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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 51/36, provides an overview of the human rights situation in the Democratic Republic of the Congo between 1 June 2022 and 31 May 2023. This overview is based on information gathered and cases of human rights 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 (OHCHR) 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 those by various United Nations human rights mechanisms, and sets out recommendations for the Government.

* The present report was submitted after the deadline in order to reflect recent developments.



I. Introduction

1. Between 1 June 2022 and 31 May 2023, the human rights situation in the Democratic Republic of the Congo remained a concern. While the number of human rights violations and abuses and violations of international humanitarian law documented by the Joint Office decreased compared to the previous reporting period, the number of individuals killed increased, due to the particularly deadly nature of attacks on civilians by armed groups. Further efforts are needed by the Government to provide better protection for civilians in conflict-affected provinces,¹ especially Ituri, North Kivu and South Kivu, owing to the increased attacks carried out by armed groups, notably the Allied Democratic Forces (ADF), various Mai-Mai factions, the Coopérative pour le développement du Congo (CODECO), the Mouvement du 23 mars (M23) and Nyatura factions.

2. The human rights situation has further deteriorated in the western provinces of Kinshasa, Kwango, Kwilu and Mai-Ndombe due to ongoing intercommunal conflicts involving members of the Mbala, Suku, Songe, Teke and Yaka communities, with increased casualties. According to the United Nations Office for the Coordination of Humanitarian Affairs, as of May 2023, 6.29 million people had been forcibly displaced due to conflict.

3. Preparations for general elections scheduled for December 2023 continued to be carried out in an environment marked by insecurity in several provinces and the persistence of hate speech and incitement to violence. The Independent National Electoral Commission officially closed the voter registration process on 25 April 2023, announcing that 95 per cent of approximately 50 million eligible voters had been registered. Forty-seven per cent of registered voters are women. The Commission could not register voters in Masisi and Rutshuru territories in North Kivu province or Kwamouth in Mai-Ndombe province for security reasons.

4. Due to increased insecurity and sentiment against the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), which hampered the Mission's mobility in North Kivu in particular, the Joint Office enhanced its remote monitoring mechanisms by increasing the technical and logistical capacity of human rights defenders and protection networks to ensure continuous situational awareness and advocacy on the democratic and civic space. Despite an increasingly complex political and security environment, and persistent attacks on civilians in the eastern provinces of the country, the Joint Office continued to support the efforts of the Government to fulfil its international human rights and international humanitarian law obligations, including through technical cooperation activities in the areas of transitional justice and the fight against impunity, conflict-related sexual violence, the opening of the civic space for the prevention of and response to hate speech, and the rights of minorities and Indigenous Peoples.

II. Main developments in the field of human rights

5. From 1 June 2022 to 31 May 2023, in accordance with OHCHR methodology the Joint Office documented 5,135 human rights violations and abuses, as well as violations of international humanitarian law, which show a 30 per cent decrease compared to the preceding reporting period. That is in line with the downward trend documented by the Joint Office in recent years and is mainly attributable to a reduction in human rights violations by State agents (34 per cent down in the reporting period). At least 89 per cent of the violations and abuses were allegedly committed in conflict-affected provinces, primarily by members of armed groups (71 per cent of human rights abuses). North Kivu and Ituri provinces were the most affected, with 56 per cent and 18 per cent of violations, respectively. Despite this decrease, the Joint Office documented an increase in summary executions of 7 per cent.²

¹ In 2023, according to the Joint Office, conflict-affected provinces include Ituri, Maniema, North Kivu, South Kivu and Tanganyika.

² Between 1 June 2022 and 31 May 2023, the Joint Office documented 3,131 victims of summary and extrajudicial executions (2,267 men, 603 women and 261 children), as compared to the 2,934 victims (2,181 men, 538 women and 215 children) documented during the previous period.

6. This trend indicates that despite the Government's efforts to neutralize armed groups and ensure the protection of civilians, members of armed groups have continued to carry out increasingly deadly attacks, including against internally displaced persons. While the overall number of abuses committed by armed groups has decreased by 23 per cent compared to the previous reporting period, the number of civilians killed by members of armed groups has increased by 12 per cent.

7. During the reporting period, regional efforts to find political and diplomatic solutions to conflicts in the Democratic Republic of the Congo continued within the frameworks of the Luanda and Nairobi consultation processes. The troops of the East African Community regional force continued to be deployed in North Kivu. The Ugandan and Burundian armed forces were also deployed under bilateral agreements and have engaged in military operations against the ADF in Ituri and North Kivu provinces and against other armed groups in South Kivu province. These bilateral and regional deployments are operating without an established human rights law and international humanitarian law accountability and compliance framework.

8. The Government's Disarmament, Demobilization, Community Recovery and Stabilization Programme faced challenges in its implementation at the provincial level. Although it could make a significant contribution to the sustainable reduction of violence by armed groups, this ambitious programme lacks resources, a clear operational strategy and commitment on the part of armed groups. On 4 May 2023, the parliament adopted a law instituting a reserve force aimed at providing support to the Armed Forces of the Democratic Republic of the Congo, which is awaiting promulgation by the President. The provisions in the law relating to the criteria for admission to the reserve force would allow members of armed groups to be integrated into the armed forces provided they have not been convicted of war crimes, crimes against humanity or genocide. As a result, given the low number of prosecutions brought by national courts against perpetrators of international crimes, alleged perpetrators and more generally individuals who do not meet minimum standards of competence and integrity could very easily be integrated into the reserve force and the Armed Forces of the State.

