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Technical assistance and capacity-building

Human rights situation and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo

Report of the United Nations High Commissioner for Human Rights*

Summary

The present report, submitted pursuant to Human Rights Council resolution 48/20, provides an overview of the human rights situation in the Democratic Republic of the Congo between 1 June 2021 and 31 May 2022. The overview is based on information gathered and cases of violations and abuses documented by the United Nations Joint Human Rights Office in the Democratic Republic of the Congo and the activities conducted by the Office of the United Nations High Commissioner for Human Rights through the Joint Office. The report highlights key human rights developments, assesses the progress made in implementing the recommendations put forward by the High Commissioner in previous reports and by various United Nations human rights mechanisms and sets out recommendations for the Government.

* The present document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B.



I. Introduction

1. The human rights situation in the Democratic Republic of the Congo between 1 June 2021 and 31 May 2022 remains a concern, even though the number of human rights violations and abuses and violations of international humanitarian law documented by the United Nations Joint Human Rights Office has decreased. Further efforts are needed to provide better protection for civilians, especially in conflict-affected provinces, owing to the increased attacks carried out by armed groups, especially the *Coopérative pour le développement du Congo*, the Allied Democratic Forces (ADF), the Nyatura and various Mai-Mai factions. Additional efforts need to be deployed to prevent further shrinking of civic space, which should be monitored closely in view of the elections in 2023. The election process has been facing delays, including with respect to electoral reforms. It has also been affected by tensions related to the appointment of members of the Independent National Electoral Commission and the resurgence of hate speech and incitement to discrimination, hostility or violence, creating risks of widespread ethnic and political tensions and violence.

2. The Joint Office continues to support the efforts of the Government of the Democratic Republic of the Congo to fulfil its international human rights obligations, particularly, in the areas of women, youth and the participation of indigenous groups in the public space, transitional justice processes, combating impunity and countering hate speech, including through enhanced engagement with the United Nations human rights mechanisms.

II. Main human rights developments

3. During the reporting period, the Joint Office documented at least 6,782 human rights violations and abuses, as well as violations of international humanitarian law, which reflects a decrease of 5 per cent compared to the preceding reporting period. At least 44 per cent of these violations and abuses were allegedly committed by State officials, primarily by members of the Armed Forces of the Democratic Republic of the Congo (FARDC), and the Congolese National Police.

4. Although the overall number of human rights violations in the context of civic space has diminished compared to the previous reporting period, the Joint Office has observed an upward trend during the last quarter. That is due to an increased involvement of the Congolese National Police and the National Intelligence Agency in tracking journalists, human rights defenders and political opponents against a backdrop of political tensions in the provinces, a troubled electoral process and the imposition of the *état de siège* (state of siege), which has been used as a pretext to restrict freedoms.¹

5. In the conflict-affected provinces, the situation has not significantly improved and civilians continue to be attacked by armed groups, with the number of victims of summary and extrajudicial executions increasing by 6 per cent. Facilitated by Kenya, the ongoing Nairobi consultations process between the Government and armed groups, is an encouraging step as it aims primarily to identify the necessary accompanying measures for voluntary disarmament. However, while this has allowed for a temporary lull in some areas, attacks by the *Coopérative pour le développement du Congo*, ADF and, most recently, the 23 March Movement (M23) have continued.

6. Measures taken in the implementation of the *état de siège*, which became effective on 6 May 2021 in North Kivu and Ituri Provinces and has been extended 23 times seem to have neither dissuaded armed groups from attacking civilians, especially in sites of internally displaced persons, nor reduced the number of documented violations and abuses. During 12

¹ Articles 85 and 86 of the country's Constitution envisions two regimes of restriction of fundamental freedoms when there are grave circumstances threatening the country's independence, territorial integrity and the normal functioning of State institutions: the state of emergency (*état d'urgence*) and the state of siege (*état de siège*). Restrictions under the *état de siège* are higher and include the deployment of military administration and military jurisdiction over criminal offences. The *état de siège* is also defined in articles 2–14 of Organic Law No. 11/012 of 11 August 2011 on the organization and functioning of the Forces Armées de la République démocratique du Congo.

months of the *état de siège*, 2,413 individuals (1,778 men, 471 women and 164 children) have been killed by members of armed groups, while 1,581 people (1,076 men, 365 women and 140 children) were killed during the same period prior to the imposition of the measure. With the transfer of criminal cases from civilian courts to military jurisdiction by virtue of the ordinance of 6 May 2021 imposing the *état de siège*, the administration of justice has been negatively affected, with an increase in cases of prolonged pretrial detention, whereas the exercise of fundamental freedoms has significantly reduced under the restrictions imposed. However, on 18 March 2022, following a presidential ordinance renewing the *état de siège*, criminal jurisdiction was transferred back to civilian courts for certain offences, reducing the number of cases before military courts in the two provinces.

7. A joint military operation between FARDC and the Uganda People's Defence Force against ADF has been under way since November 2021. Although there is little information currently available on their human toll, there is a substantial risk that civilians would be further harmed during these operations. In Katibombo and Buisegha, Beni territory, North Kivu Province, Ugandan soldiers occupied two schools from 3 to 7 December 2021, where they stored ammunition, resulting in the suspension of classes.

8. During the reporting period, the Joint Office has continued to document cases of hate speech and incitement to hostility. It documented 13 cases of hate speech, using the six criteria established by the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Based on the United Nations strategy and action plan to counter hate speech, the Joint Office continues to support government efforts at the national and local levels to prevent and address hate speech and its potential impact on the ground.

