

THE DRC INQUIRY

**‘THE VICIOUS CIRCLE
OF SEXUAL VIOLENCE’**

JUNE 2025



on International Law, Justice and
Accountability Globally



THE DRC INQUIRY

Ad-Hoc Parliamentary Inquiry into the Responses to Conflict-Related Sexual Violence in the DRC

**Conducted by the APPG on International Law, Justice and Accountability and the
International Bar Association's Human Rights Institute**

June 2025

As the Inquiry was working on the report in early 2025, the situation in the DRC escalated. In early January 2025, fighting between Government forces and the Rwandan-backed M23 armed group intensified. M23 rebels seized Goma, the provincial capital of North Kivu, and started closing in on the city of Bukavu, the capital of South Kivu province. This has resulted in hundreds of thousands being forced to flee and seek safety in internally displaced persons (IDPs) camps. Bukavu was captured by M23 in early February 2025.

The hostilities are unfolding in a mineral-rich region that has been volatile for decades amid a proliferation of armed groups. UN reports that the intensifying hostilities have been sending shockwaves through the communities, with IDP camps emptying as people flee the violence. Medical services are overwhelmed by the number of those injured, including civilians. With the new wave of violence, sexual violence spiked significantly, adding to the already protracted issue.

EXECUTIVE SUMMARY

CRSV is a weapon of war which continues to be used against women and girls in the DRC to this day. Its use is exacerbated by every spike in violence in the region. Despite some positive steps taken to address it, prevention continues to be a promise yet to be fulfilled. Some accountability measures help to show how justice could be achieved, however, they are but a drop in the ocean and inadequate to deliver a meaningful (and much-needed) change.

As long as the DRC continues to be a stamping ground for militias, including M23, and other neighbouring countries, instability will create the perfect conditions for atrocity crimes to be perpetrated. In such conditions, women and girls will always be at risk of CRSV. This is not a theoretical scenario but the lived reality of women and girls, as manifested before our eyes.

The Inquiry, after a consultation with experts and communities, makes the following recommendations to the UK Government:

Assistance to communities

- As the situation in the DRC is deteriorating, exacerbated by the recent spike in violence by M23, there is an urgent necessity to ensure the basic needs of the population, such as basic health needs, including:
 - Supporting the establishment and expansion of government-run and supported safe houses/shelters, providing immediate protection for victims/survivors and their families.
- Assess all UKAid-supported projects in the DRC, whether CRSV or justice and accountability-related, and consider how to strengthen them and ensure that they have the support needed to be able to deliver results.

Avenues for justice and accountability

- Work with national institutions, victims' groups, civil society, and international partners to facilitate the implementation of a comprehensive transitional justice policy. This should integrate:

- Truth-seeking: through inclusive truth commissions that enable survivors of CRSV and other crimes to share their experiences and have them recognised in the historical record.
- Justice: by ensuring access to judicial and non-judicial mechanisms at national and international levels.
- Reparation: through victim-centred programs addressing material, physical, psychological, and symbolic harms.
- Guarantees of non-repetition: including institutional reform, vetting, security sector reform, and civic education initiatives.
- Support the creation of a specialised hybrid judicial mechanism with the mandate to investigate and prosecute CRSV and other international crimes. Such a mechanism should ensure credible, impartial and fair prosecutions while building on and strengthening the current national judicial capacities.
- Work with communities and experts on establishing a truth and justice commission to enable victims/survivors of CRSV to testify and tell their stories and memorialise them as part of the nation's history.
- Ensure the allocation of a national budget and the establishment of an effective system to ensure that the state finally pays reparations to the victims it has been ordered to compensate. Accelerate the implementation by FONAREV (Fonds National des Réparations des Victimes de violences sexuelles liées aux conflits et des victimes des crimes contre la paix et la sécurité de l'humanité) of a national reparations policy and administrative reparations programs for communities of victims who do not benefit from a judicial decision.

Working with victims/survivors and affected communities

- Provide assistance to better accommodate cooperation with victims/survivors and affected communities. All decisions that affect victims/survivors must be taken with full participation of victims/survivors, including:
 - in designing and implementing prevention, response, and reparations programmes to ensure their voices and priorities are heard.

- Community leaders must be fully involved—including women leaders—in mechanisms for preventing, managing, and resolving conflicts, as well as consolidating stability and lasting peace.

Education and awareness raising

- Assisting the implementation of programmes and awareness campaigns, including long-term psychosocial support and economic reintegration activities tailored to the needs of women, girls, and boys affected by CRSV.
- Providing assistance with designing and implementing training for the military, including becoming prominent in all military training manuals, legislation, military codes, and repeatedly enforced in education, training, information, and review/disciplinary settings, in line with the NATO policy.¹

Legislative reforms and policy changes

- Assist the DRC in pursuing necessary legislative reforms, such as amending existing laws or enacting new ones on sexual violence and the protection of victims in line with international standards, and ensuring the effective application of these laws. This includes developing implementation mechanisms, allocating adequate resources, training judicial and law enforcement actors, and establishing monitoring systems to close the gap between law and practice. Any legal changes should be accompanied by strategic communication campaigns and top-level messaging and narratives, combined with an educational curriculum to ensure that the people are educated on and comply with the new laws, incorporating them into their beliefs and actions.
- Ensure that all political and military authorities, especially the highest political and military authorities of the DRC, show unwavering and unconditional support for the independence of the courts responsible for prosecuting perpetrators of international crimes. It is crucial for the Congolese state to respond firmly to any attempt at interference to demonstrate that such actions will not be tolerated.
- Engage the DRC government to ensure that they abolish the death penalty for international crimes. To comply with international best practices and promote

¹ See: https://www.nato.int/cps/en/natohq/official_texts_184570.htm.

international support and cooperation, lawmakers should abolish the death penalty for international crimes. Pending this reform, the state should immediately restore the moratorium on executions, which was lifted in March 2024.