9. Despite the decrease in violations of human rights and fundamental freedoms relating to the civic and democratic space, threats against human rights defenders and journalists have persisted. The proposed law on the protection and accountability of human rights defenders was adopted by the National Assembly on 12 December 2022 and on 14 June by the Senate.³ As the country prepares for elections in December 2023 amid persistent conflicts in the East, hate speech and incitement to violence, particularly based on ethnic identity and against Banyamulenge, Kasaian, Rwandophone, Suku, Teke, Tutsi and Yaka communities, have continued, mainly on social media platforms. During the reporting period, the Joint Office documented 15 cases of hate speech reaching the Rabat threshold,⁴ mostly in the form of sexism, misogynism, xenophobia and racism.

A. Fundamental freedoms and the democratic space

1. Current situation and measures taken by the Government

10. During the reporting period, the Joint Office documented a decrease of 31 per cent in human rights violations and abuses related to the democratic space (296 compared to 428 in the preceding period), a continuation of the downward trend observed since February 2019. Nationally, State actors were responsible for 84 per cent of the human rights violations related to the democratic space (249 violations), primarily in conflict-affected provinces (150 violations), while the other 16 per cent were committed by armed groups (47 abuses) in conflict-affected provinces. The most frequently documented violations and abuses concerned the right to liberty and security of person and freedom of opinion and expression

³ As the version adopted by the Senate differs from that adopted by the National Assembly, a joint Senate-National Assembly committee will be convened during the next parliamentary session to harmonize the two versions of the law.

⁴ See <https://www.ohchr.org/en/freedom-of-expression>.

affecting members of civil society organizations and human rights defenders, members of political parties and the media. The Joint Office also documented cases of excessive use of force by the Congolese National Police against demonstrations, such as during the march organized by opposition leaders on 20 May 2023, during which 20 demonstrators were arrested and at least 13 others wounded and ill-treated, including a child. Those arrested were released a few days later.

11. The Joint Office also documented threats of physical violence, intimidation, attacks and acts of reprisal targeting 397 human rights defenders (375 men and 22 women) and 33 journalists (22 men and 11 women), perpetrated by both the State security forces and armed groups. Most of the documented threats occurred in the conflict-affected provinces. A significant number of the documented cases involved the authorities and members of armed groups preventing civil society actors and journalists from covering security issues or highlighting issues related to the *état de siège* (state of siege).⁵ At the time of finalization of the present report, at least 10 members of political opposition parties, citizens' movements and pressure groups (such as Engagement pour la Citoyenneté et le Développement, Lutte pour le changement (LUCHA), Ensemble des volontaires pour le redressement de la RDC (ENVOL) and Veranda Mutsanga), as well as human rights defenders, had been arrested and remained in detention in Beni, Goma and Kinshasa.

12. In addition, foreign media correspondents faced difficulties in obtaining accreditation and visas to work in the country. Despite holding accreditation and courtesy visas, two journalists were expelled from the country, while the travel documents of a third were withheld by the immigration services. The Minister of the Interior issued a communiqué stating that coverage of the conflict in Mai-Ndombe province would be subject to a special accreditation process.

13. On 13 March 2023, the President of the Republic signed ordinance No. 23/009 laying down the terms and conditions for the exercise of freedom of the press, of information and broadcasting by radio and television, the written press or any other means of communication. This constitutes a significant progress in the organization of the press, particularly online. It specifies the conditions for the opening up of the national media and outlines basic principles of the right to public information. However, the conditions of work of foreign journalists and the level of transparency of the roles of the various State services involved in accreditation and visa procedures remain unclear.

14. The authorities continued to take measures to prevent and address hate speech and incitement to violence in the media. For instance, on 22 May 2023, following an incident of hate speech and incitement to violence during a television show, the Audiovisual and Communications Council issued a decision suspending a television channel for 45 days and one journalist for 72 days, and banned two political leaders from media coverage for 90 days. At the time of finalizing the present report, one of those political leaders, who is a member of the Kinshasa Provincial Assembly, had been arrested and was on trial before the Kinshasa-Gombe Court of Appeal. While this development is encouraging, other cases of hate speech were not systematically investigated and no action was taken against those responsible. A draft bill against tribalism, racism and xenophobia was tabled at the National Assembly during the reporting period. Despite a growing consensus among parliamentarians of its necessity, it had not been debated by the end of the reporting period.

15. The voter registration process was also marred by several incidents, including attacks and the occupation of registration centres by armed groups, attempts to deny the registration of some persons based on their identity and obstruction of the registration of internally

⁵ Articles 85 and 86 of the country's Constitution foresee 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 greater and include the deployment of a 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 Armed Forces of the Democratic Republic of the Congo. As indicated in the previous report of the High Commissioner, the state of siege has been used by the Government as a pretext to restrict freedoms (A/HRC/51/61, para. 4).

displaced persons. For instance, on 13 February 2023 civil society leaders in Nyiragongo, Rutshuru and Masisi territories, North Kivu province, issued a communiqué opposing the registration of displaced persons in their areas of displacement on the grounds that this might lead to a change in the political composition of those constituencies. However, 75 registration centres were opened and administered by the Independent National Electoral Commission in locations of internally displaced persons, with the support of the International Organization for Migration and the Office of the United Nations High Commissioner for Refugees.

