



Home Office

Country Policy and Information Note Democratic Republic of Congo (DRC): Gender Based Violence

Version 2.

September 2018

Preface

Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in [the basis of claim](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis of COI; and (2) COI. These are explained in more detail below.

Analysis

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, **in general**:

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case’s specific facts.

Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation’s (ACCORD), [Researching Country Origin Information – Training Manual, 2013](#). Namely, taking into account the COI’s relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the ‘cut-off’ date in the country information section. Any event taking place or report/article published after this date is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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Analysis

Updated: 20 September 2018

1. Introduction

1.1 Basis of claim

1.1.1 Fear of gender-based persecution or serious harm by (rogue) state or non-state actors because the person is a woman/girl.

1.2 Points to note

1.2.1 For the purposes of this note, gender-based persecution or serious harm includes, but is not limited to: conflict related abuse, domestic abuse, and sexual violence including rape.

1.2.2 Domestic abuse is not just about physical violence. It covers any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members, regardless of gender or sexuality. It can include psychological, physical, sexual, economic or emotional abuse. Children can also be victims of, or witnesses to, domestic abuse. Anyone can experience domestic abuse, regardless of background, age, gender, sexuality, race or culture. However, to establish a claim for protection under the refugee convention or humanitarian protection rules, that abuse needs to reach a minimum level of severity to constitute persecution or serious harm.

1.2.3 For further information and guidance on assessing gender issues, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#) and [Gender issues in the asylum claim process](#).

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2. Consideration of issues

2.1 Credibility

2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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2.2 Convention ground

2.2.1 Women in Democratic Republic of Congo (DRC) form a particular social group (PSG) within the meaning of the Refugee Convention because they share an innate characteristic or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to their identity or conscience that they should not be forced to renounce it, and

have a distinct identity which is perceived as being different by the surrounding society.

- 2.2.2 Although women form a PSG, establishing such membership is not sufficient to be recognised as a refugee. The question in each case is whether the person will face a real risk of persecution on account of her gender.
- 2.2.3 For further guidance on particular social groups, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#); see also: [Gender issues in the asylum claim process](#).

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2.3 Exclusion

- 2.3.1 Decision makers must consider whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.
- 2.3.2 If there are serious reasons for considering that the person has been involved with such abuses then decision makers must consider whether one of the exclusion clauses is applicable.
- 2.3.3 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection.
- 2.3.4 Various groups have been responsible for serious human rights abuses. If it is accepted that the person has been involved with such a group then decision makers must consider whether one of the Exclusion clauses is applicable.
- 2.3.5 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and [Restricted Leave](#).

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2.4 Assessment of risk

a. Discrimination

- 2.4.1 Although the constitution prohibits discrimination against women, the family code (a legal instrument that governs the rules and organisation of the family) is more restrictive, particularly for married women. The law allows for a husband to assert ownership of his wife's property. The family code requires women to obey their husband, obtain his permission to work and engage in any legal transactions. This is a powerful cultural and societal influence on women. Whilst women face economic discrimination, it is becoming increasingly common for young women to work outside of their homes, particularly in urban areas. This is due to factors such as the increasing progress of civil society groups, and better education in urban areas (see [Legal Overview](#), [Legal Rights](#), and [Civil Society](#)).
- 2.4.2 Customary law varies in the DRC by province; it is exercised via village chiefs and elders, and its impact is much stronger in rural areas than in urban areas. It affects women primarily in matters of marriage, divorce, land ownership, and inheritance. It may be used to settle local disputes, including rape and sexual violence. Men who rape women may be forced to marry

their victim as a penalty, which negatively impacts women and denies them justice (see [Legal Rights](#) and [Societal and domestic violence](#)).

- 2.4.3 The general level of discrimination by state and non-state actors against women is not sufficiently serious by its nature and repetition as to amount to persecution or serious harm. However, widows and/or female-headed households may be at greater risk. Decision makers must consider whether there are particular factors relevant to the person which might make the discrimination experienced so serious by its nature and repetition as to amount to serious harm or persecution. The onus is on the woman to demonstrate that she would be personally at risk of gender-based persecution, with each case considered on its merits.

b. Sexual harassment and violence

- 2.4.4 Sexual harassment is prevalent throughout the country, particularly in the workplace and at universities. Sexual violence, including rape, is also widespread but the incidence is regional, with proportionally lowest levels in Kinshasa and Bas-Congo and the highest in the southern and eastern provinces. Rape is used as a weapon of war in the conflict zone areas in the south and east, particularly the Kivu provinces (see: [Violence against women](#)).
- 2.4.5 Few women who have experienced sexual violence seek treatment or report the crime to the authorities. Reliable and comprehensive statistics on the incidence of sexual violence are generally of limited availability, and not necessarily up to date. Women who have been sexually assaulted are often stigmatised by their community and rejected by their husbands or families. They may also be deterred from reporting assaults by fear of the authorities. In 2013-14 over half of women over the age of 15 reported having experienced physical violence, and 27% had experienced sexual violence. Of those who had experienced physical or sexual violence, 49% had not sought help or reported the matter (see [Societal and Domestic Violence](#) and [Role and effectiveness of security forces](#)).
- 2.4.6 Although sexual harassment and violence are prevalent, the likelihood of it occurring may be affected by factors such as location and socio-economic circumstances of the girl or woman, and not all women will be at risk. The onus is on the person to demonstrate that she will, on return, be personally at real risk of treatment that by its nature or repetition amounts to persecution or serious harm.

c. Domestic abuse

- 2.4.7 Congolese society is patriarchal and dominated by men. This leads to entrenched gender inequality and discrimination against women and girls and an acceptance of sexual violence as normal. It is generally accepted both by men and women that a woman's failings in a marriage (e.g. burning a meal, arguing with her husband, and refusing sex) may be a legitimate reason for domestic violence (see [Access to Justice](#) and [Societal and domestic violence](#)).
- 2.4.8 Not all women will be at risk of domestic abuse; it will depend on the facts of her case. The onus is on the person to demonstrate that she is likely to be at

risk of domestic abuse that will meet the high threshold required to constitute persecution or serious harm.

d. Conflict-related violence

- 2.4.9 Mass rape and sexual violence are used extensively as a weapon of war in the eastern conflict zones, in particular the Kivu provinces, and in Kasai (see [Type and extent of violence](#)).
- 2.4.10 Sexual violence by both government forces and rebel militia groups is widespread, with some victims dying from their injuries. (see [Access to justice](#)).
- 2.4.11 Girls living in conflict zones are at risk of recruitment and abduction by military groups, and of being subjected to rape, forced marriage, and sexual slavery. They are sometimes used on the front lines to stop bullets. Approximately 40% of child soldiers are girls (see: [Child and girl soldiers](#)).
- 2.4.12 Not all women living in the conflict zone will be able to demonstrate that they will be at risk; however, single women without male support and protection may be able to demonstrate that within the conflict zone they would be at risk of serious harm.
- 2.4.13 For further guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#) and [Gender issues in the asylum claim process](#).

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2.5 Protection

a. General

- 2.5.1 Although laws exist to protect women from sexual-based violence they are not always effectively enforced (see [Legal rights](#) and [State response to violence](#)).
- 2.5.2 Women can experience difficulty in accessing legal services, due to stigma, or fear of reprisal (see [Access to Justice](#)).
- 2.5.3 Whilst under-reported, courts sometimes dealt with rape cases and a 5 year custodial sentence was sometimes imposed for rape convictions (see [Type and extent of violence](#)).
- 2.5.4 Although the law considers assault a crime it does not provide any specific penalty for domestic violence. Spousal rape is not specifically prohibited and is not recognised in Congolese culture. Victims rarely reported incidents of domestic violence/rape due to social stigma, prevailing societal and cultural attitudes and pressures (see [Legal context](#), [State response to violence](#) and [Societal and domestic violence](#)).
- 2.5.5 The police force is generally undisciplined and corrupt, and may be unlikely to investigate incidents of domestic abuse (or other forms of gender-based sexual violence) partly due to deep-rooted prejudice against women and strong societal patriarchal attitudes. The government is seeking to improve the performance of the police particularly with regard to gender related issues (see [Access to justice](#) and [Societal and domestic violence](#)).

2.5.6 There were no reports in 2017 of the judicial authorities taking action in cases of domestic or spousal abuse (see [societal and domestic violence](#)).