Legal training

- Provide training, including through the ROLE UK and PSVI team, for investigators, lawyers and other legal professionals, and magistrates working with victims/survivors of war crimes. Such training should focus on protecting the rights of victims/survivors, minimising their re-traumatisation, and balancing this with effective defence strategies for the accused, including in accordance with the International Protocol and the Murad Code.
- Help the establishment of networks of professionals working on CRSV, to facilitate easier exchanges, further continuing professional development training, including on new technologies, etc.
- Facilitate the transfer of the jurisdictional competence over CRSV and other grave human rights violations from military and civilian courts in the medium to long term so that civilian courts become the sole competent jurisdiction to prosecute and judge perpetrators of international crimes, even when they are members of the armed forces. In parallel, reform the civilian justice system with the goal of eradicating the serious corruption it suffers from. Increase initiatives aimed at enabling civilian judges to benefit from the expertise acquired by military judges in the prosecution of international crimes.

Financial regulations and sanctions

- Impose sanctions on all those responsible for CRSV in the DRC, including perpetrators of historic atrocities and those ongoing, for example, as perpetrated by members of M23.
- Identify whether there are any assets belonging to Bosco Ntaganda, a rebel leader from Congo who was convicted of 18 counts of crimes against humanity and war crimes, to assist the ICC in providing reparations to his victims.

- Identify the best ways to ensure that the frozen assets could be repurposed to provide assistance to victims/survivors of CRSV and also reparations.

Critical minerals

- Support the efforts to map all mines with critical minerals (conflict minerals) and work with the DRC to develop a strategy for the provision of safety and security of the sites.
- Introduce stricter requirements for companies using conflict minerals to show the source of the minerals.
- Introduce stricter punishments upon companies which fail to disclose blind spots in their supply chains, among others.
- Introduce legislation creating a rebuttable presumption that the cobalt used in the batteries of rechargeable gadgets or EVs is tainted by human rights violations and environmental destruction.
- Introduce in the UK, and assist the DRC to establish independent, third-party schemes to provide trustworthy auditing for supply chains.
- Ensure that the supply chain provisions in the UK Modern Slavery Act go beyond simple reporting requirements to include actual deterrent mechanisms or penalties that motivate a change in corporate behaviour. Accountability must sit at the top of the chain, with directors being personally accountable for compliance.
- Convene a dedicated commission to conduct independent research on ground conditions, which can guide future policy efforts.

Monitoring

- Monitor the situation in the DRC, with regular JACS assessment and other atrocity crimes risk assessments.
- Consider the risk of Islamist terrorism in the DRC and regularly report to the Parliament on the issue.

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*'During the last decades of continued war and instability, our country has been subject to repeated wars of aggression by neighbouring countries, including Rwanda and Uganda. **Women and girls have paid and continue to pay a very heavy price in this forgotten war and neglected crisis.***

The systematic recourse to rape and gender-based violence, including sexual slavery and forced pregnancy, used by all combatant forces – Congolese and foreign armies or armed groups – has been characterised by the widespread and systematic nature of these most heinous crimes, as highlighted in the United Nations Mapping report, published 14 years ago. During this period, sexual violence was frequently used as a method of war and a strategy to displace, terrorise and subjugate the population.'

- Dr Denis Mukwege

'The big problem with justice in the Democratic Republic of Congo is that most victims do not have the resources and means to seek justice. There is fear of reprisals, and victims cannot go back to their lives. [Many] who have followed justice, that process did not lead anywhere.'

- Tatiana Mukanire

1. INTRODUCTION

Conflict-related sexual violence (CRSV) remains one of the most under-reported and under-discussed crimes, despite the changing perception of sexual violence in conflict as seen over time. Sexual violence used to be perceived as an inevitable by-product of war, the spoils of an invading army or a successful conqueror. However, the international community now recognises that sexual violence is often used as a deliberate military strategy to demoralise whole communities. This shift in recognition has been significant, especially as it has allowed for the prosecution of the crime. On 19 June 2008, the UN Security Council unanimously passed Resolution 1820 on the use of sexual violence in war, indicating that *'rape and other forms of sexual violence can constitute a war crime, a crime against humanity, or a constitutive act with respect to genocide.'*² A year later, in 2009, the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict was established by the UN Security Council Resolution 1888.³ The Office works towards ending impunity for sexual violence in conflict, protecting and empowering survivors and developing strategies to combat sexual violence in conflict. However, the road towards justice and accountability for sexual violence in conflict, but also prevention, is long.

The use of sexual violence as a weapon of war in the Democratic Republic of Congo (DRC) has a long history stemming from colonial occupation by King Leopold II of Belgium. After DRC gained its independence in 1960, sexual violence was included as a method of torture by the Mobutu government, but it was not prevalent. It is in the mid-1990s that rape became, again, a common occurrence and tool to torture. This wave of atrocities coincides with DRC seeing an influx of foreign, multi-ethnic *génocidaires* from, chiefly, Rwanda and Uganda, who brought their violent extremist ideology with them and spread crime across DRC, including killings, abductions, rape and other forms of sexual violence. However, while Hutu militants were responsible for some of these atrocities, the government military is not without blame. This violence continued despite the end of the two wars. The Second Congo War (1998-2003), sometimes referred to as Africa's World War, claimed an estimated 4 million lives and

² See: United Nations Security Council Resolution 1820 (2008), S/RES/1820(2008). Available at: [https://www.un.org/shestandsforpeace/content/united-nations-security-council-resolution-1820-2008-sres18202008#:~:text=%2F1820\(2008\)-,United%20Nations%20Security%20Council%20Resolution%201820%20\(2008\)%2C%20S%2F,the%20need%20for%20the%20exclusion](https://www.un.org/shestandsforpeace/content/united-nations-security-council-resolution-1820-2008-sres18202008#:~:text=%2F1820(2008)-,United%20Nations%20Security%20Council%20Resolution%201820%20(2008)%2C%20S%2F,the%20need%20for%20the%20exclusion).