A. Fundamental freedoms and democratic space

9. In her latest oral update on the human rights situation in the Democratic Republic of the Congo to the Human Rights Council in March 2022, the Deputy High Commissioner for Human Rights highlighted the delays and tensions related to the electoral reforms and the appointment of members of the National Electoral Commission ahead of the elections in 2023.² She also called on the Government to widen the democratic space and expressed concern over the arrest and detention of members of civil society organizations for expressing dissent. She also welcomed the tabling of the Sakata draft law against tribalism, racism and xenophobia for discussion at the National Assembly.

10. In its concluding observations on the fourth periodic report of the Democratic Republic of the Congo, the Human Rights Committee recommended the adoption of measures to ensure that any restrictions on the exercise of freedom of expression comply with the strict requirements set out in the International Covenant on Civil and Political Rights, to avoid taking any measures to deprive individuals of their right to freedom of peaceful assembly when such measures are not justified under the provisions of the Covenant and to prevent and eliminate all forms of excessive use of force by police and security officers.³

11. In its concluding observations on the second periodic report of the Democratic Republic of the Congo, the Committee against Torture urged the Government to close all unofficial places of detention and to revise its legislative framework and practices to ensure that all arrests and detentions are subject to oversight by the judicial authorities.⁴ It also recommended the release of all persons detained for having defended their opinions or demonstrated peacefully and the payment of compensation to victims of arbitrary detention.⁵

² See <https://www.ohchr.org/en/press-releases/2022/03/human-rights-council-democratic-republic-congo-continues-be-compounded>.

³ CCPR/C/COD/CO/4, paras. 40, 42 and 44.

⁴ CAT/C/COD/CO/2, para. 15.

⁵ Ibid., para. 29.

1. Current situation and actions taken by the Government

12. During the reporting period, the Joint Office documented a decrease of 40 per cent in human rights violations and abuses related to the democratic space (397 compared to 664 in the preceding period), a continuation of the downward trend observed since February 2019. State actors were responsible for 90 per cent of the human rights violations related to the democratic space, an increase of 7 per cent compared to the previous period, while the other 10 per cent of violations were committed by armed groups. The most frequently documented violations and abuses concerned the right to liberty and security of the person and the right to freedom of opinion and expression affecting members of civil society organizations and human rights defenders, members of political parties and the media.

13. During the reporting period, at least 280 people (247 men, 18 women and 15 children) were subjected to arbitrary arrest or unlawful and arbitrary detention following the exercise of their fundamental rights, a 35 per cent decrease from the 433 victims recorded in the preceding reporting period. Several of these cases were documented in the context of the *état de siège*. For example, on 1 April 2022, the Garrison Military Tribunal of Beni, North Kivu Province, sentenced 12 members of the citizens' movement Lutte pour le changement to 12 months in prison and the payment of 250,000 Congolese francs in court costs for disobedience of the country's laws after they organized a peaceful sit-in in front of the Beni City Hall on 11 November 2021, to protest against the extension of the *état de siège*. Numerous cases of threats, intimidation and attacks targeting human rights defenders, members of civil society organizations and journalists while carrying out their activities have also been documented.

14. During the first quarter of 2022, the Joint Office documented a staggering increase of 600 per cent in human rights violations committed by agents of the National Intelligence Agency in relation to civic space, as compared to the previous period, especially with regard to the right to life and physical integrity. The provinces of Tanganyika, Kasai, Haut Katanga and Kasai Central were particularly affected by the increased violations by the Agency.

2. Actions taken by the Joint Human Rights Office

15. The Joint Office continued to monitor the human rights situation in relation to the democratic space, to bring cases of human rights violations and abuses to the attention of the authorities and to recommend measures for preventing and addressing such violations. Monitoring and early warning mechanisms have also been enhanced in the Kasai and Katanga regions, as well as in other provinces not affected by conflict, where the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) presence has been reduced or offices closed. That included the deployment of mobile monitoring teams and stand-alone offices of the Office of the United Nations High Commission for Human Rights, with the aim of monitoring the situation and supporting State institutions and civil society organizations in their engagements in the area of human rights. During the reporting period, 28 monitoring missions, 106 capacity-building activities and 5 joint investigation missions with the judiciary into cases of human rights violations were organized by the Joint Office in five provinces.

16. The Joint Office continued its engagement with the human rights and gender affairs standing committees of the National Assembly with a view to building their capacity on human rights issues. Advocacy for reform of the legal framework to enhance the enjoyment of the freedoms of association and peaceful assembly, as well as access to information and protection of human rights defenders continued, although no significant headway was made. A positive step was the adoption of the laws on persons living with disabilities⁶ and the protection of the rights of indigenous people.⁷

17. As co-chair of the MONUSCO task force to prevent and counter hate speech, the Joint Office participated in the coordination of United Nations actions to support national and local

⁶ Law No. 22/003 on the protection and promotion of the rights of people with disabilities was adopted by the National Assembly on 3 May 2022 and published in the National Gazette on 1 June 2022.