2.5.7 A woman's fear of reporting a crime, or seeking protection does not necessarily mean that effective protection is not available. Decision makers must consider each case on its facts. Women may be able to seek redress through the courts for societal sexual violence, but would be unlikely to gain protection against familial domestic violence. The onus is on the person to demonstrate why they would not be able to seek and obtain state protection.

b. Conflict zones

2.5.8 The government has put in place legislation to deal with conflict-related sexual violence but the law is not effectively enforced. Although the president has pledged zero tolerance for sexual violence and has launched a campaign to improve victims' access to justice and services, many crimes are not investigated and prosecutions are rare. The situation has deteriorated more recently, due to political instability, large scale displacement of people, and weak state infrastructure (see [State response to violence](#), [Access to justice](#) and [Sexual violence in conflict areas](#)).

2.5.9 Other reasons for the lack of prosecutions may include:

- Lack of accountability of the armed forces
- Widespread impunity of officers
- Lack of adequate funding of operational military courts
- Inadequate due process standards
- Limited enforcement of court decisions
- Corruption amongst officials and political figures
- Difficulty of identifying perpetrators
- Cultural barriers for victims
- Poor infrastructure and difficulties of attending court
- Difficulty in gathering sufficient evidence

(See [Access to justice](#), [Sexual violence in conflict areas](#)).

2.5.10 However, prosecutions have occurred, including of 'rogue' state actors. For example, in 2014, 135 members of the security forces and 76 members of the police were convicted of sexual crimes, while in 2015, 109 members of the security forces were convicted of sexual violence and received sentences of between one and twenty years. In December 2017, 12 members of a militia gang were convicted of sexual crimes against young girls and toddlers in Kavumu, Eastern Congo (see [Sexual violence in conflict areas](#)).

2.5.11 The government is working with international actors to improve the protection offered to victims with various initiatives to implement the national strategy on sexual and gender-based violence (see: [Aid and support](#), [Access to justice](#)).

2.5.12 However, progress is slow and although the state appears willing, it is unlikely to be able to provide effective protection to women living in conflict areas who are at risk of gender based violence.

2.5.13 For further guidance on assessing the availability of effective protection, the [Asylum Instruction on Assessing Credibility and Refugee Status](#), and also [Gender issues in the asylum claim process](#).

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2.6 Internal Relocation

2.6.1 Where the woman's fear is at the hands of a non-state actor (including rogue state agents) decision makers must give careful consideration to the relevance and reasonableness of internal relocation on a case-by-case basis taking full account of the individual circumstances of the particular woman.

2.6.2 It is becoming increasingly common for young women to work outside the home, particularly in Kinshasa and other urban areas. Women may also be able to access services, action groups, medical facilities and education programmes provided by NGOs working closely with the government in areas of relocation.

2.6.3 Women facing gender-based violence, including domestic violence, may in some cases be able to internally relocate to escape localised threats from members of her family or other non-state actors, including some single women who are able to access a livelihood and support network. Single women without family or social networks are particularly vulnerable. However, a married woman with dependent children escaping domestic violence may find it difficult to relocate (see [Freedom of Movement](#)).

2.6.4 Conflict-related violence occurs predominantly in the eastern and southern provinces so internal relocation to Kinshasa and other areas of the country not affected by civil conflict will generally be a reasonable option for a woman, provided there are no particular circumstances to militate against this. There are reports of over 1000 roadblocks, used by both state and non-state agents for extortion, which make internal travelling more difficult (see [Freedom of Movement](#) and [Sexual violence in conflict areas](#)).

2.6.5 The individual circumstances of each case will need to be taken into account, with the onus on the woman to demonstrate that internal relocation is not reasonable.

2.6.6 For further guidance on internal relocation, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#), and [Gender issues in the asylum claim process](#).

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2.7 Certification

2.7.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

2.7.2 For further guidance on certification, see the Appeals Instruction on Certification of Protection and Human Rights Claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

Country information

Updated: 20 September 2018

3. Legal Overview

3.1.1 The Organisation for Economic Co-operation and Development (OECD), in their October 2017 report, 'Gender Equality and Women's Empowerment in Fragile and Conflict-Affected Situations', stated:

'The DRC is among the lowest-scoring countries globally in terms of gender equality, with widespread discriminatory social norms and institutions; limited

political and economic participation by women; very high maternal mortality; and widespread sexual and gender based violence. Discriminatory social norms include women's unequal status with respect to inheritance of, or access to, land and other resources; reduced possibilities for girls to gain a secondary education; and prevailing permissive attitudes to violence against women and girls, especially domestic violence.

'The case of the DRC underscores in multiple ways – and at various levels – how conflict, gender and fragility are interlinked. Due to prevalent social norms, widows, female-headed households and sexual and gender minorities are often in a position of heightened vulnerability. Arguably, the best researched example of links between conflict and gender relations in the country is conflict-related sexual violence (CRSV) in the east.'¹

3.1.2 The Swedish Embassy commissioned the DRC gender profile of 2014, with a research focus on South Kivu, Equateur and Bas-Congo observed:²

'The Democratic Republic of Congo is a vast and highly diverse country. Its range of ethnicities, religious and cultural traditions affect gender relations. So too do differences between the poor and rich, urban and rural, the leaders and the led, as well as varying levels of education and economic activities. Security varies across the country. Difficult communications also contribute to a complex society governed by multiple state and social/cultural institutions. Each of these aspects – and others – affects the gender relations in DRC.'³

3.1.3 Freedom House noted that 'sexual and gender-based violence against women and girls is pervasive, especially in conflict zones;... Rebels and FARDC (Armed Forces of the Democratic Republic of the Congo) soldiers have been implicated in rape and sexual abuse. Convictions for these offences remain rare. Abortion is prohibited, and access to contraception is extremely low.'⁴

3.1.4 There are a number of issues that undermine legal and practical protection for women in DRC according to a report (last edited 27 November 2017) by the Geneva Foundation for Medical Education and Research (GFMER):

- 'Laws that subordinate women and do not allow them to have control over their sexual and reproductive health. This includes Article 444 of the Family Code that defines the man as the head of the household in which his wife is obliged to obey him.
- 'Forced marriage and sexual slavery.
- Child marriage and early child bearing.
- Limited access and resources for maternal health and family planning services.

¹OECD: 'Gender Equality...' Date of Report: October 2017 [url](#).

² Swedish government et al, DRC profile (p6), 2014, [url](#)

³ Swedish government et al, DRC profile (p5), 2014, [url](#)

⁴ Freedom House, World report – DRC, Section F4, 28 March 2018 [url](#)

- Limited trust in the Congolese judicial system to bring forth cases of violations and fear of reprisals against women when cases of sexual violence are brought forward.
- Large scale impunity for rebels and soldiers who perpetrate sexual violence and the low number of women judges and prosecutors specialized in sexual violence.
- The non-payment of compensation and limited enforcement of court sentences for acts of sexual violence by state agents.¹⁵

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4. Legal rights

4.1.1 Freedom House, in their ‘Freedom in the World – 2018 report’, stated ‘Although the constitution prohibits discrimination against women in any domain, the Family Code prescribes more restrictive roles, requiring that women obey their husbands and obtain their permission to seek employment. Nevertheless, young women are increasingly seeking professional work outside the home, particularly in towns and urban centres.’¹⁶

4.1.2 The report of the GFMER states:

‘The 2006 Constitution of the Democratic Republic of Congo outlines that sexual violence is punishable by law:

‘Article 14 states that “They [the public authorities] take measures in order to fight all forms of violence against women in their public and private life”.

“In Article 15, the constitution states, “The public authorities are responsible for the elimination of sexual violence used as an instrument in the destabilization and displacement of families”. Additionally, “International treaties and agreements notwithstanding, any sexual violence committed against any person with the intention to destabilize or to displace a family and to make a whole people disappear is established as a crime against humanity punishable by law”.¹⁷

4.1.3 The same report noted that the government has also established the following to assist in halting sexual violence:

‘In 2006, the DRC passed a sexual violence law amending the Penal Code to provide protection against sexual violence. The sexual violence law outlaws 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. The law does not specifically prohibit spousal rape.’¹⁸

4.1.4 According to the USSD 2017 Trafficking in Persons Report, “The Government of the Democratic Republic of the Congo (DRC) does not fully meet the

⁵ GFME and R, Sexual and Reproductive Rights – DRC, – last edited 27 September 2017 [url](#)

⁶ Freedom House, World report – DRC, Section F4, Date of Report: 28 March 2018 [url](#).

⁷ GFME and R: Sexual and Reproductive Rights – DRC - last edited 27 September 2017 [url](#).