³ United Nations Security Council Resolution 1888 (2009), S/RES/1888(2009). Available at: <https://www.un.org/shestandsforpeace/content/united-nations-security-council-resolution-1888-2009-sres18882009>.

has been the deadliest war of this century. Sexual violence was a common occurrence as well. The lack of accountability or justice undoubtedly sowed the seeds of the continuing violence today.

This ongoing violence was perpetrated by several actors, including the March 23 Movement (M23) rebel group, a Tutsi-based rebel group supported by foreign governments. The widespread use of sexual violence has also been exacerbated by superstitious beliefs that have been used to justify the issue of sex with prepubescent girls and even toddlers, and babies. Sexual violence is primarily used as a tactic to assert political and economic power, but also as control over natural resources, which was particularly problematic given that the DRC is one of the world's most mineral-rich nations, home to an estimated \$24 trillion in untapped deposits.

Despite data being limited due to chronic underreporting associated with fear of social stigmatisation, some scholars estimated in 2011 that between 1.69 and 1.80 million women have been raped in the DRC.⁴ Around that time, data collected from local health centres in Kivu suggested that about 40 women were being raped every day.⁵ Another study estimated 1,100 rapes per month.⁶

The use of sexual violence in the DRC continues to this day. Among others, in 2020, the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO) documented 1,053 cases of conflict-related sexual violence, affecting 675 women, 370 girls, 3 men and 5 boys. 177 were reported to have been perpetrated in the last year only.

Since 2021, eastern DRC has experienced an acute escalation in CRSV that has exacerbated suffering from decades of fighting driven by regional tensions among various armed groups and struggles over valuable mineral resources. As emphasised by Physicians of Human Rights, the reemergence of the M23 rebel group in 2021 has fueled the crisis, leading to the displacement of over 7.3 million people, a weakened

⁴ Marta Latek, Sexual violence in the Democratic Republic of Congo (EP, 2014). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-AaG-542155-Sexual-violence-in-DRC-FINAL.pdf>
See p. 1.

⁵ Malokele Nanivazo, 'Sexual violence in the Democratic Republic of the Congo' (United Nations University, 2012). Available at: <https://www.wider.unu.edu/publication/sexual-violence-democratic-republic-congo>.

⁶ Ibid.

health system, food insecurity, and an alarming increase in sexual and gender-based violence.⁷

As added by Physicians for Human Rights, in 2022, the DRC had the highest number of UN-verified cases of CRSV globally. In 2023 alone, there were estimated to be over 120,000 reported cases of sexual violence in the DRC.⁸

In May 2023, medical professionals working in eastern DRC reported that sexual violence in the region was ‘catastrophic’ in scale. Doctors Without Borders/Médecins Sans Frontières (MSF) stated that during two weeks in April 2023, in camps for displaced people around Goma, the provincial capital of North Kivu, they treated more than 674 girls and women (on average 48 victims per day) for sexual violence.⁹ According to their reporting, between 17 and 30 April 2023, MSF teams treated 314 victims of sexual violence in Bulengo, Lushagala, Kanyaruchinya, Eloime, and Munigi camps, and 360 in Rusayo—one of the newest and most densely populated camps, west of Goma. In Rusayo, Bulengo, and Kanyaruchinya, more than half of the survivors reported being attacked by armed men. MSF made it clear that those who seek care for sexual violence likely represent only a fraction of the true number of victims, as MSF is not present in all camps. Furthermore, there are many other barriers to seeking care, including stigma.

In recent years, the Congolese government has taken some steps to address this scourge, in particular prioritising domestic accountability efforts. Supported by national and international partners, the Congolese judicial authorities have carried out dozens of investigations and prosecutions of armed group leaders and Congolese security forces for war crimes and crimes against humanity, sometimes achieving innovative judicial precedents when it comes to CRSV.¹⁰ Despite these developments, impunity remains rampant, challenges are pervasive, and victims do not have access to meaningful reparations. Victims/survivors of CRSV must be allowed to tell their stories and have their stories documented and preserved as a part of the nation’s history.

⁷ Physicians for Human Rights, written submission. See also: ‘Why Congo’s M23 Crisis Lingers On’ (30 May 2023) Global Observatory. Available at: <https://theglobalobservatory.org/2023/05/why-congos-m23-crisis-lingers-on/>.

⁸ PHR, written submission.

⁹ See: <https://www.doctorswithoutborders.org/latest/witnessing-catastrophic-scale-sexual-violence-north-kivu>.

¹⁰ Ruth Maclean, ‘Congolese fighters convicted of raping young girls in landmark case’ (13 December 2017) The Guardian. Available at: <https://www.theguardian.com/world/2017/dec/13/congolese-fighters-convicted-raping-toddlers-young-girls-landmark-case>.