16. During the registration process, the Joint Office documented 21 election-related incidents attributed to State agents, armed groups and other unidentified actors. Most of the incidents occurred in conflict-affected provinces. The incidents resulted in the death of 12 men, 3 of whom were killed by State agents. At least 31 persons, of whom 3 were women, were wounded, including 4 by State agents, and 27 during clashes between members of political parties. For instance, on 15 April 2023 in Butembo, North Kivu province, the enrolment centre located in the Kambali primary school was attacked by unidentified armed elements. The alleged perpetrators shot dead the soldier guarding the centre.

2. Actions taken by the Joint Office

17. The Joint Office continued to monitor the human rights situation in relation to the democratic space, bring cases of human rights violations and abuses to the attention of the authorities, recommend measures for preventing and addressing such violations and abuses, and provide support for victims and their relatives.

18. The Joint Office continued to implement protective measures for human rights defenders and journalists through its individual protection activities, which include guidance on basic security precautions for victims and witnesses; temporary or permanent relocation accompanied by financial assistance; strengthening the capacity of the working group on the protection of human rights defenders; and establishing individual protection networks in different provinces as part of early warning mechanisms established to respond to threats against human rights defenders.

19. During the reporting period, the Joint Office conducted 17 capacity-building workshops to strengthen the protection capacity of journalists, human rights defenders and members of the various protection networks. The Joint Office also supported the process for the adoption of the draft law on the protection and accountability of human rights defenders.⁶

B. Protection of civilians in conflict areas

1. Current situation and measures taken by the Government

20. Between 1 June 2022 and 31 May 2023, the Joint Office documented at least 4,345 human rights violations and abuses committed in the conflict-affected provinces of Ituri, Maniema, North Kivu, South Kivu and Tanganyika (85 per cent of the total number of violations and abuses documented in the country), which represented a reduction of 32 per cent compared to the previous reporting period.

21. The reporting period saw a further narrowing of the humanitarian space due to attacks on humanitarian actors by armed groups. Between June 2022 and March 2023, the Office for the Coordination of Humanitarian Affairs documented 252 security incidents directly affecting humanitarian personnel or goods, leading to the death of 6 humanitarian workers, the injury of 19 and the abduction of 8.⁷

22. During the reporting period, 30 attacks on sites of internally displaced persons were documented, which led to the killing of at least 33 civilians (including at least 16 women and 13 children) and the injury of 26 (including at least 4 women and 2 children).⁸ In addition, 32 women and 2 girls were raped during those attacks. Of those attacks, 23 were documented

⁶ See para. 9 above.

⁷ This represents a 5 per cent increase over the number of security incidents documented in 2022 (240).

⁸ This represents almost double the number of incidents compared to 2022, but resulting in significantly less deadly attacks (78 per cent fewer killings compared to 2022).

in North Kivu, 5 in Ituri and 2 in South Kivu. The main perpetrators were identified as members of armed groups.⁹ However, in at least five cases, the Armed Forces of the State also perpetrated attacks on the camps of internally displaced persons in Ituri, killing at least three internally displaced persons, wounding two and committing other violations of human rights law and international humanitarian law, such as pillage, ill-treatment and arbitrary arrest and detention.¹⁰

23. During the reporting period, 68 attacks on schools and 53 on hospitals were documented, of which the majority (63 attacks, including 39 on schools and 24 on hospitals) occurred in North Kivu and Ituri, where 47 attacks (27 on schools and 20 on hospitals) occurred. The two main perpetrators of the attacks were M23 (47) and CODECO (44). For instance, the MONUSCO Child Protection Section documented CODECO attacks on and the burning of four schools and one health centre in Mahagi territory, Ituri province, in November 2022. As a result of the destruction of those four schools, at least 1,500 children lost access to education.

24. In Ituri province, armed groups, most notably CODECO and Zaire, continued to attack civilians. During the reporting period, the Joint Office documented 819 human rights violations and abuses and violations of international humanitarian law, 90 per cent of which were committed by armed groups. Members of the CODECO and Zaire armed groups were responsible for the death of 690 persons (444 men, 156 women and 90 children).¹¹

25. In North Kivu province, the Joint Office documented 2,541 human rights violations and abuses, of which 76 per cent (1,919) were committed by armed groups. In the “Petit Nord”,¹² M23 continued to clash with the Armed Forces of the State and other armed groups and occupied several localities in Masisi and Rutshuru territories. The Joint Office documented 302 human rights abuses by M23, leading to the death of 482 people (368 men, 66 women and 48 children), 92 people (63 men, 22 women and 7 children) by Nyatura and 167 people (139 men, 20 women and 8 children) by various Mai-Mai factions. Killings by M23 followed a pattern of systematic retaliation against civilians whom the group accused of colluding with opposing forces or being dependents of rival armed groups. For instance, on 29 and 30 November 2022, M23 members led a campaign of reprisals against residents and displaced people in the locality of Kishishe, Rutshuru territory, accusing them of collaborating with members of the Mai-Mai Mazembe. According to MONUSCO fact-finding missions led by the Joint Office from 3 to 6 December and from 19 to 22 December 2022, at least 171 persons (145 men, 17 women, 8 boys and 1 girl) were summarily executed and 22 women and 5 girls were raped by M23 members in Kishishe during the attacks that occurred on 29 and 30 November 2022. Between 18 and 31 May 2023, following the partial withdrawal of M23 from the area, the Joint Office conducted a joint investigation mission to Kishishe, together with other MONUSCO components, documenting the existence of 55 burial sites, including at least 17 alleged mass graves, in relation to these attacks. The investigation also confirmed that M23 had attempted to destroy evidence of these abuses that may constitute war crimes or other international crimes.