⁸ GFME and R: Sexual and Reproductive Rights – DRC - last edited 27 September 2017 [url](#).

minimum standards for the elimination of trafficking and is not making sufficient efforts to do so; therefore, the DRC was downgraded to Tier 3..”⁹

4.1.5 The Organisation For Economic Cooperation and Development (OECD)’s Social Institutions and Gender Index stated, in its DRC country profile based on material published up to 2014: ‘Under a new act passed in 2009, the minimum age for marriage was increased from 14 for females and 18 for males to 18 for both males and females. With respect to parental authority, the Family Code stipulates that men are the head of the household and women must obey them.’¹⁰

4.1.6 The DRC Family Code is a legal instrument that governs organisation of the family. Articles 444, 448, 450, 454 and 497 of the Family Code of 1987 provide that a husband is head of the household and a wife must obey him, a wife must obtain her husband’s permission to provide a personal service and for all legal actions, a husband determines the family residence, and a husband can assume control over his wife’s property¹¹.

4.1.7 The United States State Department (USSD) Report on Human Rights Practices for 2017 (DRC) noted:

‘The law on sexual violence criminalizes rape, but the offence was not always reported by victims and the law was not always enforced. Rape was common. The legal definition of rape does not include spousal rape. It also prohibits extrajudicial settlements (for example, a customary fine paid by the perpetrator to the family of the victim) and forced marriage, allows victims of sexual violence to waive appearance in court, and permits closed hearings to protect confidentiality. The minimum penalty prescribed for rape is a prison sentence of five years, and courts regularly imposed such a sentence in rape convictions.’¹²

4.1.8 The USSD also noted:

‘The constitution prohibits discrimination based on gender, but the law does not provide women the same rights as men. A 2015 women’s parity law provides women a number of protections. It permits women to participate in economic domains without approval of male relatives, provides for maternity care, disallows inequities linked to dowries, and specifies fines and other sanctions for those who discriminate or engage in gender-based abuse. Women, however, experienced economic discrimination.

4.1.9 ‘The USSD report noted that “many widows were unable to inherit their late husbands’ property because children, including those born out of wedlock (provided that they were officially recognized by the father), rather than the widow, have precedence with regard to inheritance. Courts may sentence women found guilty of adultery to up to one year in prison, while adultery by men is punishable only if judged to have “an injurious quality.”’¹³

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⁹ USSD 2017 Trafficking in Persons Report – Country Narratives – DRC Date of report [url](#).

¹⁰ UNICEF, Ponabana, Family code from a child’s perspective, 14 January 2015, [url](#).

¹¹ Equality Now: ‘Law 87-010 on the Family Code’. Undated article. [url](#)

¹² USSD Country Report – DRC Section 6. Date of Report 20 April 2018 [url](#).

¹³ USSD Country Report – DRC Section 6. Date of Report 20 April 2018 [url](#).

5. Cultural context and discrimination

- 5.1.1 A report on the sexual and legal rights of women in the DRC, conducted by the Geneva Foundation for Medical Education and Research, noted that sexual and reproductive health is included in the Constitution of the Democratic Republic of Congo through the following article(s):

“The public authorities see to the elimination of all forms of discrimination against women and ensure the protection and promotion of their rights. They take in all areas, and most notably in the civil, political, economic, social and cultural areas, all appropriate measures in order to ensure the full realization of the potential of women and their full participation in the development of the nation” (Article 14).¹⁴

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6. Violence against women

6.1 Overview

- 6.1.1 In November 2017 the UN Human rights Committee expressed its concern regarding violence against women and ‘the persistence of the phenomenon in the State party, both within and outside conflict areas.’ It was concerned at ‘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.’¹⁵
- 6.1.2 The organisation, Freedom From Torture, published a report in 2014 (Rape as Torture in the DRC: Sexual Violence beyond the Conflict Zone) which highlighted the extent of sexual violence by the DRC security forces. The treatment reported was outside the conflict zones, and perpetrated by state security forces:
- 6.1.3 ‘.The report provides evidence of the torture of women by state security forces in the DRC, mainly in non-conflict contexts. It indicates the extensive use of rape and other forms of sexual torture against women detained mostly for political reasons, and the use of a variety of other torture methods including beating, burning and psychological and environmental forms of torture. It highlights the lack of access to justice, including due process, and appropriate services for women victims of torture in the DRC; as well as the impunity of suspected perpetrators...

‘The cases of torture, including rape and other forms of sexual torture described in this research, cannot be seen in isolation from a broader pattern of widespread torture that is associated with other human rights violations committed by DRC security forces and documented by the UN and human rights groups.² Despite the enactment of the Law explicitly criminalising torture by the President on 20 July 2011, the practice of torture remains endemic in the DRC. This is partly due to the pervasive situation of impunity for members of the security services who commit human rights violations, combined with the structural weaknesses of the justice system.

¹⁴ GFME and R: Sexual and Reproductive Rights – DRC– last edited 27 September 2017 [url](#).

¹⁵ UN Human Rights Committee, 30 November 2017 [url](#)

'Rape and other forms of sexual violence are rampant in the DRC. Although research and reports in this area have generally focused on acts committed by soldiers of the Congolese army and members of armed groups in the context of the conflict, rape committed by civilians has become a problem in its own right, not helped by the widespread impunity for such crimes...' ¹⁶

6.1.4 The DRC Gender Country Profile 2014, commissioned by the Swedish Embassy in collaboration with DfiD, the EU Delegation and the Embassy of Canada, in Kinshasa, stated:

'The extent of sexual violence in DRC is horrific, and shows no sign of reducing. The data for incidents of sexual violence are unreliable, and multi sectoral methods of collection mean that there must, logically, be duplication. Even allowing for the unreliability of the data concerning reported cases, there is no evidence to suggest that rates of sexual violence are decreasing despite the attention received. To the contrary, there is evidence that sexual violence is increasing – perpetrators in the east are increasingly civilian, including family members of the victim and, away from the conflict in the east, perpetration rates are increasing in Kinshasa and Bas Congo.'¹⁷

6.1.5 The DRC Democratic and Health Survey 2013-14 reported¹⁸:

'More than half of women (52%) have ever experienced physical violence since the age of 15. More than one-quarter of women (27%) have experienced physical violence in the last 12 months.

In the last 12 months is highest in Kasai Occidental (35%)...

'Overall, 27% of women have ever experienced sexual violence and 16% experienced sexual violence in the last 12 months. Sexual violence in the last 12 months is highest in Kasai Occidental (24%)...

'Among ever-married women age 15-49, 57% have ever experienced spousal violence (emotional, physical or sexual) committed by their current or former husband/partner. Spousal violence is highest in Kasai Occidental (68%).'¹⁹

6.1.6 The USSD report for 2017 observed that: ' The 2013-14 Demographic and Health Survey (DHS) found that more than one in four women nationwide (27 percent) had experienced sexual violence at some point in their lives, up from 22 percent in 2007.'²⁰

6.1.7 The UN Population Fund GBV cluster commented in a report of 2017 that

'Analysis of the overall situation of GBV in the five provinces [Tshikapa (Kasai), Mbuji Mayi and Miabi (Eastern Kasai) and Kananga (Central Kasai)] affected by the crisis underlines three major problems:

- Child marriages, as 55% of women aged 25-49 got married before getting 18 years old. This is 12% more than the national average.

¹⁶ Freedom From Torture: 'Rape as torture in the DRC...' Date of report 2018 [url](#).

¹⁷ The DRC Gender Country Profile, 2014 Date of Report 2 July 2014 [url](#).

¹⁸ DRC: DHS Health Survey 2013 – 2014 [url](#).

¹⁹ The DRC Gender Country Profile 2014, Date of Report: 2 July 2014 [url](#).

²⁰ USSD, HR Report 2017 (section 6), April 2018, [url](#)

- Sexual violence, as 22% of women aged 15-49 experienced sexual violence during the last 12 months and 33% at least once in their lifetime. Both of these data corresponds to 6% more than the national average.
- Intimate-partner violence, as 48% of women aged 25-49 experienced physical or sexual violence by their intimate partner during the last 12 months and 46% during the lifetime. This is respectively 11% and 9% more than the national average.²¹

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6.2 Sexual violence in conflict areas

6.2.1 A UN Population Fund GBV cluster report of 2017 found that in Kasai:

‘Communities perceived ... an increase of early marriages and of sexual violence, in particular as committed by armed men. Communities said that the greatest obstacle to report sexual violence is that rape might undermine women and girls’ chances to get married or cause rejection by the husband. Informers freely manifested a fear of denunciation of sexual violence when committed by armed men. In focus group discussions, informers frequently reported about the practice of the kidnapping of young ladies in complicity with community leaders to facilitate forced marriages”.

6.2.2 The report continued “direct observation and protection cluster analysis of the situation showed that women and girls might be exposed to denial of resources by armed men, negative coping mechanisms linked to food insecurity, sexual exploitation and abuses.”

