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COI QUERY

Country of Origin/Topic	Democratic Republic of Congo (DRC)
Question(s)	1. Sexual and gender-based violence (SGBV), including: Conflict related sexual violence, sexual and domestic violence, trafficking, traditional harmful practices 2. Legal framework (national legislation and international instruments) and implementation 3. State actors of protection 4. Social perception and non-state actors of protection
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The information provided in this response has been researched, evaluated and processed with utmost care within a limited time frame. All sources used are referenced. A quality review has been performed in line with the above mentioned methodology. This document does not claim to be exhaustive neither conclusive as to the merit of any particular claim to international protection. If a certain event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist. Terminology used should not be regarded as indicative of a particular legal position.

The information in the response does not necessarily reflect the opinion of EASO and makes no political statement whatsoever.

The target audience is caseworkers, COI researchers, policy makers, and decision making authorities. The answer was finalised on the 10 July 2019. Any event taking place after this date is not included in this answer.

COI QUERY RESPONSE

1. Most common forms of sexual and gender-based violence (SGBV), in particular: conflict related sexual violence, sexual and domestic violence, trafficking, traditional harmful practices

1.1. Conflict related sexual violence

In the 2018 report on conflict-related sexual violence, the UN stated that sexual violence in the Democratic Republic of Congo (DRC), continued to be employed as ‘a tactic of war, terrorism, torture and repression, including the targeting of victims on the basis of their actual or perceived ethnic, religious, political or clan affiliation’.¹ In its 2019 update report, the UN referred to an increase in the number of documented cases of conflict related sexual violence during 2018, due to intensified activities by non-State armed actors as well as the military operations. The UN further explained:

‘The majority of verified incidents involving armed groups occurred in North and South Kivu Provinces and included rape, gang rape and sexual slavery. Since February, members of the Mai-Mai Raia Mutomboki armed group have committed mass rapes in South Kivu’s Shabunda, Walungu and Mwenga territories. In April, during at least four attacks in mineral-rich Shabunda, Mai-Mai Raia Mutomboki members raped and gang-raped at least 66 women, 11 girls and 2 men. Those acts included penetration and intrusive cavity searches, in an alleged search for gold. In North Kivu, the dissident wing of Alliance des patriotes pour un Congo libre et souverain-Rénové, led by “General” Mapenzi Bulere Likuwe, and Nduma défense du Congo-Rénové, led by “General” Guidon Shimiray Mwissa, committed rape as part of systematic attacks against civilians in Masisi and Lubero. In Beni, the Allied Democratic Forces abused civilians, including through the abduction of children and women. In Ituri, Force de résistance patriotique de l’Ituri continued to perpetrate sexual violence, despite ongoing peace negotiations.’²

In June 2019, UNHCR referred to resurgent intense fighting occurring between the Congolese armed forces (FARDC) and non-state armed actors in the north-eastern region of DRC. As result, more than 300 000 people have been forced to flee this region, in particular the territories of Djugu, Mahagi and Irumu, with reports of ‘brutalities against civilians, killings, sexual violence, and other extreme forms of violence against civilians’.³

1.2 Sexual and domestic violence

In DRC, violence against women is considered endemic⁴ and rape is common.⁵ A 2017 report by the Organisation for Economic Co-operation and Development (OECD) noted that DCR is among the lowest-scoring countries in the world in terms of gender equality, with widespread sexual and gender based violence. Attitudes towards violence against women, especially towards domestic violence, is

¹ UN, Report of the Secretary-General on Conflict related sexual violence, S/2018/250, 23 March 2018, [url](#) p. 4

² UN, Report of the Secretary-General on Conflict related sexual violence, S/2019/280, 29 March 2019, [url](#) p. 16

³ UN, 300, 000 flee flare-up of ethnic violence in north-eastern DR Congo, 18 June 2019 [url](#)

⁴ OECD, Social Institutions and Gender Index 2019, Country Profile: Democratic Republic of Congo, December 2018, [url](#) p. 3

⁵ USDoS, 2019 Report on Human Rights Practices: Democratic Republic of Congo, 13 March 2019, [url](#)

described as prevalently 'permissive'.⁶ The OECD report observed that, in DRC, conflict, gender and fragility are particularly interlinked: 'Due to prevalent social norms, widows, female-headed households and sexual and gender minorities are often in a position of heightened vulnerability.'⁷

1.3 Trafficking

According to the 2019 United States Department of State (US DoS) Trafficking in persons report, DRC does not fully meet the minimum standards for the elimination of trafficking, nor is it making significant efforts to do so. The same source explained that some traffickers are individuals or family members who promise victims (or victims' families) job or education opportunities, forcing them instead to work as domestic servants, street vendors, prostitutes, or as gang members.⁸