⁷ The law on the promotion and protection of the rights of indigenous peoples was adopted on 7 April 2022 and is yet to be published.

efforts to promote national cohesion and peaceful cohabitation. Following the development and adoption of the strategy and plan of action to prevent and counter hate speech at the national and provincial levels, several technical cooperation activities were organized or supported. For instance, workshops were organized in support of the drafting of a bill on tribalism, racism and xenophobia, which is to be tabled for adoption at the National Assembly. The Joint Office also provided technical and financial support in the organization of regional forums on countering hate speech in Douala, Cameroon, from 26 to 29 October 2021 and in Bangui from 26 to 29 April 2022. From 21 to 24 June 2022, a third forum took place in Kinshasa and a draft regional strategy on hate speech was adopted. The Joint Office also supported a working visit by representatives of the Office of the Special Adviser to the Secretary-General on the Prevention of Genocide from 19 to 28 April 2022 to support national initiatives to counter hate speech.

18. In October 2021, a joint strategy for preventing and mitigating the risks of the excessive or disproportionate use of force by the Congolese National Police during public order management operations was adopted by MONUSCO. In April 2022, a task force co-chaired by the United Nations Police and the Joint Office was established with other MONUSCO components in order to discuss potential measures necessary at the strategic, operational and political level, including joint monitoring, advocacy and training to be undertaken by MONUSCO to prevent and mitigate those risks, taking into consideration the likely increase in the excessive and disproportionate use of force in the lead-up to the elections in 2023.

19. The Joint Office also continued to monitor the situation and provide support to members of civil society organizations and human rights defenders. During the period under review, legal, psychosocial, medical, advocacy and physical protection measures were provided to at least 357 human rights defenders, 76 journalists and 25 other victims and witnesses of human rights violations (a total of 425 men and 33 women). Since April 2022, the operational capacity of 43 protection networks in the Democratic Republic of the Congo was strengthened to facilitate their human rights monitoring, advocacy and reporting.

B. Protection of civilians in conflict areas

20. In its concluding observations on the fourth periodic report of the Democratic Republic of the Congo, the Human Rights Committee urged the Government to take measures to protect civilians in areas of armed conflict and internally displaced persons.⁸ It also called on the Government to cooperate fully with all United Nations entities in dealing with allegations of violations and abuses of human rights and violations of international humanitarian law in the Kasai region.⁹

1. Current situation and actions taken by the Government

21. Approximately 94 per cent of the human rights violations and abuses documented during the reporting period were committed in conflict-affected areas. Compared to the previous reporting period, the number of violations and abuses documented decreased from 6,584 to 5,781, with armed groups accounting for most of those incidents (66 per cent), which was an increase compared to the previous period (59 per cent). As of 23 May 2022, some 5.97 million civilians were internally displaced, with over 4 million in the eastern provinces of South Kivu, North Kivu and Ituri alone.

22. The reporting period also saw a further narrowing of the humanitarian space, characterized by attacks against members of humanitarian organizations and sites of internally displaced persons. The Joint Office has documented 17 attacks against internally such sites by members of armed groups in Ituri, North Kivu and South Kivu, with at least 151 civilians killed (including 58 men, 46 women and 47 children) by fighters from the Coopérative pour le développement du Congo alone. From June 2021 to April 2022, 240 security incidents directly affecting humanitarian goods, personnel and infrastructures were

⁸ CCPR/C/COD/CO/4, para. 26.

⁹ Ibid., para. 28.

registered. In March 2022, 69 attacks against humanitarian workers were documented, leading to the death of 4, the wounding of 1 and the kidnapping of 10. Those attacks led a number of humanitarian organizations to suspend or close their operations in Ituri, North Kivu and South Kivu, further aggravating the situation of vulnerable people in dire need of assistance. For example, on 1 February 2022 in Djugu territory, Ituri Province, 62 internally displaced persons from the Hema community were killed (36 men, 17 children and 9 women, of whom 2 were pregnant) and 38 others were injured (12 men, 3 women and 23 children), by fighters from the faction of the Union des révolutionnaires pour la défense du peuple congolais of the Coopérative pour le développement du Congo in an attack on the Plaine Savo site for internally displaced persons. The victims were attacked with machetes and firearms. Part of the site and a health centre located nearby were also looted.

23. During the reporting period, violations of international humanitarian law were also documented in conflict-affected provinces. In total, 65 attacks against schools and 39 attacks against hospitals were documented, of which the majority occurred in Ituri, with 60 attacks (38 attacks against schools and 22 attacks against hospitals), and North Kivu, with 29 attacks (16 attacks against schools and 13 attacks against hospitals). For instance, on 29 and 30 March 2022, the Joint Office documented five attacks against hospitals and three attacks against schools allegedly perpetrated by M23 in the villages of Chanzu and Runyonyi, Rutshuru territory, North Kivu Province.

24. During the offensive launched by FARDC against members of armed groups, the Joint Office documented indiscriminate attacks, resulting in civilian casualties and the destruction of property. For example, on 15 January 2022, in K3 village, Djugu territory, a woman was killed and her daughter injured by shrapnel from an explosive projectile allegedly launched from a FARDC helicopter. On the same day, the same helicopter dropped another explosive projectile in Petsi, injuring two students outside their school.

25. The majority of the human rights violations and abuses were committed in North Kivu (3,544 violations), of which 66 per cent were committed by members of armed groups, mainly by factions of the Nyatura, ADF, various Mai-Mai groups, Forces démocratiques de libération du Rwanda and the Alliance des patriotes pour un Congo libre et souverain. During the reporting period, ADF continued to conduct particularly deadly attacks, leaving a toll of 1,193 casualties (923 men, 232 women and 38 children), an increase of 27 per cent as compared to the previous period (937 casualties). Since November 2021, M23 has started hostilities against FARDC and MONUSCO and has been responsible for the death of 34 civilians, including two children killed during the shelling of their school. Despite M23 attempts to prevent civilians from fleeing and also owing to threats made against journalists and human rights defenders, at least 170,000 civilians have fled to Uganda and other territories in North Kivu.