26. The worsening security situation in Rutshuru territory impacted other areas affected by armed conflict. The redeployment of national defence and security forces from other territories and operational areas to face M23 left a security vacuum in other parts of North Kivu and in Ituri province, which was progressively filled by members of other armed groups, leading to increased attacks on civilians.

27. On the border between North Kivu and Ituri, despite an ongoing joint operation between Congolese and Ugandan armed forces against the ADF and the extension of the *état*

⁹ The main armed groups responsible for attacks on sites of the internally displaced have been identified as Nyatura (4), M23 or M23-related (3), Ndimendime (2), Union des révolutionnaires pour la défense du peuple congolais/CODECO, Nduma défense du Congo-Rénové (NDC/R), Wazalendo, Ngumino, Mai-Mai groups (1 each) and other unidentified armed individuals (12).

¹⁰ Data provided to the Joint Office by the Protection Cluster in the Democratic Republic of the Congo.

¹¹ The number of civilians killed by members of CODECO (402 men, 124 women and 76 children) was significantly higher than those killed by Zaire (42 men, 32 women and 14 children).

¹² “Petit Nord” refers to the territories of Goma, Masisi, Nyiragongo, Rutshuru and Walikale in North Kivu province.

de siège in North Kivu and Ituri, ADF carried on with attacks against civilians, including through the increased use of improvised explosive devices. From 1 June 2022 to 31 May 2023, the Joint Office documented 573 human rights abuses by ADF combatants in Beni, Irumu and Mambasa territories, Ituri and North Kivu provinces, resulting in the death of 1,104 persons (809 men, 242 women and 53 children). This death toll was by far the highest among all perpetrators during the reporting period. While this represents a 27 per cent decrease in incidents as compared to the previous period (787 abuses) the proportion of victims only decreased by approximately 14 per cent compared to the 997 men, 256 women and 39 children killed during the previous reporting period, suggesting that the attacks were more deadly than in the past. Most of these attacks were perpetrated in North Kivu (66 per cent).

28. In South Kivu, 440 human rights violations and abuses were documented, including the killing of 74 people (55 men, 14 women and 5 children) and sexual violence committed against 69 women and 12 children. Compared with Ituri (10 per cent) and North Kivu (24 per cent), the proportion of human rights violations by State agents recorded in South Kivu was higher (40 per cent), probably because of the increased number of cases of arbitrary arrests and ill-treatment during the repression of demonstrations and operations in the Hauts Plateaux.¹³ As for armed groups, various Mai-Mai groups (105 abuses, including the summary execution of 10 men, 5 women and 2 children), Raia Mutomboki (97 abuses, including the summary execution of 4 men) and Twigwaneho (41 abuses, including the summary execution of 18 men and 6 women) were responsible for the most human rights abuses.

29. In Tanganyika province, the number of documented violations and abuses decreased by 17 per cent to 493 in comparison with the previous reporting period. Unlike North Kivu, South Kivu and Ituri provinces, most of the violations (51 per cent) were committed by State agents, with the remainder by various Mai-Mai groups. This proportion is due to the drastic reduction in the activities of armed groups in the province and the lack of justice and disciplinary mechanisms in rural areas, where soldiers of the Armed Forces of the State and agents of the Congolese National Police commit most violations. At least 64 per cent of documented violations and abuses were committed in Kalemie territory, Tanganyika province. These included 73 violations of the right to life, with 135 victims, of whom 87 were victims of arbitrary and extrajudicial killings (an increase on the 71 victims in the previous reporting period).

2. Actions taken by the Joint Office

30. The Joint Office continued to monitor the human rights situation in the provinces affected by armed conflict, provide analyses and jointly contribute with other MONUSCO civilian and military components to the protection of civilians, as well as to disarmament, demobilization and reintegration and security sector reforms. The Joint Office conducted 37 fact-finding and monitoring missions and participated in 21 joint assessment missions in provinces affected by the armed conflict, which contributed to timely investigation, monitoring and reporting of human rights violations and abuses and violations of humanitarian law. The Joint Office also issued public reports on torture and ill-treatment,¹⁴ and on violations and abuses of human rights and violations of humanitarian law in Ituri.¹⁵

31. During the reporting period, the secretariat for the human rights due diligence policy conducted 348 risk assessments in the context of United Nations support to non-United Nations security forces. The risk assessments resulted in the approval of support, including in the context of military operations and logistical support, accompanied by robust mitigation

¹³ The Hauts Plateaux include the territories of Fizi, Mwenga, and Uvira in South Kivu province.

¹⁴ OHCHR and MONUSCO, “Rapport sur la torture et autres peines ou traitements cruels, inhumains ou dégradants en République démocratique du Congo du 1^{er} avril 2019 au 30 avril 2022” (October 2022) (in French).

¹⁵ United Nations Joint Human Rights Office in the Democratic Republic of the Congo, OHCHR and MONUSCO, “Mise à jour sur la situation des droits de l’homme dans les territoires de Djugu, Irumu et Mahagi, province de l’Ituri, du 1^{er} janvier au 31 décembre 2022” (April 2023) (in French).

measures following the screening of 772 members of the Armed Forces of the State and 130 officers of the Congolese National Police.