‘Analysing access to service between August 2016 and May 2017: 1.429 incidents of GBV were assisted in service provision locations in Kasai (162), Central Kasai (656) and Eastern Kasai (611). Only 1% of survivors are men and boys. Children represent 68% of survivors of the reported incidents, with adolescent girl aged between 12 and 17 representing the vast majority of them. According to the 6 GBV types of the GBV Information Management System (GBVIMS), the VBG [sic] incidents reported in service provision points include 79% of rapes, 11% of sexual aggressions, 4% of physical aggressions and 4% of forced marriages. Denial of resources, opportunities and services and the psycho-emotional violence represent together the remaining 2%. Lastly, 34% of alleged perpetrators are armed men, including national security entities and non-state armed actors.’²²

6.2.3 The United Nations Security Council, in their Report of the Secretary-General on conflict-related sexual violence, published 23 March 2018, reported:

‘The progress achieved in the Democratic Republic of the Congo in addressing the decades of widespread sexual violence used as a tactic of war has been jeopardized in recent months by an unstable political environment, unprecedented levels of displacement, continued armed clashes and weak State structures. Alarming patterns of ethnically-

²¹ UNFPA – UN Population Fund: (DRC): The Kasai Crisis, 25 August 2017 [url](#)

²² UNFPA – UN Population Fund: (DRC): The Kasai Crisis, 25 August 2017 [url](#)

motivated sexual violence emerged in Tanganyika province, arising from the perceived marginalization of the Twa ethnic group, which has set in motion cycles of violence and revenge between Twa and Luba militias. In 2017, Twa militia in Tanganyika were responsible for the highest number of documented cases of sexual violence perpetrated by a non-State armed group. Conflict-related sexual violence perpetrated with extreme brutality has also spread to the three Kasai provinces. In that context, anti-Government Kamuina Nsapu militia and pro-Government Bana Mura militia have both targeted civilians believed to support their adversaries. Deliberate attacks against communities along ethnic fault lines have included the use of taboo practices, such as victims being raped in front of relatives, a pregnant woman having her fetus ripped out and at least one victim being forced to perform sex acts on a family member before being executed. In April, Bana Mura militants raped 41 women and two girls in a series of attacks on Lulua and Luba villages.²³

6.2.4 A news article on the crisis in the DRC, published in the Guardian in April 2018, reported that:

‘...The renewed fighting has meant a wave of sexual violence. Anastasia Icyizanye, an MSF health worker working in Nyabiondo, said fighters from one armed group raped 60 women in January when it seized a village market. MSF say they have recorded twice as many incidents of sexual violence each month in 2018 compared to last year.

“Whenever there is fighting there is systematic rape – in villages, at checkpoints on roads, wherever,” Icyizanye said.²⁴

6.2.5 A report by Helen Vesperini from the Interpress Service, reported on sexual violence within the conflict areas. The author stated:

‘Women, separated from their husbands by the conflict, end up being the sole breadwinners for their families, while also carrying out other necessary tasks, such as fetching water and firewood, preparing food and raising children.

‘Many militia fighters prefer soft civilian targets to other armed men. In order to reach safety, women are forced to cover long distances on foot-many whilst pregnant or nursing a baby.

‘Women and girls are far more likely to suffer sexual violence although there are also cases of male victims. Sexual violence in the region often takes extreme forms and frequently damages both the reproductive organs and the excretory system, leading to urinary and/or faecal incontinence. It is often perpetrated by armed men and many rapes involve numerous assailants with the victims sometimes dying from their injuries. Since some rapists believe that raping an old woman absorbs her wisdom or that the man who rapes a baby purifies himself or rids himself of disease, the victims can range in age from a few months to 80 years old.

²³ UN Security Council: S/2018/250 Paras. 39 – 4, March 2018 [url](#).

²⁴ The Guardian: 'The wars will never stop' 3 April 2018 [url](#)

'In the DRC, if a man knows his wife or partner has been raped he will normally reject her. Her own family will often also reject her. This means that even when treatment is available many rape victims hesitate to access it for fear of becoming social outcasts.'²⁵

6.2.6 The UN Secretary General noted in his report of 5 January 2018 for 2017 that 'Between September and November [2017], the Mission documented 254 victims of conflict-related sexual violence, including 149 women and 66 children. Armed groups were responsible for 75 per cent of such incidents, while State agents were responsible for 25 per cent. The main perpetrators include FARDC and Bana Mura militia in the Kasai region (18 per cent of the victims) and FARDC. Sexual violence survivors still encounter limitations in holistic service provision.'²⁶

6.2.7 The UN Secretary General reported in July 2018 that 'In April and May [2018], MONUSCO documented cases of rape and other forms of conflict-related sexual violence committed against at least 98 women and 18 children, confirming an increasing trend. Raia Mutomboki in South Kivu — the most affected province — are the main perpetrators. State agents were responsible for 42 cases (33 by FARDC soldiers, 7 by Congolese National Police agents and 2 by other state actors)'.²⁷

6.2.8 The USSD report stated:

'The [state security forces] SSF, [rebel and militia groups] RMGs, and civilians perpetrated widespread sexual violence... During the year the United Nations documented 267 adult victims and 171 child victims, including two boys, of sexual violence in conflict. Crimes of sexual violence were sometimes committed as a tactic of war to punish civilians for having perceived allegiances to rival parties or groups. The crimes occurred largely in the conflict zones in North Kivu Province and in the Kasai region, but also throughout the country.'²⁸

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6.3 Child and girl soldiers

6.3.1 The UN Secretary General reported in May 2018 that in the period between 1 January 2014 and 31 December 2017:

'The number of new cases of the recruitment and use of children dropped at the national level, from 2,085 in 2014 to 1,049 in 2017. Among the new cases of recruitment, 90 per cent occurred in the east, mainly in North Kivu (4,609), followed by South Kivu (387), Ituri²⁹ (355), Tanganyika and Haut-Katanga⁵ (64). While new recruitment in North Kivu decreased over the reporting period, it increased in South Kivu in 2014 and 2015, before dropping in 2016 and surging again in 2017, reflecting the strengthening of Mai-Mai Raia Mutomboki and Mai-Mai Yakutumba groups.'

²⁵ Interpress Service: 'Women Displaced by Brutal Violence...' Date of report: 11 January 2018 [url](#).

²⁶ UN Security Council, MONUSCO report 2018 (para 34), 5 January 2018, [url](#)

²⁷ UN Security Council, MONUSCO report 2018, (para72), 2 July 2018 [url](#)

²⁸ USSD, HR Report 2017 (section 6), April 2018, [url](#)

'More than a third (2,171) of newly recruited and used children were under the age of 15, a war crime under international law. An average of 9 per cent (549) were girls, recruited primarily in the Kasais, North Kivu and Ituri Provinces. This percentage increased over the reporting period, from 7 per cent in 2014 to 12 per cent in 2017, partly owing to the targeted recruitment of girls by Kamuina Nsapu.

'Rape, forced marriage and sexual slavery often occurred in the context of other violations, such as the recruitment and use or abduction of children, and were frequently linked to inter-ethnic violence. For instance, between March and May 2017, in Kamonia territory, Kasai Province, Bana Mura/Chokwe-Pende militia abducted 64 Luba and Lulua children (49 girls, 15 boys), forced them to work on farms and raped and sexually abused the girls. In another incident, four girls, aged between 15 and 17, and their two children, were abducted by Twa militia during the Miswaki attack in December 2016. The four girls reported being repeatedly sexually assaulted during their five-month captivity.'³⁰

6.3.2 A 2017 report by Child Soldiers International noted:

'New report reveals cycle of violence and rejection suffered by former girl soldiers in Democratic Republic of Congo and hears why some are re-joining armed groups;

- Majority of girl soldiers interviewed were sexually abused by soldiers;
- Up to 40% of child soldiers in DRC are girls, but of thousands released by the UN only 7% were girls;
- Stigmatisation, family rejection at home causing some to re-join armed groups;

6.3.3 Sandra Olsson, programme manager at Child Soldiers International, said:

"The recruitment of girls by armed groups in DRC and the stigmatisation they suffer on their return is of great concern. We were shocked to see that, after having been subjected to serious and prolonged physical and sexual abuse, many girls are then rejected by their families and communities.

