accountability, and citizens' trust.

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[i] *Action pour les Droits Solidaires (ADS)* is a Goma-based, social justice civil society organization committed to advancing human rights, peacebuilding, gender justice, climate justice, and community resilience in Eastern DRC. ADS works closely with communities, civil society actors, and policy stakeholders to promote human rights, evidence-based advocacy and inclusive governance approaches. www.solidarityrights.org