26. Members of the Congolese defence and security forces were also responsible for serious human rights violations in North Kivu, including extrajudicial executions of 133 civilians (104 men, 19 women and 10 children), sexual violence against 74 persons (47 women, 26 children and 1 man), other violations of the right to physical integrity of 569 civilians and the arbitrary arrest and the detention of at least another 775 civilians.

27. In Ituri Province, members of the Coopérative pour le développement du Congo continued to attack the civilian population and committed the largest number of human rights abuses (423 out of 794 committed by armed groups). At least 550 persons were summarily executed by various armed groups (369 men, 103 women and 78 children). Members of defence and security forces committed 27 per cent of the documented violations in Ituri Province, including during military operations, a 35 per cent increase as compared to the previous reporting period. These violations included extrajudicial executions of 74 civilians (52 men, 17 women and 5 children), sexual violence against 67 women and children, other violations of the right to physical integrity of 94 civilians and the arbitrary arrest and detention of another 107 civilians.

28. In South Kivu, 530 human rights violations and abuses have been documented, including 164 people killed (135 men, 19 women and 10 children) and 269 victims of violations and abuses of the right to physical integrity (161 men, 85 women and 23 children), including 70 victims of sexual violence. State agents committed half the human rights

violations recorded in South Kivu. As for armed groups, various Mai-Mai and Raia Mutomboki armed groups were responsible for the most human rights abuses.

29. The situation in the Hauts and Moyens Plateaux of Uvira, Fizi and Mwenga territories continued to be marked by violence between armed groups purporting to represent community interests, as well as by attacks perpetrated against FARDC and civilians, including displaced populations. During the reporting period, against a backdrop of hate speech and incitement to hostility, discrimination and violence, 109 civilians were killed, and 70 others injured in clashes involving local and foreign armed groups.

30. In Tanganyika Province, the number of documented violations and abuses increased slightly (to 548 from 536 in the previous reporting period). State agents were responsible for 40 per cent of these violations and the various Mai-Mai groups for the remainder. More than 54 per cent of documented violations were committed in Kalemie territory. These included 20 violations of the right to life, with 28 victims, of whom 16 were victims of arbitrary and extrajudicial killings; 70 violations of the right to physical integrity involving 257 victims, of whom 1 man, 49 women and 35 children were victims of sexual violence; 81 violations of the right to liberty and security of the person, involving 368 men, 108 women and 36 children; 103 violations of the right to property; 17 cases of forced labour; and two cases of violations of the right to public protest and demonstration.

31. New commanders were appointed to head FARDC operational sectors, regiments and battalions,¹⁰ including four units participating in ongoing military operations in some areas, but some were still deployed on the ground. FARDC military operations supported by the MONUSCO Force in compliance with the United Nations human rights due diligence policy, continued against armed groups. The lack of a contingency plan for the protection of civilians during military operations, delays in launching a disarmament, demobilization and community reintegration programme and in combating impunity, including through setting up effective transitional justice mechanisms, may also have had an impact on State capacity for the protection of civilians in the long term.

2. Actions taken by the Joint Human Rights Office

32. The Joint Office continued to monitor the human rights situation in the provinces affected by armed conflict, provide analyses and jointly contribute with MONUSCO civilian and military components to the protection of civilians.

33. During the reporting period, the secretariat for the human rights due diligence policy conducted at least 120 risk assessments in the context of United Nations support to non-United Nations security forces. The risk assessments resulted in the approval of support accompanied by robust mitigation measures for 976 members of FARDC, including support in the context of military operations and logistical support for 161 officers of the Congolese National Police. The secretariat conducted four risk assessments as part of the United Nations country team's support for the defence and security forces, to ensure that any support provided to Congolese security forces by United Nations agencies is strictly in accordance with the human rights due diligence policy.

34. The Joint Office continued to conduct advocacy with the Congolese authorities for strengthening the follow-up committees on human rights violations committed by members of FARDC and the Congolese National Police. The Joint Office participated in 62 meetings of the committees and conducted 16 training sessions for at least 274 members of the Police and FARDC, including those deployed in areas of operation.

35. The Joint Office conducted three fact-finding and monitoring missions and participated in six joint assessment missions in provinces affected by the armed conflict. One

¹⁰ That is according to two telegrams issued by the FARDC headquarters in Kinshasa in March and April 2022, appointing commanders of operational sectors Sukola I Grand Nord, Ituri and Sukola II North Kivu (Petit Nord), and the decision of the FARDC headquarters of 27 April appointing commanders and deputy commanders of FARDC regiments and battalions.

public report on violations and abuses of human rights and humanitarian law in Ituri and North Kivu was issued during the reporting period.¹¹

36. In the context of the transition in Tanganyika Province and the Kasai region, the Joint Office contributed to assessment activities and planning efforts to hand over responsibilities from MONUSCO to United Nations country team entities, State institutions and civil society organizations, while maintaining a residual presence in the Kasai region. In Tanganyika Province and the Kasai region, the Joint Office continued to implement projects in the areas of transitional justice and community reintegration and recovery in conjunction with the United Nations Development Programme (UNDP) and the International Organization for Migration.