32. The Joint Office continued to conduct advocacy with the Congolese authorities through the facilitation of and contribution to meetings of the follow-up committees on human rights violations committed by members of the Armed Forces of the State and the Congolese National Police. The Joint Office participated in 69 meetings of the committees and conducted 29 training sessions for some 928 members of the Police and the Armed Forces (among them 227 women), including those deployed in areas of operation.

C. Sexual and gender-based violence

1. Current situation and measures taken by the Government

33. During the reporting period, the Joint Office documented at least 630 victims (444 women, 176 girls and 10 men) of conflict-related sexual violence. These were mostly documented in North Kivu (275 victims), Tanganyika (141 victims), Ituri (117 victims), South Kivu (81 victims) and Maniema (16 victims). This represents a decrease of 18 per cent in the number of victims from those documented in the previous reporting period. During the present reporting period, the largest numbers of victims were documented in July 2022 (81), December 2022 (88) and March 2023 (85), shortly after M23 attacks in North Kivu province, during which conflict-related sexual violence was committed, which triggered a massive displacement of civilians.

34. Armed groups were responsible for perpetrating sexual violence affecting the most victims (81 per cent of all victims, of whom 388 were women, 122 were girls and 3 were men). The main perpetrators were Mai-Mai groups responsible for 101 victims (75 women and 26 girls); CODECO for 63 victims (43 women, 17 girls and 3 men); M23 for 58 victims (51 women and 7 girls); ADF for 53 victims (22 women and 31 girls); Raia Mutomboki for 22 victims (20 women and 2 girls); Alliance des patriotes pour un Congo libre et souverain for 12 victims (all women); Ngumino for 18 victims (all women); Nduma défense du Congo for 18 victims (15 women and 3 girls); Force de résistance patriotique de l'Ituri for 8 victims (all women); Zaire for 4 victims (all women); and Forces démocratiques de libération du Rwanda for 12 victims (10 women and 2 girls).

35. State actors were responsible for perpetrating sexual violence involving 117 victims (56 women, 54 children and 7 men), which amounts to approximately 19 per cent of sexual violence cases. Among State agents, soldiers of the Armed Forces of the State and agents of the Congolese National Police continued to be among the main perpetrators, the Armed Forces accounting for 95 victims (47 women, 41 children and 7 men) and the Congolese National Police for 12 victims (8 children and 4 women). Other State perpetrators included members of the National Intelligence Agency (2 women and 1 child) and other actors, such as penitentiary agents and eco-guards (6 women and 3 children).

36. During the reporting period, some progress was made in the fight against impunity for conflict-related sexual violence. For instance, on 15 May 2023, the garrison military court of Uvira, South Kivu province, sentenced Munyololo Mbao, alias Ndarumanga, the former leader of a faction of the Raia Mutomboki armed group, to life imprisonment for the crimes against humanity of murder, rape, pillage, torture and other crimes, including forced pregnancy, and to the payment of damages to 127 victims. This case was particularly notable for setting an international legal precedent as the first time that a national court had convicted a perpetrator of the crime against humanity of forced pregnancy.

37. In July 2022, the Prime Minister approved the creation of a task force to accelerate the implementation of the engagements made in the 2013 joint communiqué and its 2019 addendum between the Government of the Democratic Republic of the Congo and the United Nations to address conflict-related sexual violence.¹⁶

¹⁶ See Joint_Communique_DRC_UN.pdf and <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/12/joint-communique/addendum-au-communique-conjoint-sur-les-violences->

38. On 26 December 2022, the President promulgated a framework law defining the fundamental principles for the protection of and reparations for victims of conflict-related sexual violence and victims of crimes against peace and security. A decree creating a reparations fund was adopted on 6 December 2022 and was later revised to be fully aligned with the framework law by another decree adopted on 5 May 2023 by the Council of Ministers. Although these developments are positive steps towards offering avenues for administrative reparations and addressing the long-standing issue of the absence of judicial reparations, the framework law and its implementing decrees fail to meet the norms and standards of international human rights law and do not reflect the recommendations of the ongoing national consultations on transitional justice.

39. On 22 February 2023, the Prime Minister issued decree No. 23/09 for the creation, organization and functioning of integrated centres of multisectoral services for assistance to victims of sexual and gender-based violence. The aim of the decree is to create a network of centres across the country under the leadership of the Minister for Gender, Family and Children in order to provide medical, psychosocial and judicial assistance to survivors. The Joint Office is supporting the operationalization of the decree.

2. Actions taken by the Joint Office

40. The Joint Office continued to work in coordination with MONUSCO components and United Nations agencies, funds and programmes to monitor, analyse and report on cases of sexual violence, including conflict-related sexual violence, and provide holistic support to survivors. In 2022, under the framework of the project “United Nations Action”, the Joint Office, through an implementing partner’s legal clinic, conducted awareness-raising missions in South Kivu and documented 327 cases of serious human rights violations, including those of 133 victims of conflict-related sexual violence, namely the rape of 124 women and 8 girls and the sexual mutilation of 1 man. All victims received free legal aid and were referred to other partners for holistic assistance (medical and psychological assistance and socioeconomic reintegration).