According to The Bordgen Project, trafficking in persons in the DRC is not exclusive to a certain age or gender group, it is transversal in society and 'impacts men, women and children of all ages'. While women and young children are subjected to forced prostitution, men and boys are mainly forced into labour and debt bondage.⁹

The US DoS report indicated that during 2018, armed groups continued to abduct and forcibly recruit men, women and children as combatants and in 'support roles', while women and girls were forced to marry or forced into sex slavery for members of some armed groups. Reportedly, in 2018, 'armed groups in eastern DRC used women and children as soldiers and human shields with documented incidents of gang rape and sexual enslavement'.¹⁰

1.4 Traditional harmful practices

The 2019 OECD Social Institutions and Gender Index stated that the practice of Female Genital Mutilation (FGM) has been reported to exist among various tribal groups, where it is still interlinked with customs. However, the same source added that there are no recent reports on the practice being performed.¹¹

Mentioning information provided by UNICEF and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the 2019 USDoS report referred that some abuses perpetrated against children in DRC,¹² including mutilation and use of children in combats, are linked to harmful traditional and religious practices.¹³ A report published by the Global Coalition to Protect Education from Attack (GCPEA) in April 2019, revealed that the Kamuina Nsapu militias (in the Kasai Central province) raped, forced into marriage and used schoolgirls as human shields in the belief they have 'magical powers' that can protect fighters during battles. The same source added that 'while the number of girls who died in battle is unclear, several interviewees

⁶ OECD, Gender Equality and Women's Empowerment in fragile and conflict-affected situation: a review of donor support, October 2017 [url](#) pp. 37-38

⁷ OECD, Gender Equality and Women's Empowerment in fragile and conflict-affected situation: a review of donor support, October 2017 [url](#), pp. 37-38

⁸ US DoS, 2019 Trafficking in Persons Report - Democratic Republic of the Congo, 20 June 2019, [url](#)

⁹ Borgen Magazine, Human Trafficking in the Democratic Republic of Congo, 21 November 2017, [url](#)

¹⁰ US DoS, 2019 Trafficking in Persons Report - Democratic Republic of the Congo, 20 June 2019, [url](#)

¹¹ OECD, Social Institutions and Gender Index 2019, Country Profile: Democratic Republic of Congo, December 2018, [url](#)

¹² UNICEF, Kasai: A children's crisis, May 2018, [url](#)

¹³ US DoS, 2019 Report on Human Rights Practices: Democratic Republic of Congo, 13 March 2019, [url](#)

believed that girls were at greater risk of injury and death because of their position in front of other militia members during battles.’¹⁴

OECD stated that in rural areas, conflict related violence against children and infants was more prevalent because of traditional beliefs that harming children or sleeping with virgins could bring wealth and/or provide protection from death in conflict.¹⁵

2. Legal framework (national legislation and international instruments) and implementation

DRC has ratified some of the most relevant international human rights treaties establishing standards for the protection of persons in its territory, including specific provisions related to the rights of women and girls. Some of these treaties include: the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC). In addition, DRC has ratified the African Charter on Human and Peoples’ Rights and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Maputo Protocol).¹⁶

Article 15 of the 2006 Constitution of the Democratic Republic of Congo outlines that sexual violence is punishable by law.¹⁷ In 2006, DRC also passed a sexual violence law containing provisions against rape and other forms of sexual assault, sexual harassment, sexual slavery, forced marriage, sexual mutilation, the deliberate transmission of sexually transmitted diseases, sexual relations with minors (children under 18) and forced pregnancy, among other acts.¹⁸ However, the law does not foresee any specific penalty for domestic violence¹⁹ and it does not specifically prohibit spousal rape.²⁰

The Congolese government has reportedly taken a number of steps to combat conflict related sexual violence and recruitment of children,²¹ including a directive issued by the Ministry of Defense in 2015, ‘prohibiting the killing, maiming and, recruitment of, and sexual violence against, children as well as the military use of schools and hospitals, foreseeing disciplinary measures or military prosecution.’²²

Under the aforementioned 2006 sexual violence law, child sex trafficking and sexual slavery are punishable respectively with 10 to 20 years’ imprisonment, and with 5 to 20 years’ imprisonment as well as a fine of 200,000 Congolese franc (\$123).²³

¹⁴ GCPEA, "All That I Have Lost": Impact of Attacks on Education for Women and Girls in Kasai Central Province, Democratic Republic of Congo, April 2019, [url](#) p. 7

¹⁵ OECD, Social Institutions and Gender Index 2019, Country Profile: Democratic Republic of Congo, December 2018, [url](#)

¹⁶ GCPEA, "All That I Have Lost": Impact of Attacks on Education for Women and Girls in Kasai Central Province, Democratic Republic of Congo, April 2019, [url](#) p.69