C. Sexual violence

37. In its concluding observations on the fourth periodic report of the Democratic Republic of the Congo, the Human Rights Committee urged the Government to take all necessary measures to ensure that all cases of sexual violence were investigated, the perpetrators prosecuted and, if found guilty, punished. The Committee also recommended that physical and psychological support should be provided to victims and that their access to legal services should be facilitated.¹²

38. In its concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo, the Committee on the Elimination of Discrimination against Women called on the State to prosecute all acts of violence against women upon complaint by the victim or ex officio; punish the perpetrators; ensure that judicial decisions are executed and that compensation is paid; and set up a comprehensive care system for victims.¹³

39. In its concluding observations on the second periodic report of the Democratic Republic of the Congo, the Committee against Torture recommended strengthening the capacity of judges to combat sexual violence and implementing measures to facilitate access to justice for victims.¹⁴

1. Current situation and actions taken by the Government

40. During the reporting period, at least 457 women, 221 children and 4 men were victims of sexual violence in the Democratic Republic of the Congo. That represents a decrease from the preceding reporting period (682 in comparison to 718 victims). State actors were responsible for 30 per cent of sexual violence cases and members of FARDC and the Congolese National Police continue to be among the main perpetrators, accounting for 152 and 37 victims, respectively.

41. North Kivu Province (50 per cent of cases documented nationwide), Ituri Province (22 per cent), and South Kivu Province (10 per cent) are the most affected provinces, with armed group combatants responsible for more than 70 per cent of documented cases during the reporting period. Among State agents, the FARDC and Congolese National Police are responsible for the highest number of cases, especially in conflict-affected provinces. It should be noted that these figures do not represent the actual numbers of all conflict-related sexual violence cases that occur in the Democratic Republic of the Congo, as most of them go unreported.

42. Noteworthy progress was seen during the reporting period in the fight against impunity for crimes relating to conflict-related sexual violence. For example, from 27 to 29 March 2022, with the technical and financial support of the Joint Office, the military garrison prosecutor's office of Uvira, South Kivu, accompanied by clinical psychologists, conducted

¹¹ See https://monusco.unmissions.org/sites/default/files/bcnudh_-_mise_a_jour_sur_la_situation_des_droits_de_lhomme_adf_2021-2022_fr_002_0.pdf (in French only).

¹² CCPR/C/COD/CO/4, para. 20.

¹³ CEDAW/C/COD/CO/6-7, para. 22.

¹⁴ CAT/C/COD/CO/2, para. 33.

judicial investigations in the territories of Walungu and Shabunda, during which it interviewed 41 victims (31 women, 6 men, 3 girls and 1 boy) of conflict-related sexual violence committed by State agents and members of armed groups members. The investigation led to the arrest of Muniyololo Mbaio alias Ndarumanga and five members of the Mai-Mai Ndarumanga armed group, all charged with crimes against humanity. Since November 2021, they have been in detention in Uvira prison. At the end of the investigations, it was noted that approximately 20 victims of sexual violence had not accessed health care because they were still fleeing the clashes of the Raia Mutomboki armed groups in the area around Luntukulu and Shabunda. From 23 to 30 May 2022, the Joint Office, together with the Panzi Foundation, organized a mobile medical clinic to ensure access to comprehensive health care. Finally, the joint communiqué between the Government and the United Nations on combating sexual violence in conflict, which was renewed in December 2019, continued to be implemented during the reporting period.

2. Actions taken by the Joint Human Rights Office

43. The Joint Office continued to monitor, analyse and report cases of sexual violence, including conflict-related sexual violence. It also continued to support the Government in combating sexual violence, including in the context of the armed conflict. From 26 to 28 April 2022, the Joint Office supported the Ministry of Gender, Family and Children in training 33 staff (including 25 women), of the Agence nationale de lutte contre les violences faites à la femme, à la jeune et petite fille. From 10 to 20 May 2022, jointly with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and UNDP, the Joint Office also sensitized 180 staff of the Ministry of Gender, Family and Children in Kinshasa to the national strategy on gender-based violence, so that they could disseminate the strategy among Kinshasa town councillors, religious leaders, women and youth associations.

44. The Joint Office provided support for training programmes for members of FARDC and the Congolese National Police on their respective action plans and the fight against sexual violence. Since June 2020, 135 unit commanders of the Congolese National Police and 115 FARDC unit commanders, including five women, have signed statements of commitment to combat sexual violence.

45. From June 2021 to May 2022, through 12 civil society organizations funded by the Joint Office in the Kasai Central, Kasai, Tanganyika, South Kivu and North Kivu Provinces, 379 victims of gender-based violence, including 2 boys, 324 girls and 53 women, benefited from the support of three legal clinics supported by the Joint Office in North Kivu, South Kivu, and Kasai Central. That included support in judicial proceedings that resulted in the conviction of 290 civilians, 16 members of the police, 43 members of the military and 98 members of armed groups. In total, 10 mobile court hearings were also conducted during this period by national tribunals in Kasai Central, North Kivu and South Kivu.

46. The Joint Office continued to support initiatives to develop a strategy for reparations for victims of sexual violence, including the organization, on 29 October 2021, of a workshop on reparations for survivors of sexual violence by the Global Survivors Fund and the Denise Nyakeru Tshisekedi Foundation.