41. The Joint Office also continued to support the Government in combating sexual violence, including in the context of the armed conflict. In that regard, technical advice was provided to the members of the ad hoc commission on the Fonds national de réparation des victimes des violences sexuelles liées aux conflits et autres crimes contre la paix et la sécurité de l’humanité, created by the Government to elaborate a framework law on reparations for victims of human rights violations, including victims of sexual violence. The Joint Office provided legal advice on the content of the law and facilitated exchanges with international experts for the members of the commission to build their capacity on international best practices and lessons learned from other contexts on the development of a legal framework on reparations. The Joint Office continued to support the Government in the drafting of implementing decrees for the framework law, including aligning them further with international human rights law. Dialogue also continued with the Office of the Special Adviser to the President for Youth and the Fight against Violence against Women, in order to advance the implementation of the joint communiqué and its addendum on conflict-related sexual violence.

42. The Joint Office and MONUSCO components developed 34 sensitization and capacity-building activities for stakeholders involved in the prevention of and response to conflict-related sexual violence. At least 1,629 participants (582 men, 900 women and 147 children) benefited from those activities. The training sessions enabled the commanders and officers of the national Armed Forces and of the Congolese National Police to sign deeds of commitment to bring to justice perpetrators of sexual violence in their units. The commanders and officers were also made aware of their responsibilities towards the alleged perpetrators of sexual violence in their units.

43. The Joint Office, in coordination with the MONUSCO justice support section, also provided technical advice and funding to the military judicial authorities to investigate and

[sexuelles-liees-au-conflit-entre-la-republique-democratique-du-congo-et-lorganisation-des-nations-unies/RDC.pdf](#) (both in French).

prosecute cases of conflict-related sexual violence involving at least 518 victims and witnesses. During the reporting period, 39 individuals, including 11 members of the Armed Forces of the State, 4 members of the Congolese National Police and 24 members of armed groups (23 men and 1 woman) were convicted of and sentenced for conflict-related sexual violence.

D. Efforts to combat impunity

1. Current situation and government action

44. During the reporting period, 314 individuals (71 soldiers of the Armed Forces of the State, 20 Congolese National Police agents, 143 members of armed groups and 80 civilians) were convicted for human rights violations and abuses amounting to international crimes. For instance, in September 2022, Mihonya Chance Kolokolo, leader of the armed group Raia Mutomboki, was sentenced to life imprisonment for crimes against humanity for rape and murder, and for war crimes for the recruitment and use of children. In addition, he was convicted of crimes against the environment for the violation and destruction of protected areas based on his group's deforestation and mineral exploitation in the Kahuzi-Biega national park in South Kivu province. The verdict is a significant milestone as the first prosecution for both child recruitment and the illegal exploitation of natural resources in South Kivu.

45. Between July and December 2022, the Government launched national consultations on transitional justice, with the technical and logistical support of the Joint Office, in Haut-Katanga, Haut-Lomami, Haut-Uele, Kongo Central, Lualaba and Tshopo provinces. In addition to the consultations previously organized in Kasai Central and Tanganyika provinces, during the reporting period a total of 21,695 people, including 7,284 women, including direct and indirect victims, witnesses and other local community members, were polled on their needs and expectations in terms of the rights to truth, justice, reparations and guarantees of non-repetition. At the provincial level, significant progress has been made in implementing transitional justice in Kasai Central, where the commissioners of the provincial Commission on Truth, Justice and Reconciliation were appointed on 18 August 2022.

46. In January 2023, with the financial and technical support of the Joint Office, a scientific committee of 15 experts presented a draft national transitional justice policy to the Ministry of Human Rights. The document will be further reviewed by the Government to incorporate the conclusions of the national consultations, in order to ensure the development and implementation of victim-centred, inclusive and participatory transitional justice initiatives that are in compliance with relevant international human rights norms and standards.

2. Actions taken by the Joint Office

47. The Joint Office supported 13 joint investigation missions¹⁷ and 14 mobile courts in relation to the investigation and prosecution of war crimes, crimes against humanity and other gross violations and abuses of human rights and serious violations of humanitarian law, including sexual violence. It also developed protection plans for each investigation mission and mobile court, with a view to providing judicial protection measures to victims and witnesses before, during and after court hearings.

48. The Joint Office provided technical and logistical support to the Ministry of Human Rights to design and conduct the national consultations on transitional justice. More specifically, it supported the development of the terms of reference for the consultations, the methodology, the operational plan and subsequent reports, as well as the training of 281 consultants, including 89 women, who carried out the consultations throughout the various provinces.

¹⁷ Joint investigation missions may be composed of the Joint Office, the MONUSCO justice support and child protection sections and military prosecutors/inspectors from the Armed Forces of the State.

49. The Joint Office continued to provide technical and logistical support to the provincial Commission on Truth, Justice and Reconciliation for Kasai Central, by organizing, inter alia, a capacity-building workshop in January 2023 to build the capacity of the appointed commissioners on lessons learned and best practices for the operationalization of truth-seeking mechanisms in other contexts.

III. Cooperation with United Nations human rights mechanisms and national mechanisms for the promotion and protection of human rights

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

50. The Joint Office continued to implement its technical cooperation mandate at the national and provincial levels with State institutions and civil society organizations to support their engagement with international human rights mechanisms. From 31 October to 1 November 2022, the Joint Office provided technical and financial support to the Interministerial Committee on Human Rights in the organization of five data-collection workshops on a variety of human rights-related topics in preparation for the midterm report on the implementation of the recommendations arising from the third cycle of the universal periodic review.

51. During the reporting period, with the technical support of the Joint Office, the Democratic Republic of the Congo submitted its sixth, seventh and eighth periodic reports on the implementation of the Convention on the Rights of the Child; two reports on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (with the support of the United Nations Children's Fund); its initial report on the implementation of the Convention on the Rights of Persons with Disabilities; and its midterm report on the implementation of the recommendations arising from the third cycle of the universal periodic review.