"Social exclusion and stigmatisation is far more prevalent among girls. It is linked to a perceived "loss of social value" after having had sexual relations outside marriage. Their suffering is often misunderstood or completely overlooked, and their most basic psychosocial and emotional needs are woefully unaddressed."³¹

6.3.4 In its July 2018 report New York University Congo Research Group tracks the history of the Crisis in Kasai and reports on the recruitment of young people to militias including the Kamuina Nsapu:

'The militias are deeply gendered... Girls are ... used in the militias, but almost always in roles subservient to men, such as conjugal partners to combatants. Others become *ya mamas*: young women who are put on the front lines because it is believed that they can stop bullets through mystical

³⁰ UN Security Council, Children and Armed Conflict in the DRC, 25 May 2018 [url](#)

³¹ Child Soldiers International: 'Raped then rejected': Date of Report 19 June 2017 [url](#).

means, by sweeping them up in their red dresses – red being the color of the Kamuina Nsapu. Some of the videos that appeared in early 2017 of FARDC attacks against Kamuina Nsapu groups show that a considerable number of the casualties may have been these kinds of girls. Accounts differ about the criteria for selection of these girls as *ya mamas*: one source reported that they were selected because they were virgins, while another stated they were chosen to act in this capacity only when they were menstruating. Both versions reflect a cultural understanding of purity and pollution, in which the militia groups sought to mobilize the girls' potency either through the "purity" of their virginity, or through their temporary state of "pollution" while menstruating.³²

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6.4 Societal and domestic violence

- 6.4.1 According to Freedom House, 'although the constitution prohibits discrimination against women in any domain, the Family Code prescribes more restrictive roles, requiring that women obey their husbands and obtain their permission to seek employment.'³³
- 6.4.2 In its 2017 Concluding Observations on the fourth periodic review of the Democratic Republic of Congo, the UN Human Rights Committee stated its concern 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.'³⁴
- 6.4.3 According to the DRC Gender Country Profile 2014, domestic violence in the DRC is pervasive and normalised. The Report stated:
- 'Domestic violence is believed to be widespread, and is generally accepted by women and men as a legitimate response to a woman's (perceived) failings, such as: burning a meal, arguing with him, going out without telling him, neglecting the children, or refusing to have sex with him. Well over 70% of women felt that one or more of these reasons justified a man beating his wife. Domestic violence appears commonplace and may be even more severe against women who are physically disabled, albino, or belong to an indigenous group, such as pygmies.'³⁵
- 6.4.4 A survey conducted by the Demographic and Health Survey (DHS) on the DRC for 2013-2014 reported:
- 'More than half of women (52%) have ever experienced physical violence since the age of 15. More than one-quarter of women (27%) have experienced physical violence in the last 12 months. Physical violence in the last 12 months is highest in Kasai Occidental (35%).
- 'Overall, 27% of women have ever experienced sexual violence and 16% experienced sexual violence in the last 12 months. Sexual violence in the last 12 months is highest in Kasai Occidental (24%).

³² Congo Research Group New York University July 2018 [url](#) (can't open)

³³ Freedom House, World report – DRC, Section F4, Date of Report: 28 March 2018 [url](#).

³⁴ UN Human Rights Committee, 30 November 2017, [url](#)

³⁵ The DRC Gender Country Profile, 2014 Date of Report 2 July 2017 [url](#).

‘Among ever-married women age 15-49, 57% have ever experienced spousal violence (emotional, physical or sexual) committed by their current or former husband/partner. Spousal violence is highest in Kasaï Occidental (68%).’³⁶

- 6.4.5 A more recent survey by DHS was not available at the time of drafting this note.

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6.5 Female Genital mutilation (FGM)

- 6.5.1 The DRC Gender Country Profile 2014, commissioned by the Swedish Embassy in collaboration with DfID, the EU Delegation and the Embassy of Canada, in Kinshasa, noted that ‘It would appear that Female Genital Mutilation in Equateur, where it has been practiced in the past, is in sharp decline, as local people have been effectively educated to see its health, social and economic impact...It was not identified as a problem in South Kivu or Bas Congo.’³⁷

- 6.5.2 The USSD report for 2017 stated: ‘The law describes FGM/C as a form of sexual violence, provides a sentence of two to five years in prison, and levies fines of up to 200,000 Congolese francs (\$125); in case of death due to FGM/C, the sentence is life imprisonment.’³⁸

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6.6 Single women

- 6.6.1 The Swiss government report on the situation of women in Kinshasa of January 2016 noted in its summary:

‘In a country which ranks among the lowest according to the Human development index, women are furthermore subject to obvious discrimination. Already vulnerable as a woman, a single woman deprived of a family or a social network is even more vulnerable without a mean of existence. However, some single women can organize in Kinshasa and find some support to improve their living conditions and attempt to secure their financial independence.’³⁹

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6.7 Parties responsible for gender based violence

- 6.7.1 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:⁴⁰

‘1. Non-State actors:

³⁶ DHS Survey 2013-2014 Undated report [url](#).

³⁷ The DRC Gender Country Profile 2014, page 34-35, Date of Report: 2 July 2017 [url](#).

³⁸ USSD Country Report – DRC Section 6. Date of Report 20 April 2018 [url](#). 2018

³⁹ Swiss government, DRC Focus (p4), 15 January 2016, [url](#)

⁴⁰ UN Security Council: S/2018/250 Annex Date of Report 23 March 2018 [url](#).

(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.

'2. State actors:

(a) Forces armées de la République démocratique du Congo;* (b) Police nationale congolaise.*

* Indicates that the party has committed to adopting measures to address conflict-related sexual violence.'⁴¹

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7. State response to violence

7.1 Overview

7.1.1 The DRC government has established a number of measures designed to reduce and discourage gender-based violence, including:

- The National Strategy against gender-based violence (2009-2010);
- The establishment of the National Agency for Eliminating Violence against Women and Adolescent and Very Young Girls;
- National Fund for the Promotion of Women and the Protection of Children (OHCHR).⁴²

7.1.2 In addition to the laws outlined in the constitution, the Democratic Republic of Congo is signatory to several UN conventions and declarations against gender violence including:

United Nations Declaration on the Elimination of Violence against Women (UN Res/48/104).

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) -ratified by the DRC in 1986.

The Beijing Declaration and Platform for Action.

Security Council Resolution 1820 and 1325 -in 2010, the DRC government re-affirmed its commitment to implement the National Action Plan for 1325 that calls on all parties to armed conflict to take special measures to protect women and girls from gender-based violence (UNSCR 1325 Civil Society Monitoring Report).

Additionally, the DRC has ratified the Rome Statute of the International Criminal Court.⁴³

⁴¹ UN Security Council: S/2018/250 Annex Date of Report 23 March 2018 [url](#).

⁴² GFME and R: Sexual and Reproductive Rights – DRC – last edited 27 September 2017 [url](#).

⁴³ GFME and R: Sexual and Reproductive Rights – DRC– last edited 27 September 2017 [url](#).

7.1.3 In March 2018, the UN Organization Stabilisation Mission in the DRC reported on cases of conflict related sexual violence:

‘During the period under review, (Jan to Dec 2017) the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) verified 804 cases of conflict-related sexual violence, affecting 507 women, 265 girls, 30 men and 2 boys, representing an increase from the previous reporting period. During the same period, the United Nations Population Fund (UNFPA) reported 5,783 cases of sexual violence in conflict-affected provinces, more than twice as many as in 2016. Approximately 72 per cent of cases were attributed to non-State armed groups, notably Twa militia in Tanganyika and the Force de résistance patriotique de l’Ituri (FRPI) operating in Irumu territory in Ituri. More than half of the sexual assaults by FRPI involved multiple attackers, and 40 per cent of incidents were perpetrated in conjunction with looting, pillage and theft. There was an increase in the number of incidents attributed to both FARDC (28 per cent) and the Congolese National Police (109 per cent) in 2017. Over one third of those sexually assaulted by members of the national police were being detained in police custody at the time.

‘A significant proportion of the victims were children, in 41 per cent of offences perpetrated by members of FARDC and in 42 per cent of those perpetrated by national police officers. Despite recent developments of concern, the overall number of incidents of conflict-related sexual violence by elements of the State security apparatus has declined since 2013, following concerted efforts by the authorities. The FARDC hierarchy has continued to implement its action plan, resulting in undertakings being signed by 57 commanders and 370 officers being trained, although disciplinary action against high-ranking offenders is uneven. Implementation of the national police action plan is also advancing slowly.

‘The military authorities in South Kivu successfully prosecuted three emblematic cases of conflict-related sexual violence in 2017, which included the conviction of a FARDC colonel in the Becker case for command responsibility for rape as a war crime in Musenyi, a commander in the Forces démocratiques de libération du Rwanda for sexual violence as a war crime in the Nzovu case and a member of Parliament in South Kivu and his militia of a crime against humanity for the abduction and rape of 39 children in the Kavumu case. In addition, commander Ntabo Ntaberi Sheka surrendered to the authorities in July and is expected to stand trial for his role in the 2010 mass rape of 387 civilians in Walikale, North Kivu. Overall, 42 members of FARDC and 17 members of the national police were convicted by military tribunals of rape, although bureaucratic hurdles preclude victims from obtaining reparations.