Situation in the Eastern DRC in 2025

In 2025, the Eastern DRC experienced a surge in violence, as Rwandan-backed M23 rebels seized control of key areas. Reports of widespread CRSV, particularly against women and girls, followed.¹¹ In the Goma area of North Kivu, around 500 cases of sexual violence were reported within one week following M23's invasion, with more than 150 of the cases involving children. ***This number only reflects those able to reach care or unhindered by fear of retaliation or stigmatisation.***¹² One recent example of mass CRSV in Goma is the mass prison break at Munzenze Prison on 27 January, where at least 165 female prisoners were raped before the majority were subsequently burned alive.¹³ Vivian van de Perre, Deputy Head of the UN peacekeeping force in Goma, described the atrocity against the female prisoners, stating that *'they were all raped and then they set fire to the women's wing. They all died afterwards.'*¹⁴ Since the beginning of the year, more than 400,000 individuals have been displaced in North and South Kivu, the majority of whom are women and children.¹⁵ Such displacement heightens their susceptibility to CRSV, including sex trafficking by armed gangs, who operate with impunity.¹⁶

Additionally, end of January 2025, the Spokesperson for the UN High Commissioner for Human Rights, Jeremy Laurence, revealed that the OHCHR has documented cases of CRSV perpetrated by the armed forces and allied Wazalendo fighters in Kalehe territory, and they are verifying reports that 52 women were raped and gang-raped by

¹¹ The Guardian, 'Hundreds of women raped and burned to death after Goma prison set on fire' (5 February 2025). Available at: <https://www.theguardian.com/world/2025/feb/05/democratic-republic-congo-goma-women-raped-burned-death-prison-m23-rebels-rwanda>.

¹² UNFPA, 'UNFPA statement on sexual violence perpetrated against women and girls in the Eastern Democratic Republic of the Congo' (21 February 2025). Available at: <https://www.unfpa.org/press/unfpa-statement-sexual-violence-perpetrated-against-women-and-girls-eastern-democratic>.

¹³ OHCHR, 'The risk of escalation throughout the sub-region has never been higher' (7 February 2025). Available at: <https://reliefweb.int/report/democratic-republic-congo/hc-turk-drc-risk-escalation-throughout-sub-region-has-never-been-higher-enzh>.

¹⁴ The Guardian, 'Hundreds of women raped and burned to death after Goma prison set on fire' (5 February 2025). Available at: <https://www.theguardian.com/world/2025/feb/05/democratic-republic-congo-goma-women-raped-burned-death-prison-m23-rebels-rwanda>.

¹⁵ UNFPA, 'UNFPA statement on sexual violence perpetrated against women and girls in the Eastern Democratic Republic of the Congo' (21 February 2025). Available at: <https://www.unfpa.org/press/unfpa-statement-sexual-violence-perpetrated-against-women-and-girls-eastern-democratic>.

¹⁶ Ibid.

Congolese troops in South Kivu.¹⁷ Other than these incidents, High Commissioner Volker Türk disclosed that his team was verifying multiple allegations of rape, gang rape, and sexual slavery throughout the conflict zones, expressing his horror at the rise in sexual violence.¹⁸

In the midst of the March 23 Movement's (M23) push into North and South Kivu, thousands of prisoners escaped from prisons due to the disintegration of local authorities. Reports indicate mass escapes at the Muzenze prison in Goma, North Kivu, as well as in Bukavu, Uvira, and Kalehe in South Kivu, and in Kalemie in the Tanganyika province. These escapes pose significant risks to the safety of victims/survivors and witnesses who testified against the convicted criminals and who are now at risk of retaliation, in the context of a security vacuum in areas newly under M23 control or where state authority is weak. For example, militia leader Donat Kwengwa Omari, convicted of crimes against humanity in November 2024 by the military court of South Kivu, escaped from the central prison in Bukavu and returned to his former area of influence in the Shabunda territory.¹⁹ He resumed command of his group, now aligned with the Wazalendo movement in the fight against the M23. He is currently mobilising his military resources to hunt down and intimidate those who testified against him. Violent reprisals have already targeted certain human rights defenders, while threatened survivors and victims are forced to move to escape violence.

As M23 spreads havoc in the region, this provides a fertile ground for other militias to emerge and/or expand. In February 2025, in a village near Lubero, in North Kivu, over 70 bodies were discovered inside a Protestant church. The mass killing is being attributed to the Allied Democratic Forces (ADF), an Islamic State-affiliated group originating from Uganda that has been operating in both Uganda and the DRC for over a decade.²⁰ Victims included women, children, and elderly people. Some reports suggested that they were beheaded. MONUSCO has yet to verify the information.

¹⁷ OHCHR, 'DRC: Deepening human rights crisis amid reports of further M23 advances' (31 January 2025). Available at: <https://www.ohchr.org/en/press-briefing-notes/2025/01/drc-deepening-human-rights-crisis-amid-reports-further-m23-advances>.

¹⁸ OHCHR, 'The risk of escalation throughout the sub-region has never been higher' (7 February 2025). Available at: <https://reliefweb.int/report/democratic-republic-congo/hc-turk-drc-risk-escalation-throughout-sub-region-has-never-been-higher-enzh>.

¹⁹ See for example: <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/drc-mass-violence-against-women-during-prison-escapes-victims-of>.

²⁰ See for example: <https://www.vaticannews.va/en/church/news/2025-02/acn-confirms-brutal-killing-of-70-civilians-by-adf-forces-in-drc.html>.

1.1. THE INQUIRY

The aim of the Inquiry was to:

- i. Consider the scale and nature of CRSV in the DRC, historic, but also recent occurrences of the crime, and map the developing trends.
- ii. Explore the legal responses taken to date, with a particular focus on good practices, failed responses, and identifying gaps requiring attention.
- iii. Identify justice and accountability avenues for legal recourse that could be taken.
- iv. Engage the UK government and international actors with recommendations on assistance to the community.

Evidence gathering and timetable

The Inquiry proceeded in five stages, starting as soon as possible.

First, it undertook a short mapping exercise identifying the evidence in relation to CRSV in the DRC and information available in relation to the legal responses;

Second, it conducted an open call for submissions relating to evidence, facts on the ground and the application of relevant law.

Third, it organised oral hearings with experts and witnesses.

Fourth, the Inquiry is now publishing a report on its findings and recommendations.

Fifth, it will engage the UK Government, other States, and international organisations with the findings and recommendations throughout the inquiry and upon completion of the Inquiry.