¹⁷ DRC, Constitution de la République Démocratique du Congo, 18 February 2006 Art. 15, available at [url](#)

¹⁸ GMFE, Sexual and reproductive rights: Democratic Republic of Congo, edited 27 September 2017, [url](#)

¹⁹ USDoS, 2019 Report on Human Rights Practices: Democratic Republic of Congo, 13 March 2019, [url](#)

²⁰ GMFE, Sexual and reproductive rights: Democratic Republic of Congo, edited 27 September 2017, [url](#)

²¹ GCPEA, "All That I Have Lost": Impact of Attacks on Education for Women and Girls in Kasai Central Province, Democratic Republic of Congo, April 2019, [url](#) p. 52

²² UN Report of the Secretary-General, Children and Armed Conflict, S/2014/339, 14 May 2014, [url](#) p. 15

²³ USDoS, 2019 Trafficking in Persons Report - Democratic Republic of the Congo, 20 June 2019, [url](#)

The 2006 law also includes FGM among the forms of sexual violence, punishable with 2 to 5 years in prison and with fines of up to 200,000 Congolese francs (\$125); in case of death due to FMG, the sentence is life imprisonment.²⁴

2.1 Conflict related sexual violence

Efforts by the Congolese government to combat conflict related sexual violence have led to the prosecutions of some perpetrators.²⁵ The UN Security Council report stated:

‘Progress was noted in the Democratic Republic of the Congo, where two emblematic cases were prosecuted in 2017: a colonel of the Forces armées de la République démocratique du Congo (FARDC) was convicted for the war crimes of rape and pillage affecting 150 civilians in Musenyi, South Kivu; and a member of Parliament in South Kivu was convicted of a crime against humanity for his role in the abduction and rape of 39 children in Kavumu. The Government made significant progress in its advocacy and outreach to raise awareness of sexual violence, through radio and television programmes, and by operating a nationwide helpline for victims.²⁶

The GCPEA report noted that, despite the efforts, the state response was not adequate to prevent sexual violence and to address the needs of the victims from the Kasai conflict.²⁷ In March 2018, the UN Security Council published a (non-exhaustive) list of parties in the DRC who are ‘credibly suspected of committing, or being responsible for, patterns of rape or other forms of sexual violence in situations of armed conflict’, such list include:

1. Non-State actors:

- (a) *Alliance des patriotes pour un Congo libre et souverain*;
- (b) *Allied Democratic Forces*;
- (c) *Forces pour la défense du Congo*;
- (d) Bana Mura militias;
- (e) *Forces démocratiques de libération du Rwanda*;
- (f) *Force de résistance patriotique de l’Ituri*;
- (g) Kamuina Nsapu;
- (h) Lord’s Resistance Army;
- (i) *Nduma défense du Congo*;
- (j) Mai-Mai Kifuafua;
- (k) All Mai-Mai Simba factions;
- (l) Nyatura;
- (m) *Nduma défense du Congo-Renové*;
- (n) Mai-Mai Raia Mutomboki;
- (o) All Twa militia.

²⁴ USDoS, 2019 Report on Human Rights Practices: Democratic Republic of Congo, 13 March 2019, [url](#)

²⁵ GCPEA, "All That I Have Lost": Impact of Attacks on Education for Women and Girls in Kasai Central Province, Democratic Republic of Congo, April 2019, [url](#) p. 52-53

²⁶ UN, Report of the Secretary-General on conflict related sexual violence, S/2018/250, 23 March 2018, [url](#)

²⁷ GCPEA, "All That I Have Lost": Impact of Attacks on Education for Women and Girls in Kasai Central Province, Democratic Republic of Congo, April 2019, [url](#) p. 52-53

2. State actors:

(a) *Forces armées de la République démocratique du Congo*; ^{*28}

(b) *Police nationale congolaise*. ^{*29}

2.2 Sexual and domestic violence

In November 2017, the UN Human rights Committee expressed concerns about the persistence of violence against women in the State party in DCR, 'both within and outside conflict area'. Additionally, victims encounter obstacles in obtaining access to legal services and they tend not to file complaints against their aggressors for a variety of reasons, such as social stigma, fear of reprisals and incentive to accept amicable settlements.³⁰

Domestic violence is widespread across the country, ranging from verbal, emotional and economic abuse to physical trauma. In such cases, police rarely intervene since domestic disputes is traditionally considered as a private family matter and there is a general social acceptance of spousal abuse.³¹ There were no reports of judicial authorities taking action in cases of domestic or spousal abuse. Moreover, there is a lack of shelters, counselling and rehabilitation services for victims of domestic violence.³²