‘Medical assistance was provided to over 5,200 survivors of sexual violence by United Nations agencies in 2017, with a further 2,243 civilians receiving counselling and referrals in legal clinics supported by MONUSCO. 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. In July 2017, the Deputy Secretary-General, the UnderSecretary-General/Executive Director of the

United Nations Entity for Gender Equality and the Empowerment of Women, my Special Representative and the Special Envoy of the Chairperson of the African Union Commission on Women, Peace and Security jointly visited Goma to highlight the importance of the participation of women in peace, security and development processes and the necessity of safe and dignified return for displaced women under conditions that guarantee their economic and physical security.⁴⁴

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7.2 Role and effectiveness of security forces

7.2.1 The USSD report for 2017 states:

‘Civilian authorities did not always maintain control over the security forces....

‘...Authorities often took no steps to investigate, prosecute, or punish officials who committed abuses, whether in the security forces or elsewhere in the government, and impunity for human rights abuses was a problem.’

‘The Congolese National Police (PNC) operates under the Ministry of Interior and has primary responsibility for law enforcement and public order. The PNC includes the Rapid Intervention Police and the Integrated Police Unit...’

‘...Military magistrates are responsible for the investigation and prosecution of all crimes allegedly committed by SSF members, whether or not committed in the line of duty.

‘Elements of the SSF were undisciplined and corrupt. PNC and FARDC units regularly engaged in illegal taxation and extortion of civilians. They set up checkpoints to collect “taxes,” often stealing food and money and arresting individuals who could not pay bribes. The FARDC suffered from weak leadership, poor operational planning, low administrative and logistical capacity, lack of training, and questionable loyalty of some of its soldiers, particularly in the east.’⁴⁵

7.2.2 The USSD report continued:

‘Although the military justice system convicted some [state security forces] SSF agents of human rights abuses, impunity remained a serious problem. For example, the government’s inquiry into September and December 2016 opposition protests failed to attribute responsibility for dozens of extrajudicial killings and disappearances perpetrated by the SSF, and no SSF members were prosecuted or held accountable by year’s end. The government maintained joint human rights committees with MONUSCO and used available international resources, such as the UN-implemented technical and logistical support program for military prosecutors as well as international NGO-supported mobile hearings.’⁴⁶

7.2.3 Freedom House noted that ‘Civilian authorities do not maintain effective control of security forces. The FARDC are largely undisciplined. There have

⁴⁴ UN Security Council: S/2018/250 Paras. 39 - 41 Date of Report 23 March 2018 [url](#).

⁴⁵ USSD Country Report – DRC Section 1d. Date of Report 20 April 2018 [url](#).

⁴⁶ USSD Country Report – DRC Section 1d. Date of Report 20 April 2018 [url](#).

been reported incidents of soldiers exchanging intelligence and weapons with armed groups. Soldiers and police regularly commit serious human rights abuses, including rape and torture..⁴⁷

7.2.4 The UN Security Council passed a resolution in 2000, (Resolution 1325) calling for a number of measures to protect women, with particular emphasis on gender based violence (see action points 9-13) in areas of conflict.⁴⁸

7.2.5 The Guardian reported on the lack of positive change, fifteen years after the passing of this resolution:

‘However, in terms of practical, on the ground change, an impact study, published by the UN to mark the 10th anniversary of the resolution in 2010, painted a less than rosy picture.

‘The report found that UN missions had “achieved little success” in improving the participation of women in peace negotiations and agreements. Women in rural areas still felt excluded.

‘It said while some progress had been made in passing laws against sexual and gender-based violence, and improving women’s security, “conflict-related sexual violence as a deliberate strategy in areas of conflict still occurs with impunity” and had proved a “formidable challenge” for peacekeeping missions.’⁴⁹

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7.3 Access to justice

7.3.1 Freedom House noted that the police and security forces are not always willing to support individuals who are seeking justice. They reported that:

‘Courts are concentrated in urban areas; the majority of the country relies on customary courts. Civilian cases are often tried in military courts, which are subject to interference from high-ranking military personnel. Arbitrary arrests and detentions are common.

‘Kabila appoints members of the judiciary, which remains corrupt and subject to political manipulation. The judiciary often exhibits bias against opposition and civil society members, while government and government-allied forces often enjoy impunity for even the most heinous crimes.’⁵⁰

7.3.2 The Country Gender Profile for the DRC stated, in a report published in March 2017:

‘There are many challenges in bringing sexual violence perpetrators to court owing to long procedures, corruption, high costs for transport to the court, and lawyers. Fear of stigma and reprisals, and distrust of women victims by the police and the court prevents women from reporting. Even if a victim wins the case, compensation may not be paid following the verdict.

Domestic violence cases are often judged by community authorities, such as elders and religious leaders but not by official courts. Although it is illegal to

⁴⁷ Freedom House, World report – DRC, Section F1, F2, F3, Date of Report: 28 March 2018 [url](#).

⁴⁸ UN Security Council: Resolution 1325 Date of Report 31 October 2000 action points 9 – 13 [url](#).

⁴⁹ The Guardian: ‘Women still face a fight’ Date of Report 22 January 2015 [url](#).

⁵⁰ Freedom House, World report – DRC, Section F1, F2, F3, Date of Report: 28 March 2018 [url](#).

bring a rape case to traditional court systems, this practice continues. Furthermore, such systems tend to prioritize harmony within the family and community over women's rights. There are also cases reported in which women have to marry the rapist..

'Victims and experts state that impunity allows for continuing violence. Support to female victims and their families provided by the government and the international community is palliative and does not protect women's rights. There are neither public shelters nor counselling and rehabilitation services. Men as well as the police and law enforcement institutions do not have sufficient understanding of the damage caused by sexual violence. Women are not always understanding to female victims. Therefore, it is necessary to expand support to victims and, at the same time, raise awareness of both men and women, especially the law enforcement institutions, such as the police, medical personnel, and social workers concerning GBV.

7.3.3 During the conference held by the personal representative of the DRC's president on sexual violence and child recruitment, the Special Representative of the UN Secretary General on Sexual Violence in Conflict, UNDP, and MONUSCO, it was reported that the number of sexual violence incidents had been reduced from 15,000 in 2013 to 7,500 in 2015 and the Secretary General on Sexual Violence in Conflict praised the achievement as exemplary.⁵¹

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7.4 Aid and support

7.4.1 The UN FPA GBV Sub-Cluster, Gender-based violence situation and response in the Democratic Republic of Congo (DRC): The Kasai Crisis, 25 August 2017 reported that:

'between October 2016 and March 2017 some 8,000 people were displaced daily in DRC. In such a context, women and girls are exposed to many protection risks including various forms of gender-based violence. During the first semester of 2017, GBV actors in DRC were able to provide case management to at least to 4 700 survivors of gender-based violence mostly in North Kivu and South Kivu. This immediately show a lack of capacity, sometimes to collected reliable data, more frequently to be able to respond.'⁵²

7.4.2 The UNFPA report of 2017 on Kasai concluded:

'Referral pathways, even when established, are partial, inefficient and based on agreements among organizations or structures rather than on a local accessible, updated and available system. Psychosocial response is the weakest sector, with actors limiting their interventions to basic listening and referral. Very few psychosocial collective activities are in place or planned. Medical response is marked by the absence of trained service providers, resulting even in a non-correct application of the national protocol for the clinical management of rape. Despite an acceptable availability of post-rape

⁵¹ Country Gender Profile DRC Final Report Date of Report March 2017 [url](#).

⁵² UNFPA – UN Population Fund: 25 August 2017, [url](#)

kits in comparison with number of survivors accessing the health centres within the 72 hours of a rape incident in Kananga, Mbuji-Mayi and Tshikapa, the capacities of health staff on the management of the supply chain is inadequate. Lastly, medical certificates are not available and the health information system is weakly exploited. Legal assistance is present towards few juridical clinics in Kananga, Mbuji-Mayi and Tshikapa, that difficulty ensure adequate reparation to survivors of violations punished by the law such as forced marriage and sexual violence in the challenging environment of DRC (lack of judges, of training of police officers etc).⁵³

7.4.3 The OECD report noted the attempts of the DRC authorities to work with outside agencies in Kinshasa, including international agencies, following on similar work in other parts of the DRC. The report stated:

‘In the Democratic Republic of the Congo a three-year programme used engagement on gender norms to help prevent young men and boys (ages 10-19) from joining local street gangs, as well as helping them to leave. It built on the recognition that younger men may be drawn to violence-prone groups in part to respond to social expectations (from both women and men), for men to serve as protectors and economic providers, and to show dominance and use force to resolve conflicts. The programme set up young men’s clubs through which gender norms change; in particular, “positive masculinities” and gender equality were fostered. The curriculum drew on previous experience working on masculinities in the eastern DRC and abroad, but adapted these to local needs and dynamics in Kinshasa. The programme was also to engage with women and adolescent girls who play a role in the lives of these men and boys. In addition, police officers were to be trained as facilitators to support the work in youth centres. This was the only programme reviewed that included an explicit “masculinity focus” in its gender work.