Members:

The Inquiry was led and supported by the following All Party Parliamentary Groups (APPGs) and members of both Houses:

APPG on International Law, Justice and Accountability

Baroness Helena Kennedy KC - chair

Baroness Helic

Baroness Hodgson

Lord Alton of Liverpool

Brendan O'Hara MP

1.2. THE OBJECTIVES

The main objective of this Inquiry was to consider the issue of CRSV in the DRC, the legal responses taken and those that could be taken to address it, as a matter of urgent international concern. It was also to provide a platform to victims/survivors and civil society organisations working with them, and ensure that they shape the recommendations for the UK Government.

1.3. METHODOLOGY AND STANDARD OF PROOF

The methodology employed was based on best practices, including those of the OHCHR and fact-finding and investigation bodies mandated by the HRC. The Inquiry adopted an inclusive, age- and gender-balanced approach to its work.

The Inquiry employed a 'reasonable grounds to believe' standard of proof. This standard is met when factual information has been collected that would satisfy an objective and ordinarily prudent observer that the incident has occurred as described with a reasonable degree of certainty.

This report was prepared primarily on the basis of desk research and hearings conducted both remotely and in person.

1.4. ACKNOWLEDGEMENTS

The Inquiry would like to thank all those who testified during the oral hearings and others who made written submissions. The Inquiry would like to thank the International Bar Association's Human Rights Institute (the IBAHRI) for providing the secretariat for the Inquiry, including Dr Ewelina Ochab, who is the principal author of the report, and

Emily Foale, who provided further assistance during the inquiry, Aine MacDonald, IBAHRI Programme Coordinator and Ella Mercurio, intern at IBAHRI at all relevant times, and Maria Mingo.

Further assistance, including reviewing the drafts, was provided by Daniele Perissi, Head of DRC Program, TRIAL International.

2. CONFLICT-RELATED SEXUAL VIOLENCE IN THE DRC

2.1. INTRODUCTION

Sexual violence is a long-standing issue in the DRC, and it has several manifestations in the country. Dr Denis Mukwege, prominent Congolese gynaecologist, founder of the Panzi Hospital in Bukavu, and Nobel Peace Prize laureate, told the Inquiry that he and his staff *'have treated **more than 83,000 victims since the foundation of Panzi Hospital in 1999.**'*²¹ **Over 25 years of work, 83,000 victims/survivors translate into approximately 3,320 victims/survivors per year and approximately 9 victims/survivors every day.** This data refers only to victims/survivors who sought medical attention in the hospital. As emphasised by Dr Mukwege, women do not come to the hospital because they were raped. They seek medical assistance only if they need medical intervention; for example, they cannot stop the bleeding themselves.

Furthermore, as explained by Dr Mukwege, the data available on the issue of CRSV in the DRC represents only the tip of the iceberg, as many places affected by the ongoing conflict remain inaccessible for health and humanitarian aid workers, and many victims died or are too traumatised to talk and seek much-needed support and care.²² This was emphasised by others who provided testimonies to the Inquiry.

The Trust Fund for Victims, a body established as per Article 79 of the Rome Statute, to respond to the harm resulting from crimes under the jurisdiction of the International Criminal Court (ICC), submitted to the Inquiry that the protracted armed conflict in the DRC has been characterised by the use of sexual and gender-based violence (SGBV) as a weapon of war by all current actors. The TVF explained the different types of violence as seen in the DRC, including:

Targeted violence: Rape of women and men during the armed conflict has been widely used intentionally to terrorise communities as means of control or to force displacement, destroy families and societies, and annihilate essential solidarity. Some argue that sexual violence may be being used intentionally to disrupt agricultural production, especially since most women and girls become victims when they go to their farms to cultivate and/or fetch wood in the forests. In addition to targeted violence, according to the ICC Prosecutor in the

²¹ Dr Mukwege, written submission.

²² Dr Mukwege, written submission.

Ntaganda case, rape is “encouraged, promised, and envisaged” as women are considered to be “spoils of war.”

Systemic violence: The case of Bosco Ntaganda, although convicted for acts committed more than 20 years ago, might be paradigmatic of behaviours still retained by armed actors. Children and civilians are often subject to abduction, recruitment, or use into militias, where rape and other forms of sexual violence are used to discipline them. Acts of violence documented in proceedings include acts against young children by multiple perpetrators at the same time and in repeated incidents. Victims who resist the assault have been documented to be killed.

The ICC has also established in this case that, in addition to using sexual violence to discipline militia members, young girls are also abducted to serve as sexual slaves of the militia members specifically.

Opportunistic violence: The scarcity of food during conflict has forced women and girls to travel further from their villages in search of resources, increasing their exposure to groups or other individuals who use their physical (...) strength to rape them. These actors may include militias, national or international armed forces members, or ordinary civilians.

Gender-based violence: The unstable and precarious environment for women and girls in the DRC has also contributed to a rise in early and forced marriages. Families struggling with extreme poverty and lacking viable means of supporting their daughters may feel compelled to marry them off, often to older men who offer financial security.

Community and domestic violence: Despite rape being pervasive, victims of sexual violence bear the brunt of the crimes committed against them and suffer rejection and isolation from their own families and communities, thereby exposing them to psychological-based violence. Within families, the trauma suffered by men (fathers, brothers, spouses) compounded by their situation as victims of sexual violence results in repeated acts of domestic violence, which may also include sexually-based violence committed by their family members.²³

²³ Trust Fund for Victims, Written submission.

While the focus of this report is on targeting sexual violence specifically, where necessary, the report will also comment on other forms of SGBV due to the links between them.