52. With the support of the Joint Office, between November 2022 and May 2023 the National Human Rights Commission and civil society organizations contributed to the dissemination, through radio programmes listened to across all provinces of the country, of recommendations received by the Democratic Republic of the Congo during the third cycle of the universal periodic review and on the level of their implementation.

B. Support provided to national mechanisms for the protection and promotion of human rights

1. National Human Rights Commission

53. The Joint Office continued to provide technical and financial support to the National Human Rights Commission, including throughout the renewal process for the members of the Commission. During the period under review, five coordination meetings were organized between the Commission and the Joint Office. They focused, among other things, on the evaluation of cooperation, the planning of activities, the collection of information and statistical data, the harmonization of advocacy strategies and follow-up of pending issues, such the advocacy on the bill on human rights defenders at the parliament.

54. From 29 May to 1 June 2023, the Joint Office organized a capacity-building workshop for 26 members of the National Human Rights Commission, including the newly appointed Commissioners and members of the Board. The workshop was aimed at increasing their knowledge of various human rights topics, of the functioning of a national human rights institution and on preparation of the assessment by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions.

2. Other national mechanisms

55. The Joint Office continued its support to the Ministry of Human Rights, the Ministry in charge of persons living with disabilities and other vulnerable persons, the standing committee on human rights of the National Assembly and the Audiovisual and Communications Council. The support focused on key policy issues and legislative reform. For instance, the Joint Office supported the process that led to the adoption of the law on the protection and promotion of the rights of persons with disabilities, promulgated on 1 June 2022, and the law promoting and protecting the rights of Indigenous Peoples, promulgated on 14 November 2022. Both represent major legislative steps towards prohibiting discrimination, slavery and forced labour, and ensuring inclusiveness in accessing justice and basic social services, such as health care, housing and education, accessing land and natural resources, and in the effective participation of those in vulnerable situations on an equal basis.

56. On 26 and 27 October 2022 in Kinshasa, the Joint Office supported the Ministry of Human Rights in the organization of a workshop on the Guiding Principles on Business and Human Rights and the Voluntary Principles on Security and Human Rights. The aim of the workshop was to develop a national action plan on business and human rights, accelerate the country's progress towards joining the Voluntary Principles Initiative, guide companies on providing security for their operations while respecting human rights and discuss a road map in the area of extractive industries. As a result, on 25 May 2023, the Democratic Republic of the Congo was admitted as a member of the Voluntary Principles Initiative during the annual plenary session of the Initiative held in London.

IV. Technical cooperation activities in the implementation of Human Rights Council resolution 51/36

A. Support for the fight against impunity

57. The technical assistance team¹⁸ developed a plan to support the judiciary in the prosecution of priority cases. During the period under review, 7 forensic missions and 19 autopsies and counter-expertise actions were carried out to support the Congolese judicial authorities to collect material evidence in the Kasai region and in Kinshasa, Kivu, North Kivu and Tanganyika provinces. The team also provided its expertise in geographic information systems and in the protection of victims and witnesses, including psychological support, particularly for survivors of sexual violence. For instance, from 5 to 23 August 2022 the team conducted a forensic mission in Nganza, Kasai Central province, during which the remains of at least 52 individuals killed in 2017 were recovered and subjected to examination and laboratory sampling to support judicial investigations into the incident, in which soldiers of the Armed Forces of the State had allegedly committed serious violations. Other similar missions were conducted in Tanganyika province to support the trial of perpetrators accused of committing crimes against Indigenous Peoples and provide psychological support to survivors.

58. From 18 to 31 May 2023, the team contributed to a MONUSCO fact-finding mission to investigate allegations of gross human rights abuses and serious violations of international humanitarian law, including sexual violence, committed by the M23 group in the localities of Kishishe and Bambo, Rutshuru territory, North Kivu province, providing its expertise in the forensic management of cases of sexual violence, the geolocation of 55 burial sites, including at least 17 alleged mass graves, and soil exploration.

¹⁸ The team was deployed by OHCHR in accordance with Human Rights Council resolution 51/36 and is composed of 20 staff, including 8 forensic experts.

B. Support in the area of transitional justice

59. A transitional justice specialist was recruited in April 2023¹⁹ to provide technical expertise to the Government at the national level, notably in the elaboration of a national transitional justice strategy, for the annual transitional justice action plan of the Ministry of Human Rights, for the national transitional justice policy prior to its implementation at the national level and for the creation of a platform for consultation with actors working on transitional justice within the Ministry of Human Rights.

60. At the provincial level, the deployment of a dedicated transitional justice specialist to the provincial Commission on Truth, Justice and Reconciliation in Kasai Central accelerated the efforts of the Joint Office to support operationalization of the Commission. With specialist transitional justice support, the Commission made progress on a series of projects encompassing the strengthening of its organizational framework through the establishment of five subcommissions, the development of its internal legal framework through the drafting of its by-laws and a manual of procedure, and the rehabilitation and equipping of its headquarters. In addition, a technical cooperation agreement between the Commission and the Joint Office has been drawn up. This support also enabled the Commission to start its outreach and sensitization activities.