‘The men against violence programme in the DRC worked primarily with men and boys, with the aim of changing dominant gender norms which contribute to violent behaviour. All other DRC programmes also engaged with men at some level, particularly in terms of attitudinal change with respect to maternal health care and women’s sexual and reproductive health rights or domestic violence/SGBV....’ ‘In addition, the health sector behavioural change programme took the needs of sexual and gender minorities into account as part of its work with men who have sex with men.

‘The various programmes sought to engage with men and boys in different ways. The men against violence programme did this most explicitly, focusing in particular on young men and boys at risk of joining gangs, with the aim of changing harmful gender norms and working with the men and boys to give them life skills and positive, non-violent coping mechanisms. The two health sector projects reviewed brought in men as partners to promote a better understanding of (and play a more supportive role with respect to) their own and women’s sexual and reproductive health. A programme addressing SGBV engaged with men mostly in their respective capacities as service providers and duty bearers (e.g. men working in security or judicial sector

⁵³ UNFPA – UN Population Fund: 25 August 2017, [url](#)

institutions) rather than seeking to change gender norms or gendered behaviour. Nonetheless, one of the UN agencies involved in the project also brought in a Congolese civil society organisation to train project staff on transformative approaches to working with masculinities.’⁵⁴

7.4.4 USAID have an ongoing aid programme for DRC, and their website notes the following information:

‘USAID’s 2015-2019 Country Development Cooperation Strategy (CDCS) integrates activities to counter SGBV into health and education programs, with a focus on challenging gender inequality nationwide and expanding access to services. Under this strategy, USAID provides emergency and long-term assistance to SGBV survivors and strengthens Congolese institutions to address SGBV in the future.

‘USAID has provided a holistic set of essential services to more than 100,000 SGBV survivors, including access to medical care, psychosocial support, economic reintegration, vocational and literacy training, income generating activities, fighting impunity for perpetrators through support for legal reform, and strengthening of civilian and military judicial systems. Community awareness activities and information campaigns use various communication approaches to promote women’s rights, acceptance of rape survivors, and equity for women.

‘Since 2001, USAID has incorporated treatment for SGBV survivors into its humanitarian emergency health programs. USAID provides services in 141 health centers within conflict-affected health zones of North Kivu, South Kivu, and Ituri. These programs deliver clinical management and treatment of SGBV cases, training for health staff on medical management of SGBV, and provision of psychosocial care to survivors in conflict-affected zones of North Kivu and Orientale provinces. USAID provides first line treatment at local clinics and referrals to larger hospitals, when necessary, for complications such as fistula.

‘The Department of State has taken an active role in addressing SGBV in the DRC through a variety of programs funded by the Bureau for Democracy, Human Rights, and Labor (DRL), the Bureau for Population, Refugees, and Migration (PRM), the Bureau of International Narcotics and Law Enforcement Affairs (INL), the Bureau of African Affairs (AF), the Office of the Global AIDS Coordinator (S/GAC), and the Office of Global Women’s Issues (S/GWI). Additionally, Embassy Kinshasa’s Democracy and Human Rights Fund gives small grants on an annual basis to local organizations that provide economic and legal support to SGBV survivors. The Embassy’s Public Affairs Section also sponsors SGBV-focused activities.

‘Select 2017 Accomplishments

- USAID provided 7,755 survivors of SGBV with medical, legal, and economic reintegration services.
- USAID strengthened 1,550 organizations to respond to and prevent SGBV in their communities.

⁵⁴ OECD: ‘Gender Equality and Women’s Empowerment...’ Date of Report: October 2017 [url](#).

- USAID established School-Related GBV monitoring committees in 618 schools and worked with the Ministry of Education to field test and validate the Doorways curriculum aimed at building skills to effectively counter SRGBV.⁵⁵

7.4.5 The FCO Human Rights report for 2017 noted:

‘In 2018... The UK will also continue its work on the Preventing Sexual Violence in Conflict Initiative and deliver a second phase of the girls’ education programme to support 75,000 girls. We will continue to encourage the DRC government, as an elected member of the [Human Rights Council] HRC, to take active steps to improve respect for human rights. This includes encouraging active cooperation with the HRC investigation into the human rights violations and abuses in the Kasais.’⁵⁶

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7.5 Civil society

7.5.1 A new women’s organisation, named Synergie des Femmes, is working in the DRC, combating generalised violence against women. Justine Masika Bihamba, the founder and leader of Synergie des Femmes, spoke to the Guardian on progress so far: ⁵⁷

‘Congolese women have decided to take our future into our own hands. We have few resources but we have an enormous amount of know-how.

‘Victims of sexual violence have been largely forgotten after decades of what seems like a never-ending war. For 30 years, since leaving school, I have worked with women here and have received dozens of death threats as a result. My home and office have been attacked and raided. One of my staff members was raped.

‘But we are changing this country from within.

‘We women have a huge influence in our communities yet we are almost entirely excluded from Congolese political life. A lot of this is down to the traditional role of women and a government that ignores article 14 of our constitution, which demands gender equality. Only 8% of parliament is female and we have been almost completely left out of peace-building efforts – apart from the occasional inclusion of one or two women to take notes while men speak. According to the International Peace Institute the chance of lasting peace increases by 35% when women are included in talks, but during times of war, women’s political participation tends to decrease while sexual violence increases.

‘For many years I have known that efforts to build peace and end sexual violence should be led from the front. A lot of meetings have taken place, which give the illusion that progress is being made. In 2000, UN security council resolution 1325 called for women to be given equal political participation and governments to take “special measures to protect women

⁵⁵ USAID: DRC – Sexual and Gender Based Violence FactSheet: [url](#). Last updated 6 February 2018

⁵⁶ UK Government, FCO HR report 2017 (DRC), 18 July 2018, [url](#)

⁵⁷ The Guardian UK: ‘The ‘rape capital of the world’? Date of Report 9 October 2017 [url](#).

and girls from gender-based violence, particularly rape and other forms of sexual abuse, in situations of armed conflict". But after more than 17 years of involvement by the United Nations and three years after the UK's Global Summit on Ending Sexual Violence in Conflict, progress on the ground is minimal. The summit cost £5.2m (\$6.9m) to host while we carry out our work with nothing.⁵⁸

7.5.2 Ms Bihamba continued:

'Last month my organisation co-ordinated 65 women leaders from every province to come to our capital city, Kinshasa, to start a Congolese Women's Forum for peace and equal political representation. Meryl Streep, Gloria Steinem, Lena Dunham, the former UN High Commissioner Navi Pillay and Swedish foreign minister Margot Wallström gave advice and pledged support. It felt incredible to have so many people listen to us.

'Less than one week after the event we started to see progress. Six women from our group and 80 local women were included alongside militant groups in peace talks in the Kasai region, a hotbed of violence, where an estimated 3,300 people have been killed by warring forces in the past year. Collectively, women made up around 20% of those in the room – a huge contrast with similar previous events.

'We are now focused on increasing this further, against all the challenges.

'Every day I put my life at risk by speaking out, but I have no choice but to keep going. Congolese women need to be taken seriously so the DRC can finally witness the peaceful future that we have all dreamed about for many years. A part of that is in our hands.'⁵⁹

7.5.3 A relatively new human rights organisation, Dynamique des Femmes Juristes (DFJ) has been working to improve the lot of women in DRC suffering domestic violence. They offer access to medical, legal and psychological services. A report on the website of Global Press Journal stated:

'Insults, domestic violence, rape, assault and summary executions are part of life for women here. DFJ, which opened in 2006 but has only been operating in this region since December 2016, is comprised of female lawyers who are dedicated to raising awareness about domestic violence and offering local women legal recourse when abused....

'Claudine Tsongo, 38, coordinator of DFJ, says she became a lawyer to ensure women's access to justice:

"I have no regrets about my choice to become an attorney at law," she says. "When we provide women with legal services and I see the smile it brings to the lips of women who suffer injustice, I tell myself that this is the job I really needed to do."

Tsongo says DFJ is working to raise awareness about domestic violence in a culture that has long accepted the practice as normal.

⁵⁸ The Guardian UK: 'The 'rape capital of the world'? Date of Report 9 October 2017 [url](#)

⁵⁹ The Guardian UK: 'The 'rape capital of the world'? Date of Report 9 October 2017 [url](#)

“We are focusing our actions on raising awareness and engaging the community to question and change some social norms,” she says. “Also, we’ve made it possible for women to have access to justice so they know that having access to justice shouldn’t be a luxury the society can choose to bestow upon them, but a right they deserve.”