The TFV referred to the data from the UN Cluster Protection suggesting a drastic increase in CRSV documented cases, which were at 47,502 in 2018 and grew 250%, reaching 122,960 cases by 2023. 89% of victims were women and girls, and 11% were men and boys. In relation to age, 40% of them are children, 58% are adults, 2% are older persons, and 0.6% are persons with disabilities.

These numbers differ between regions. TFV's partner in Ituri Province (COOPI) provided information on that region based on their analysis of cases they addressed in the first half of 2024:

- 93% being women or girls (4,941 cases), and 7% men and boys;
- 37% being children under 18 years (2,327 cases), 58% adults, and 5% older persons.

The situation in the DRC continues to receive some attention, including in the November 2024 UN Security Council Report on MONUSCO,²⁴ the 15 October 2024 report on children and armed conflict in the DRC,²⁵ and the previously cited UN Security Council Women, Peace and Security Report from November 2024. The April 2024 UN Security Council CRSV Report also notes that the UN deployed an expert to conduct a mapping of pending cases of international criminal law and CRSV in the DRC, as well as to assess the need for technical and material support for cases. Upon release, this mapping and conclusion will likely provide additional guidance as to what other states can do to assist the DRC in combating CRSV, by way of justice and accountability.

2.2. SEXUAL VIOLENCE AND CONFLICT

The use of sexual violence in the DRC has many causes, as indicated by the Trust Fund for Victims. However, conflict is and remains one of the most significant drivers and is preventable. The relationship between sexual violence and conflict was examined by members of the Inquiry.

²⁴ See: MONUSCO report of 29 November 2024. Available at: <https://undocs.org/en/S/2024/863>.

²⁵ See: Report of the UN Secretary-General of 15 October 2024. Available at: <https://undocs.org/Home/Mobile?FinalSymbol=S%2F2024%2F705&Language=E&DeviceType=Desktop&LangRequested=False>.

Dr Mukwege warned that the escalation of armed violence since 2021, resulting from the resurgence of the M23 rebel armed group and the Rwandan Defence Forces (RDF), has led to staggering levels of sexual violence, often associated with the forced displacement of the civilian population. With this came the *'alarming numbers of sexual violence victims in internally displaced persons (IDP) camps around Goma, the besieged capital of North Kivu. A recent civil society report describes unprecedented sexual violence linked to the massive displacement of civilians in the region.'*²⁶ As he added, *'The majority of IDPs are children and women, and the lack of security in and around these camps, combined with the lack of funding of the Humanitarian Response Plan, exacerbates their vulnerability. It often forces them to resort to survival sex and prostitution or to seek wood and food outside the camps, exposing them to the armed men and the enemy.'*²⁷

Despite some focus on the situation, the attention is disproportionate to the level (and nature) of violence in the DRC. Sara Elizabeth Dill, international lawyer, submitted to the Inquiry that *'the DRC is facing a continued escalation of the conflict and a worsening humanitarian situation, due to regional actors and over 100 armed groups, combined with hundreds of thousands of internally displaced persons (IDPs).'*²⁸ She further added that:

The fact that state security forces are a prominent perpetrator of CRSV (often with impunity) is a hurdle to peace and justice and indicates problems within the command, training, and disciplinary structures of forces. A narrative that emerged was that the state-committed CRSV was opportunistic, not an official strategy, perhaps the result of government propaganda to shield them from criticism or accountability. Others believe that this was due to military or security forces' culture, lack of discipline or command, and the economic frustrations due to the nonpayment of military salaries. In later interviews and investigations, it was reported that some soldiers rationalised or justified the rapes, either as their "right" as soldiers or having received orders from higher-ranking commanders to commit rapes and other violence.²⁹

²⁶ Dr Mukwege, written submission.

²⁷ Dr Mukwege, written submission.

²⁸ Sara Elizabeth Dill, written submission.

²⁹ Sara Elizabeth Dill, written submission.

Furthermore, the DRC has seen an emergence of Islamic State-linked militia, such as the ADF, an Islamic State affiliate in the region.³⁰

2.3. CRITICAL MINERALS

The Inquiry has heard evidence of the links between critical minerals (also referred to as conflict minerals) and sexual violence from several experts who testified to the Inquiry or submitted evidence.

Dr Mukwege told the Inquiry that the illegal exploitation and illicit trade of critical minerals, which is deeply linked with mass crimes committed in the DRC for the past decades, are the major factors in the ongoing use of CRSV, next to impunity for the crimes.³¹ As he added:

Rwanda and Uganda must be held accountable for their repeated violation of international law and human rights, their destabilisation activities, as well as their leading roles in the plundering of natural and mineral resources and the commission of international crimes committed in the DRC. Coordinated international sanctions of the United Nations, the United States, the European Union and the UK, and legal action should be considered against individuals and entities, authors or complicit in these crimes.³²

Minerals such as tin, tantalum, tungsten and gold, found in the majority of electronics, especially smartphones, are considered to be 'conflict minerals' as the mining of these minerals is being used to fund armed conflict in the region.

It is estimated that the DRC contains \$24 trillion in untapped mineral resources. Despite this mineral richness, DRC remains mired in poverty and violence. While only about 2% of the world's tin, tungsten and gold comes from the DRC, over 67% of the world's tantalum is said to come from the DRC and Rwanda.³³

³⁰ See: <https://apnews.com/article/congo-islamic-state-attack-north-kivu-8f06e3de949c3f3fe15fe45f5240141e>.

³¹ Dr Mukwege, written submission.

³² Ibid.

³³ Democratic Republic of Congo (0.71 kt for 39% of world production) and Rwanda (0.50 kt for 28%). See: <https://www.ga.gov.au/scientific-topics/minerals/mineral-resources-and-advice/australian-resource-reviews/tantalum#:~:text=World%20production%2C%20based,of%20tantalum%20production>.