D. Efforts to combat impunity

47. In its concluding observations on the fourth periodic report of the Democratic Republic of the Congo, the Human Rights Committee called on the Government to take all necessary measures to end impunity for perpetrators of human rights violations by establishing transitional justice mechanisms for the prosecution of past violations and systematically conducting prompt, impartial, effective and thorough investigations in order to identify and prosecute those responsible.¹⁵

48. In its resolution 48/20, the Human Rights Council encouraged the Government to actively pursue its efforts to end impunity for the perpetrators of grave human rights

¹⁵ CCPR/C/COD/CO/4, para. 12.

violations and abuses, including sexual and gender-based violence and violence against children, as well as violations of international humanitarian law, and to ensure that the victims of such violations, abuses and related crimes received adequate reparation.

49. In its concluding observations on the second periodic report of the Democratic Republic of the Congo, the Committee against Torture recommended that the Government improve the material conditions in all places of deprivation of liberty.¹⁶

50. The team of international experts on the situation in Kasai, whose mandate was renewed and extended to cover the entire national territory in 2021,¹⁷ noted that the Government had not implemented most of the recommendations made in the previous report and recommended that the authorities ensure that specialized personnel were assigned the specific task of investigating and prosecuting crimes of sexual violence and crimes involving minors.¹⁸

51. In 2021, following a technical mission focused on reparations for victims in support of efforts by the authorities to advance related legislation, the team of experts on the rule of law and sexual violence in conflict emphasized the need to adopt a victim-centred approach for any new legislation on reparations in the Democratic Republic of the Congo and to include input from survivors and civil society in its considerations.¹⁹

1. Current situation and action taken by the Government

52. Between June 2021 and May 2022, the Joint Office documented 442 convictions related to gross human rights violations. Of these, 142 concerned FARDC, 41 the Congolese National Police and 118 members of armed groups. There were a further 140 convictions of civilians for their involvement in serious human rights violations. In January 2022, the military judicial authorities established a garrison military tribunal in Butembo, North Kivu, to relieve the Beni garrison military tribunal, which was overwhelmed by many cases after the transfer of criminal jurisdiction from the civilian to military courts in the context of the *état de siège*. However, because of the jurisdiction of military courts over crimes committed by civilians, arrests, prosecutions and trials were not subjected to the same fair trial guarantees and therefore continued to be closely monitored by the Joint Office.

53. On 11 May 2022 in Kinshasa, in the case of the assassination in 2010 of Floribert Chebeya and Fidèle Bazana, the High Military Court sentenced Senior Superintendent Christian Ngoy Kenga to death and Deputy Commissioner Jacques Mugabo to 12 years' imprisonment with the admission of mitigating circumstances, while Deputy Commissioner Paul Mwilambwe Londe was acquitted.

54. On 29 January 2022, the military court of the former province of Kasai Occidental rendered its verdict in relation to the killings of the two former members of the Group of Experts on the Democratic Republic of the Congo, resulting in the conviction of more than 50 persons, including a senior army officer. Some of the defendants were found guilty on all counts and sentenced to death.²⁰ In accordance with the Military Criminal Procedure Code, requiring an automatic appeal in the case of death sentences, the military prosecutor filed an appeal before the High Military Court. The appellate trial has not yet taken place.

55. On 21 September 2021, Mihonya Chance Kolokolo, leader of the armed group Raia Mutomboki Chance, was found guilty of crimes against humanity of rape and murder, of the war crime of recruitment and use of children in hostilities and of other crimes, including the violation of natural reserves, national parks and biosphere reserves, and construction in protected areas in the Kahuzi-Biega national park in South Kivu between September 2019 and April 2020. He was sentenced to life imprisonment. His was the first case of the

¹⁶ CAT/C/COD/CO/2, para. 21.

¹⁷ Resolution 48/20, para. 42.

¹⁸ A/HRC/45/50, para. 80.

¹⁹ <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2021/11/TOE-UPDATE-2021CHLOE2-1.pdf>, p. 4.

²⁰ While the moratorium on the death penalty is still in force in the country, the death penalty has not yet been abolished by law. See Note to correspondents – in response to questions on the verdict in the Democratic Republic of the Congo, 1 February 2022.

recruitment and use of children and of illegal exploitation of natural resources that had been tried in South Kivu.

56. To further reduce the prison population, two ordinances for a collective pardon were issued on 28 July 2021 and 31 December 2021 by the President of the Republic, allowing for the release of 816 individuals nationwide. In North Kivu, a *comité de la chaîne pénale* was established in March 2021 by the President of the Court of Appeal, to improve conditions of detention and reduce irregular or prolonged periods of detention.

57. In March 2022, with the support of the Joint Office, the Minister for Human Rights officially launched popular consultations on transitional justice in Tanganyika, Kasai, North Kivu, and Kongo Central Provinces, with the aim of collecting the views of the Congolese people on transitional justice mechanisms to be implemented in the country. An opening ceremony was organized in each province and chaired by the Minister for Human Rights in the presence of representatives of the Presidency of the Republic, state governors, national and provincial parliamentarians, traditional leaders, international and national civil society organizations and United Nations agencies, with the technical and organizational support of the Joint Office and funding from the Peacebuilding Fund and Belgium. The ceremonies were followed by a training session for investigators and supervisors selected to conduct the consultations.

2. Action taken by the Joint Human Rights Office

58. The Joint Office supported eight joint investigation missions and 11 mobile courts in relation to the investigation and prosecution of war crimes, crimes against humanity and other gross violations of human rights and serious violations of international humanitarian law, including sexual violence. It also developed protection plans with a view to providing judicial protection measures to victims and witnesses before, during and after court hearings.