C. Development of national capacities in the field of forensic medicine

61. From 22 to 24 November 2022, the technical assistance team organized a workshop with members of the judiciary, technical and scientific police agents, members of the provincial Commission on Truth, Justice and Reconciliation and United Nations police representatives to plan a capacity-building strategy for the team, including supporting the strengthening of the national forensic capacity. The team also developed four training and two awareness-raising activities in forensic medicine for the judicial authorities, the public and medical personnel in Kasai Central, Kinshasa and South Kivu provinces.

V. Conclusions and recommendations

62. **Despite the overall decrease in the number of human rights violations and abuses by State and non-State actors during the reporting period, the human rights situation in the Democratic Republic of the Congo was impacted by increasingly deadly attacks by armed groups, particularly ADF, CODECO and M23, targeting civilians, especially the most vulnerable, such as internally displaced persons, and resulting in human rights abuses and violations of international humanitarian law. The Government continued to face major challenges in fulfilling its primary responsibility to protect civilians within its territory.**

63. **Worrying trends for the protection of the democratic and civic space included the disproportionate use of force by the State security forces against peaceful demonstrations; arbitrary arrests; the detention of political opponents, members of citizens' movements and human rights defenders; and threats and attacks directed against journalists and members of civil society.**

64. **The documented number of victims of conflict-related sexual and gender-based violence increased during the reporting period, despite some progress made by the Government in fighting impunity. Massive displacement due to the violence of armed groups fuelled increased sexual and gender-based violence against women and girls in Ituri and North Kivu provinces, particularly during and after their displacement. The promulgation of the law on the protection of and reparations for victims of conflict-related sexual violence and the creation of multisectoral services for assistance to victims of sexual and gender-based violence were welcome steps.**

¹⁹ In accordance with Human Rights Council resolution 51/36, paras. 40 and 41.

65. The launch of transitional justice consultations in six additional provinces during the reporting period is encouraging, together with the appointment of the commissioners of the provincial Commission on Truth, Justice and Reconciliation for Kasai Central province. To break the cycles of conflict 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.

66. The High Commissioner urges the Government of the Democratic Republic of the Congo to:

(a) Continue to open up the democratic space and guarantee protection of the rights and freedoms of all, including political opponents, human rights defenders and other civil society actors, and ensure that the use of force by State agents, including during law enforcement operations, is in strict conformity with human rights law, especially in view of the upcoming elections;

(b) Ensure that the freedoms of opinion, speech and peaceful assembly, as well as freedom from arbitrary detention, ill-treatment and torture, are fully protected;

(c) Take appropriate measures to ensure that the electoral process is free, fair, non-violent, transparent and inclusive by devising consensual, corrective measures for the eastern and western provinces, where insecurity and the humanitarian emergency have hampered registration, and supporting constructive discussions to restore confidence in the electoral process and find common ground on key contentious issues;

(d) Scale up efforts for the adoption of the bill on tribalism, racism and xenophobia as a key legislative measure to prevent and counter hate speech and reduce intercommunal violence, especially in conflict-affected areas, while ensuring that it does not infringe the right to freedom of expression;

(e) Ensure that the final draft of the law on the protection and accountability of human rights defenders adheres to international legal standards and is promulgated without delay;

(f) Enact the law establishing measures to uphold freedom of peaceful assembly in accordance with the Constitution and the international obligations of the country;

(g) Ensure that the military operations against armed groups, conducted by the Armed Forces of the State operating autonomously or jointly with bilaterally deployed troops or regional forces, are in strict compliance with international human rights law and humanitarian law;

(h) Call on the Member States of all regional forces, including the East African Community and the Southern African Development Community, and other Member States bilaterally deploying troops to the Democratic Republic of the Congo to ensure that all such troops operate in strict compliance with human rights law and humanitarian law, and call on relevant regional organizations and troop-contributing countries to develop frameworks to enable such compliance;

(i) In line with the Nairobi consultations with armed groups, pursue peace process initiatives fostering enabling conditions for upholding and protecting human rights, and ensure the effective implementation of the disarmament, demobilization, community recovery and stabilization 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;

(j) Ensure that the implementation of the law establishing a reserve defence force is undertaken in full compliance with human rights norms and standards, with strict admission guarantees that preclude alleged perpetrators of human rights abuses and violations of international humanitarian law from integrating into the force, and in

a manner consistent with the principles of the disarmament, demobilization, community recovery and stabilization programme;

(k) Take appropriate steps to prevent and redress sexual violence and, when it occurs, bring the perpetrators to justice, provide victims with comprehensive assistance and facilitate their access to remedies by implementing the law on the protection of and reparations for victims of conflict-related sexual violence and prime ministerial decree No. 23/09;

(l) Operationalize the Human Rights Liaison Body, pursuant to decree No. 09/35 of 12 august 2009, as a domestic multistakeholder framework for constructive consultation on and early response to human rights challenges;

(m) Advance the operationalization of the task force created in July 2022 by the Prime Minister to accelerate the implementation of the engagements made in the joint communiqué between the Government and the United Nations to address sexual and gender-based violence in 2013 and its addendum in 2019;

(n) Ensure that the National Human Rights Commission is fully operational by allocating adequate financial and material resources, while guaranteeing its independence;

(o) Design a holistic transitional justice policy that is victim-centred, inclusive and participatory. To that end, the Government should continue to consult with the population, ensure meaningful participation of the victims and the communities affected, and integrate the results of the national consultations into the draft policy on transitional justice currently being developed;

(p) Ensure coherence and consistency between the various ongoing transitional justice initiatives, especially by ensuring their design and implementation is fully based on and informed by the conclusions of the national consultations on transitional justice.