While recent years have seen attempts to clean up the supply chain, consumers cannot be sure if the minerals in their electronics are fully conflict-, or child labour- or forced labour-free.

Among many issues is that, in the DRC or other countries, hundreds of thousands of people work in the informal mining sector, especially artisanal and small-scale mines, which are considered hazardous and difficult to regulate.

While many companies publish reports on their clean practices, there are no guarantees that their supply chains are clean.

The link between violence and critical minerals has been studied by the US State Department, in line with the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Dodd-Frank Act requires several US agencies—the State, the Department of Commerce, the Securities and Exchange Commission (SEC), and the US Agency for International Development (USAID)—to take certain actions to implement its conflict minerals provisions.

In August 2012, the SEC adopted a rule requiring certain companies to file specialised reports, beginning in 2014 and annually thereafter, disclosing their use of conflict minerals. In addition, the Dodd-Frank Act includes a provision that requires US agencies to report on the SEC disclosure rule's effectiveness in promoting peace and security in the DRC and adjoining countries and on the rates of SGBV in war-torn areas of these countries.

Kimberly M. Gianopoulos, Managing Director, International Affairs & Trade, US Government Accountability Office, testified before the Inquiry and emphasised that while the SEC Disclosure Rule has encouraged transparency, many companies were unable to determine the origins of conflict minerals. She noted the following findings based on the many years of research conducted by the team:

- SEC disclosure rule has encouraged companies to improve due diligence and transparency about mineral sources
- The SEC disclosure rule has encouraged responsible sourcing efforts overall, according to industry stakeholders. Stakeholders said that the rule has raised awareness about minerals' origins by requiring end-user companies to better understand their supply chains and conduct due

diligence, especially when sourcing from conflict-affected and high-risk areas. Moreover, industry stakeholders and conflict minerals experts [said] that the SEC disclosure rule has raised international awareness about the risks of minerals benefiting armed groups and contributing to conflict in the DRC. DRC government officials [...] interviewed in Kinshasa expressed appreciation for the rule's effect in drawing attention to the conflict in the DRC and to minerals' role in the conflict.

- There are also indications that industry efforts have improved transparency about conflict minerals sourcing. For example, in May 2024, an industry association, citing a UN Group of Experts report, alerted smelters in its assurance program and others about the risk of armed group interference in the minerals supply chain from the DRC and Rwanda. The association noted that, in accordance with international due diligence guidelines, any reasonable risks of direct or indirect support to armed groups through mineral sourcing necessitate mitigation efforts through disengagement.
- Industry stakeholders explained that the SEC disclosure rule provides an incentive for companies to require compliance from their suppliers, including smelters and refiners, and to consider removing non-compliant suppliers from their supply chains. Some filing companies indicated in their disclosures that they may cease doing business with suppliers they believe pose a risk of supporting armed groups in the DRC or adjoining countries. However, representatives said that removing a supplier from a company's supply chain can be challenging and slow, particularly if the company is several tiers removed from the problematic supplier, and identifying viable alternative suppliers can be difficult.³⁴
- Most companies that performed due diligence in 2023 could not determine the origin of conflict minerals
 - A majority of the companies that conducted due diligence in 2023 to determine the source of their conflict minerals reported being unable to make such a determination. The SEC disclosure rule requires a company to exercise due diligence on its conflict minerals' sources and chain of custody and provide a conflict minerals report if its reasonable country-

³⁴ Kimberly M. Gianopoulos, Written submission.

of-origin inquiry gives reason to believe that any necessary conflict minerals may have originated from covered countries and may not have come from recycled or scrap sources. Our analysis of a generalisable sample of 100 disclosures filed in 2023 determined that an estimated 62% of companies that conducted due diligence reported being ultimately unable to determine whether the conflict minerals in their products originated in covered countries.

- Companies often use supplier surveys, smelter and refiner audit programs, or traceability schemes to attempt to determine the source of their conflict minerals. However, companies have reported facing challenges with these tools. For example, companies may have complex supply chains with hundreds of suppliers, which can make it difficult for the companies to get information to help them identify minerals' sources.³⁵
- Efforts to trace the origins of conflict minerals, especially gold, face obstacles that may limit the efficacy

Efforts to trace the origins of conflict minerals, particularly gold, face implementation challenges associated with cost and smuggling that may limit the efforts' efficacy, according to experts and reports by nongovernmental organisations. For example, experts explained that validating mine sites as free of conflict or of interference from armed groups is time-consuming and expensive.

In addition, although traceability schemes exist for tantalum, tin, and tungsten, tracing chains of custody for gold—which is more portable, valuable, and fungible—is more difficult. Experts told us that these properties of gold, in addition to the DRC's high taxes and fees on gold relative to neighbouring countries, incentivise smuggling. The illicit gold trade is estimated to generate more than a billion dollars annually, according to USAID. In 2019, the UN Group of Experts reported that most gold from ASM sites was smuggled out of the DRC through neighbouring countries, usually destined for Dubai, United Arab Emirates.

Moreover, conflict minerals experts and industry stakeholders expressed concerns about the efficacy of traceability schemes—noting, for example, the persistence of problems such as fraud, corruption, and smuggling despite these schemes.

³⁵ Kimberly M. Gianopoulos, Written submission.

Smugglers are able to circumvent traceability schemes, even those for tantalum, tin, and tungsten, according to experts. For example, the UN Group of Experts has reported evidence of smugglers fraudulently using documentation issued by traceability schemes to launder illicit material into the official supply. In December 2023, the UN Group of Experts reported that due diligence for the tantalum, tin, and tungsten sectors in a territory in North Kivu Province had collapsed. Armed groups widely interfered with the mining of these minerals, according to the report.³⁶

There are actors who benefit from conflict and instability in the region and poor governance. Experts, including Siddharth Kara, Associate Professor of Human Trafficking and Modern Slavery in the Rights Lab at the University of Nottingham, have been studying the link between critical minerals and child labour, including in his book *Cobalt Red: How the Blood of the Congo Powers Our Lives*.