59. In August 2021, the President established a joint commission to discuss the national road map on transitional justice. The commission is co-chaired by the deputy chief of staff of the President and a representative of the Ministry of Human Rights, and includes representatives of the Ministry of Justice, the Human Rights standing committee of the National Assembly, the National Human Rights Commission and civil society, including the Panzi Foundation, with the Joint Office providing technical support. The commission conducted a mapping exercise of relevant actors, identifying options for judicial and non-judicial mechanisms and developed a comprehensive and holistic road map for the next steps on transitional justice. The Joint Office provided training to the members of the commission on the standards, mechanisms and pillars of transitional justice and facilitated commission meetings.

60. In April 2021, the Joint Office supported the establishment of a civil society working group on transitional justice composed of relevant civil society organizations, which served as a forum for consultations between the Government and technical and financial partners, including the Joint Office. The working group also aimed to sensitize communities and help to build the capacity of the population and communities on transitional justice and advocate with the Government in relation to the best options for transitional justice mechanisms. The working group has already engaged in public awareness-raising and outreach activities on transitional justice, conducted advocacy with the Government and held five sensitization activities in five provinces.

61. In total, six capacity-building workshops and sensitization sessions on transitional justice were organized by the Joint Office in Kinshasa and 220 people, including 44 women, participated in the sessions, which were organized for the benefit of State actors and parliamentarians, as well as civil society, journalists and other media professionals and customary chiefs. The Joint Office also organized a workshop with traditional chiefs and civil and military magistrates in November and December 2021 in Kinshasa to raise awareness and involve them in the transitional justice implementation process.

62. In March 2022, the Kasai technical assistance team was reinforced pursuant to resolution 48/20. Its work is dedicated to supporting truth-seeking, the fight against impunity and the safeguarding of forensic evidence. The team also supports the development of a national forensic capacity. Following the decision to extend the mandate of the team of

international experts on the situation in Kasai to cover the entire country, the technical assistance team, including its forensic experts, helped to collect evidence in Kinshasa, North Kivu and the Kasai region. Several forensic related actions were conducted, such as four autopsies, 36 forensic interventions in the field, including 10 excavations of graves with no evidence of bodies and 10 mass graves with evidence of 26 bodies. In addition, the forensic team conducted 189 forensic examinations of victims of conflict-related sexual violence in Tshipindinga, Kasai Central Province. In April 2022, the team started implementing a project in support of the prevention of mistreatment, torture and death in custody. The team also contributed to capacity-building activities for police officers in Bukavu and Kinshasa on combating sexual violence using forensic criteria.

III. Cooperation with the United Nations human rights mechanisms and national mechanisms to promote and protect human rights

A. Action to implement the recommendations of United Nations mechanisms and support to national mechanisms

63. The Joint Office continued to implement its technical cooperation mandate at the national and provincial levels with State institutions and civil society organizations. It supported several national institutions, namely the Interministerial Committee on Human Rights, the standing committees of the National Assembly on human rights and gender affairs, the National Human Rights Commission, the Ministry of Human Rights, the Ministry of Gender, Family and Children and the Ministry in charge of people with disabilities. The support focused on developing capacities, providing logistical support, support for reporting activities and mentoring meetings. The Joint Office conducted 65 capacity-building activities, two logistical support missions, 71 mentoring meetings and provided technical and logistical support for the publication of four thematic reports. Seven other activities were conducted in support of the capacity development of civil society organizations in various areas, including the participation of women and youth in governance, economic, social and cultural rights, sexual and gender-based violence, including conflict-related sexual violence, individual protection, hate speech and the prevention of electoral violence.

64. From 21 to 26 January 2022 and from 1 to 2 March 2022, the Joint Office also played an active role in the development of the sectoral policy of the Ministry of Human Rights, which is to be implemented following approval by the Council of Ministers. The Ministry of Human Rights strengthened the composition of the Interministerial Committee on Human Rights, with delegates from several ministries, whose capacities were reinforced by the Joint Office.

65. As part of the country's cooperation with the United Nations human rights mechanisms, the Joint Office also provided technical and financial support to the Interministerial Committee on Human Rights to organize four thematic workshops for new members to follow up on the implementation of recommendations. Several meetings were also held with the Committee to provide advisory support for the preparation of periodic reports and to measure progress made with regard to its mandate. The Joint Office also provided logistical support to the institution.

B. Update on national mechanisms for the protection and promotion of human rights

66. The Joint Office continued monthly meetings with the Board of the National Human Rights Commission and supported training and workshops with its members and staff. That included workshops on topics such as hate speech, with the participation of executives from the Audiovisual and Communications Council and the Ministry of Human Rights to review a proposal for a law against tribalism, racism and xenophobia. An awareness-raising workshop on the Guiding Principles on Business and Human Rights, an advocacy workshop

on the creation of a national mechanism for the prevention of torture and a follow-up workshop on implementation of the recommendations of the third cycle of the universal periodic review were also organized with the collaboration of civil society.

67. The Joint Office also supported the building and equipment of provincial offices of the National Human Rights Commission in Tanganyika and Ituri Provinces. As a key stakeholder in the monitoring and advocacy setup in provinces going through the transition process, the Commission was progressively involved in the creation and implementation of the monitoring and advocacy capacities in provinces where MONUSCO is reducing its presence or closing offices. The Commission was also closely collaborating with other partners on the follow-up committees on human rights violations attributable to the national police and the armed forces.