2.3 Trafficking

Although the law criminalise all forms of sex trafficking, the government did not develop standard operating procedures for the identification and referral of victims, or for effectively hold accountable complicit officials. Moreover, widespread corruption combined with the lack of an anti-trafficking framework continued to hinder efforts to combat all forms of human trafficking throughout the country.³³

2.4 Traditional harmful practices

Among all sources consulted, no updated information could be found on the existence of the practice of FGM. Concerning other traditional harmful practices, [see 1.4.](#)

3. State actors of protection

The Ministry of the Interior's Police Unit for Child Protection and Combating Sexual Violence (PEVS) is the main actor responsible for combatting conflict related sexual and gender-based violence against women and children, as well as protecting children and women who are victims of physical abuse. The

²⁸ * Indicates that the party has committed to adopting measures to address conflict related sexual violence. UN Security Council, Report of the Secretary-General on conflict related sexual violence, S/2018/250, 23 March 2018, [url](#) p. 33-34

²⁹ UN, Report of the Secretary-General on Conflict related Sexual Violence, S/2018/250, 23 March 2018, [url](#)

³⁰ UN Human Rights Committee, Concluding observations on the fourth periodic report of the Democratic Republic of the Congo, 30 November 2017, [url](#) pp. 3-4

³¹ OECD, Social Institutions and Gender Index 2019, Country Profile: Democratic Republic of Congo, December 2018, [url](#) p. 4

³² USDoS, 2019 Report on Human Rights Practices: Democratic Republic of Congo, 13 March 2019, [url](#)

³³ USDoS, 2019 Trafficking in Persons Report - Democratic Republic of the Congo, 20 June 2019, [url](#)



Ministry of the Interior refers all cases to the Ministry of Justice and Human Rights (MOJ) for prosecution and assists victims in seeking justice.³⁴

In May 2019, UNHCR stated:

‘While noting the State party’s efforts to combat sexual violence, the Committee remains concerned about the persistence of the phenomenon in the State party, both within and outside conflict areas. The Committee is particularly concerned about the continued use of sexual violence as a weapon of war in conflict areas, both by armed groups and, in recent years, by the armed forces of the Democratic Republic of the Congo. Also of concern are reports that victims have difficulty in gaining access to legal services and that they are deterred from filing complaints or continuing proceedings against their aggressors by a variety of factors, such as social stigma, fear of reprisals and inducement to accept amicable settlements’.³⁵

4. Social perception and non-state actors of protection

Rape female survivors are reported to experience social stigma, as they are considered to be unsuitable for marriage. In some cases, husbands abandon women who have been victim of sexual assault, while other women are forced by their families to marry their rapists or to accept money or goods from the them, rather than reporting them to the authorities.³⁶ In 2017, the UN expressed concerns about the ‘persistence of sociocultural traditions that condone domestic violence and about the absence of a legal framework for preventing and punishing such violence, including marital rape.’³⁷

A number of international agencies, international and local NGOs³⁸ are present in DRC providing a range of humanitarian services and support for survivors of Sexual and Gender-Based Violence (SGBV) and conflict related sexual violence.³⁹ In response to the culture of impunity for perpetrators of conflict related sexual violence in DRC, a joint effort by the EU and the UN has led to the establishment of the Prosecution Support Units. Building on an earlier phase of the initiative launched in 2011, these Units currently aim to support the Congolese justice system, both the civil and military authorities, in bringing perpetrators of serious offences, such as war crimes, crimes against humanity, homicide and sexual violence, to justice.⁴⁰

³⁴ United States Department of Labor, 2017 Findings on the Worst Forms of Child Labor - Congo, Democratic Republic of the (DRC), 20 September 2018, [url](#) p. 4

³⁵ UNHCR, UNHCR Submission on Democratic Republic of the Congo: 33rd UPR Session, May 2019, available at: [url](#) p. 7

³⁶ OECD, Social Institutions and Gender Index 2019, Country Profile: Democratic Republic of Congo, December 2018, [url](#) p. 4

³⁷ UN Human Rights Committee, Concluding observations on the fourth periodic report of the Democratic Republic of the Congo, 30 November 2017, [url](#) p. 3

³⁸ Some of the international agencies and NGOs active in DRC include: UNICEF, the Norwegian Refugee Council (NRC), CARE International, Médecins Sans Frontières (MSF), Save the Children, among others. For more information see: GCPEA, "All That I Have Lost": Impact of Attacks on Education for Women and Girls in Kasai Central Province, Democratic Republic of Congo, April 2019, [url](#) p. 56-59

³⁹ GCPEA, "All That I Have Lost": Impact of Attacks on Education for Women and Girls in Kasai Central Province, Democratic Republic of Congo, April 2019, [url](#) p. 56-59

⁴⁰ EEAS, EU-UN work jointly to end impunity for perpetrators of sexual violence in conflict, 19 June 2019, [url](#)



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