‘Tsongo works alongside seven female attorneys to advocate for the rights of vulnerable women who are unable to afford court costs.

‘The organization is working to bring down the number of cases of violence against women across eastern DRC, which has been plagued with violence for decades. Early estimates indicate that they have reached more than 103,000 people with campaigns about protecting women’s rights, Tsongu says.’⁶⁰

7.5.4 There are some NGOs in DRC that specialise in the care and support of victims of gender based violence, in addition to NGOs with different aims. Freedom House noted:

‘Nongovernmental organizations (NGOs) and professional organizations are generally able to operate, though domestic human rights advocates are subject to harassment, arbitrary arrest, and detention. There are approximately 5,000 registered NGOs in the DRC, though many have narrow while protesting against uncleanliness in Kinshasa.’⁶¹

‘AIDPROFEN:-

‘...is a registered Congolese non profit organization advocating and promoting women rights in the eastern Democratic Republic of Congo, founded in the DRC in 2011. Its first activities began in the province of North Kivu in 2012 during the armed conflicts that characterized the province with the rebellion of the March 23 movement called M23 rebellion. AIDPROFEN started its activities in Mungunga displaced camp in North Kivu. At the time, AIDPROFEN focused mainly on gender issues and conditions in which women and children were living in in the IDP camps; many of these civilians were victims of armed conflicts in the DRC perpetrated by rebel groups active in the region. Over time, AIDPROFEN has developed other programs, including a human rights promotion program, sexual and Gender based violence, civil and political rights encourage women and girls civic and political participation, the promotion of peace and democracy in the DRC. (from Aidprofen website).’⁶²

7.5.5 DW.com reported on the work of Aidprofen in February 2018, noting the work of Passy Mubulama⁶³, a journalist who wanted to help women affected by gender based violence. Aidprofen, according to her, is ‘a program which educates women about their rights, because the more you know your rights, the better you can defend them.’⁶⁴

⁶⁰ Global Press Journal: ‘In DRC, Female Lawyers...’ Date of Report 8 March 2018 [url](#).

⁶¹ Freedom House, World report – DRC, Section E2, Date of Report: 28 March 2018 [url](#).

⁶² Aidprofen: ‘Mission, vision and values’ Undated website page [url](#).

⁶³ Aidprofen: ‘Meet our Staff’ Undated website page [url](#).

⁶⁴ DW.com: ‘DRC: Fighting against the stigma of rape’ Date of Report 9 February 2018 [url](#).

7.5.6 Warscapes, an on-line magazine covering current conflicts across the world, featured a May 2015 interview with Denis Mukwege, a Congolese gynaecologist and rights activist. Dr Mukwege's free hospital, Panzi, is located in Bukavu, the capital city of South Kivu province:

'In a region critically lacking basic healthcare, Mukwege, a leading expert in reconstructive surgeries for rape victims, has saved the lives of more than 40,000 women over 16 years. A majority of them are victims of brutal gang rapes by soldiers and militias that started during the Second Congo War and have continued to the present day...

'Having treated women at different thresholds of psychological and physical suffering, many rushed in with their lifelines veering towards horizontal, Mukwege has been a prime witness to rape used as a weapon of war. In an interview for Warscapes, he spoke about his mission to "save the common humanity of his country."

"It is a method of torture. It is a way to terrorize the population. When I see some of the injuries on the women and children, I realize this type of violence has little to do with sex and much more with power through a sort of terrorism," said Mukwege.⁶⁵

7.5.7 Dr Mukwege spoke about his attempts to re-educate men:

'Alongside his medical work, he has campaigned for Congolese women's rights at national and international levels. He believes change does not simply mean protecting the women...

'Movements geared towards educating men about sexual violence have emerged in recent years in Congo. A national conference took place in 2014 where leaders from different provinces gathered to discuss violence against women that has been endemic in their communities. Along with psycho-social support for victims of rape, Mukwege advocates help for those who left the armed forces and re-integrating them into their communities...

'Peace in Congo, Mukwege contends, will require rehabilitating the men and reinforcing the voices of women. He has organized groups where men and boys discuss the violence that has pervaded their societies and minds while women gather to demand justice and reparations.⁶⁶

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8. Freedom of movement

8.1.1 The OECD gender profile of the DRC of 2014 based on a range of sources noted 'Women face restrictions on their freedom of movement and access to public space. Married women are obliged to live in a residence of their husband's choosing, and cannot apply for a passport without their husband's consent [...] As detailed in the physical integrity section, widespread instability and militia activity, and the attendant risk of rape and other atrocities, effectively limits the movement of women.'⁶⁷

⁶⁵ Warscapes: Denis Mukwege: Date of Report: 20 May 2015 [url](#).

⁶⁶ Warscapes: Denis Mukwege: Date of Report: 20 May 2015 [url](#). 8

⁶⁷ OECD, DRC profile (Restricted civil liberties), circa 2014, [url](#)

8.1.2 Freedom House noted, in their World Report published in 2018 'Freedom of movement is protected by law, but is frequently restricted in practice. Armed conflict in the greater Kasai region, North and South Kivu provinces, and Tanganyika province had internally displaced nearly 4 million civilians as of October 2017. In 2017, the government restricted the movements of international journalists and UN investigators looking into the violence.'⁶⁸

8.1.3 The USSD 2017 report stated:

'The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government sometimes restricted these rights.

'The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

'The SSF and RMGs established barriers and checkpoints on roads and at airports and markets, ostensibly for security reasons, and routinely harassed and extorted money from civilians for supposed violations, sometimes detaining them until they or a relative paid. The government required travelers to submit to control procedures at airports and ports during domestic travel and when entering and leaving towns.

'Local authorities continued to collect illegal taxes and fees for boats to travel on many parts of the Congo River. There also were widespread reports that FARDC soldiers and RMG combatants extorted fees from persons taking goods to market or traveling between towns.

'The SSF sometimes required travelers to present travel orders from an employer or government official, although the law does not require such documentation. The SSF often detained and sometimes exacted bribes from individuals traveling without orders.'⁶⁹

8.1.4 An August 2018 news24 article by Peer Schouten of the Danish Institute for International Studies stated that:

'In a recent study, we mapped nearly 1000 roadblocks in Eastern Congo. It was difficult to find a road in Eastern Congo without a roadblock. I believe it's time to acknowledge the existence of these roadblocks and the support they provide to rebels and undisciplined soldiers.

'Congo is home to about 120 different armed groups, and roadblocks are key to their survival. This is particularly true for rebel leaders in areas where no minerals can be found.

'Everywhere across Eastern Congo, as mining sites become cleared of armed actors, rebel leaders and military conflict entrepreneurs simply set up roadblocks to finance their activities. Congo's roads are a magnet for extortion because everyone has to take their products to markets.

⁶⁸ Freedom House: World report – DRC, Section G1, Date of Report: 28 March 2018 [url](#).

⁶⁹ USSD Country Report – DRC Section 2d. Date of Report 20 April 2018 [url](#)

'Roadblocks are also a crucial strategy for government actors. Congo is as large as western Europe but has only 2000 km of paved road. Given that the DRC state collects few taxes, remote government or military outposts are largely "self-financing" – government agents collect taxes to pay their salaries (or daily bread) locally – through roadblocks. Their commanders frequently impose a weekly quota of sums to make along the road.

'Congolese roads are a crucial space where conflict, illegal taxation, and conflict financing entangle. Ask anyone in Eastern Congo how conflict affects her life, and she probably won't mention remote mining sites but rather start complaining about roadblocks and food prices. For ordinary Congolese, the cumulative burden of roadblock taxes form a key problem of the current conflict, leading to outrageous prices on even the most basic consumer goods in urban areas – and that for a population trying to survive on a dollar a day.'⁷⁰

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⁷⁰ News 24, How roadblocks, not just minerals, fund rebels and conflict in DRC, Date of Report 14 August 2018, [url](#)

Terms of reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Overview
 - Legal rights
 - Cultural context and discrimination
- Violence against women
 - Type and extent of violence
 - Sexual violence in conflict areas
 - Societal and domestic violence
 - Female Genital mutilation (FGM)
- State response to violence
 - Role and effectiveness of security forces
 - Implementation of the law
 - State response in the conflict areas
 - Access to justice
 - International aid and support
 - Civil society
- Freedom of movement

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Version control

Clearance

Below is information on when this note was cleared:

- version **2.0**
- valid from **20 September 2018**

Changes from last version of this note

The country information has been updated following the IAGCI commissioned review.

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