IV. Conclusion and recommendations

68. During the reporting period, the human rights situation in the Democratic Republic of the Congo was impacted by the persistent attacks by armed groups targeting the civilian population, especially the most vulnerable in sites for internally displaced people, resulting in human rights violations and abuses and violations of international humanitarian law.

69. The extension of the *état de siège* proved to be ineffective in stopping violence and resulted in an increase in human rights violations and abuses by the defence and security forces and armed groups. The Government should expedite the implementation of the disarmament, demobilization and community reintegration programme for former armed group fighters who wish to lay down arms, in line with the outcome of the Nairobi consultation process and in complementarity with transitional justice initiatives.

70. There are still challenges in relation to addressing the unnecessary and disproportionate use of force to suppress demonstrations, arbitrary arrests and detention, and threats and attacks directed against journalists and members of civil society, particularly in relation to the 2023 elections. The significant increase in the number of violations committed by National Intelligence Agency in the first quarter of 2022 and its involvement in repressing dissent was particularly worrisome.

71. The Government's efforts to fight impunity for sexual violence must continue. Teams in charge of investigating sexual violence and prosecutors and judges involved in such cases must receive targeted training and sufficient resources, in order to increase accountability for perpetrators of sexual violence. Legal reforms aimed at creating a fund for victims of sexual violence and the operationalization of a global fund for victims of international crimes must continue. The round table organized in October 2021 on reparations for survivors of sexual violence is a welcome step. The full implementation of the 2019 addendum to the joint communiqué to address conflict-related sexual violence should be expedited. The specific needs of women and girls should be considered in all decision-making processes, as key to conflict resolution and peacebuilding.

72. In order to put an end to the conflicts affecting the Democratic Republic of the Congo, it is paramount that efforts to combat impunity, strengthen national mechanisms for the protection and promotion of human rights and implement the next steps of the transitional justice process continue to be supported. The launching of transitional justice consultations in four provinces was a positive step, which should be replicated and implemented in all conflict-affected provinces. Actions aimed at improving the situation with respect to economic, social and cultural rights of the Congolese people should also be significantly strengthened, especially in the aftermath of the coronavirus disease (COVID-19) pandemic.

73. In addition, the High Commissioner recommends that the Government of the Democratic Republic of the Congo:

- (a) Continue to open up the democratic space and guarantee the protection of the rights and freedoms of all, including political opponents, human rights defenders and other civil society actors, especially in view of the upcoming elections;
- (b) Take all measures to ensure that the electoral process is non-violent, transparent, inclusive and credible;
- (c) Take appropriate measures to implement the *état de siège* in accordance with the country's obligations under article 4 of the International Covenant on Civil and Political Rights, in the light of the Human Rights Committee's general comment No. 29 (2001);
- (d) Increase efforts to speed up the adoption of the bill on tribalism, racism and xenophobia as a key legislative measure to prevent and counter hate speech and hate crime, and reduce intercommunal violence, especially in conflict-affected areas, while ensuring that it does not infringe the right to freedom of expression;
- (e) Enact the law establishing measures to uphold freedom of peaceful assembly in accordance with the Constitution and the international obligations of the country;
- (f) Ensure that the bill on the protection and accountability of human rights defenders and the bill containing general provisions applicable to non-profit associations and to public service institutions fully guarantee the rights of all persons to protect and promote human rights, do not infringe the rights to freedom of expression or of peaceful assembly and association, and are adopted without any further delay;
- (g) Ensure that the use of force by State agents, including during law enforcement operations, is in strict conformity with international human rights law and that law enforcement officials refrain from unnecessary or disproportionate use of force against demonstrators, including in the lead-up to national elections;
- (h) Ensure that the military operations of FARDC against armed groups are conducted in strict compliance with human rights and international humanitarian law and that any offenders are prosecuted in the competent courts;
- (i) Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and refrain from implementing the death penalty;
- (j) Take all necessary steps to prevent sexual violence and, when it occurs, to bring the perpetrators to justice, provide victims with comprehensive care and facilitate their access to remedies for obtaining justice, truth, and redress, adopting a gender-sensitive approach and ensuring the meaningful and trauma-informed participation of survivors;
- (k) Remove high-ranking officers from the defence and security forces who are implicated in the commission of serious violations of human rights and international humanitarian law, systematically open investigations into cases of human rights violations and take the necessary steps to enforce the penalties for such acts when they are imposed;
- (l) Continue efforts to conduct prompt investigations into allegations of human rights violations and abuses, including those committed by the security forces, and ensure that these efforts lead to the prosecution of the perpetrators of such violations in accordance with fair trial standards;
- (m) In line with the outcome of the Nairobi consultations with the armed groups, ensure the effective implementation of the disarmament, demobilization and community reintegration programme aimed at long-term peace and stability, including in consultation with victims, especially women and girls, and representatives of local communities, in alignment with transitional justice initiatives currently under way;

(n) **Strengthen national human rights institutions and mechanisms for monitoring the implementation of the recommendations of United Nations mechanisms and ensure that the National Human Rights Commission is fully operational, in particular by allocating substantial financial and material resources and ensuring the renewal of its members, while guaranteeing its independence;**

(o) **Take appropriate measures for the approval and implementation of the sectoral policy of the Ministry of Human Rights for the promotion and protection of human rights.**