As Professor Siddharth Kara emphasised, a central issue is the fact that the truth on the ground in the Congo is diametrically opposed to the assurances provided by consumer-facing tech and EV companies that their cobalt supply chains are not tainted by child labour, forced labour, hazardous conditions, and enormous environmental destruction caused by mining operations.³⁷

In February 2025, French prosecutors closed a case filed by the DRC accusing Apple subsidiaries of using conflict minerals in their supply chain. The criminal complaint was filed against Apple subsidiaries in France and Belgium in December 2024, accusing them of ‘*illegal and even criminal export and delivery*’ of minerals from the country via Rwanda.³⁸ Apple strongly denied the allegations. When dismissing the complaint, the Paris public prosecutor’s office said that the allegations were ‘*not sufficiently well-founded*’ at the time. The prosecutor’s office is said to have invited DRC to contact a different office ‘*with jurisdiction over war crimes*.’³⁹

³⁶ Kimberly M. Gianopoulos, Written submission.

³⁷ See: <https://www.wbur.org/onpoint/2024/08/28/cobalt-modern-slavery-congo-labor-energy>.

³⁸ See: https://uk.news.yahoo.com/paris-prosecutor-dismisses-case-against-124941867.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2x1LmNvbS8&guce_referrer_sig=AQAAADME1_4jjIcsfZ06ccCj62OY44xOZDHQ5onc-Mx86B8wA9RYA-iPg-6c0_QZJ-dmbU1OdeD-hZ3Qcsxv9pl1Ti01VV2-llb4Yyq9psEATokOncq_-Mr5dShdIpdHeKb03bb6TFdKPN95UbNlz60s9ECMVVYdw9qtKlr0D9eErOl3.

³⁹ Ibid.

Because of the escalating conflict in the DRC, on 13 February 2025, the European Parliament voted overwhelmingly to suspend a cooperation agreement with Rwanda on three minerals critical to the clean energy transition - tin, tungsten, and tantalum.⁴⁰

Joséphine Malimukono from the League for Congolese Solidarity told the Inquiry about the need to ensure proper mapping of mines, as a prerequisite for affording adequate protection and oversight.⁴¹ Claudine Bela, Director of the Centre d'éducation et de recherche pour les droits des femmes (CERDF), emphasised the need for accountability efforts, including international actors involved in the exploitation of conflict minerals.⁴²

The Inquiry has also heard evidence of Chinese businessmen operating illegally in the DRC. As explained in a publication of the Harvard Kennedy School, *'There are more than 450 mining companies in the South Kivu Province, mostly run by Chinese nationals, but unfortunately, they are operating illegally due to a lack of compliance with current Congolese mining codes.'*⁴³

Professor Siddharth Kara emphasised the scale of China's involvement in the cobalt mining in the DRC:

China dominates cobalt production in the DR Congo. They saw the future. (...) Beginning in 2009, they started signing deals, aid and infrastructure deals in exchange for access to mining concessions. And they probably control about 70% to 80% of Congo's cobalt mining production today. They have vertically integrated the supply chain from dirt to battery. Most of the Congo's cobalt is produced by Chinese state-run mining companies. It then flows to China for commercial grade refining, and then to battery manufacturers and into the devices and cars you and I use every day.⁴⁴

Professor Kara further emphasised that the DRC did not benefit from the arrangements with Chinese companies, despite promises:

⁴⁰ See: <https://www.europarl.europa.eu/news/en/press-room/20250206IPR26752/meps-want-to-suspend-eu-rwanda-deal-on-critical-raw-materials>.

⁴¹ Joséphine Malimukono, oral hearing.

⁴² Claudine Bela, oral hearing.

⁴³ See: <https://www.hks.harvard.edu/centers/carr/publications/chinas-illegal-mining-operations-democratic-republic-congo>.

⁴⁴ See: <https://www.wbur.org/onpoint/2024/08/28/cobalt-modern-slavery-congo-labor-energy>.

The aspiration was this exchange. (...) China has capital and mining expertise. We'll give you access to those resources in exchange for, of course, some money. And then, infrastructure projects, please build the thousands of kilometres of roads that we need, expand electrification, and sanitation construction projects.

At least on paper, that was the aspiration, but of course it hasn't been realised. China has gained access to this enormously valuable mineral. But when you're on the ground in the Congo, and I've spent months there on the ground, the construction projects are years and years behind schedule.

The work is done in a shoddy manner. And very crucially, it didn't lead to the employment of Congolese people, which is desperately needed. (...) Chinese construction companies imported Chinese labourers to do all the work. (...) it really has not yielded the hopes and aspirations, and benefits for the Congolese people. It essentially resulted in this pillage of the Congo's resources that has just been siphoned out and fed up these supply chains into our gadgets and cars.⁴⁵

In 2023, during a congressional hearing in the US, Joseph Mulala Nguramo, Non-Resident Fellow at the Atlantic Council, testified about the dire conditions in the China-controlled mines:

The working conditions of women and children in the Congolese mines constitute a humanitarian tragedy. They are dehumanising, degrading, and they represent more than debt slavery and even worse. African children are exploited like slaves to serve a global market for new and cleaner energy. Children under 10 years old are forced to carry bags of sand weighing up to 60 kilograms. These bags are then shipped to China for refining to extract cobalt and copper, critical minerals that enable the global energy transition from fossil fuel to clean energy. Over 40,000 children are reported to work in these mines, mostly without pay. Typically, less than \$10 a day. (...) They pick up rocks with their bare hands and without shoes. They have no adequate protective gear. They are exposed to contamination. And they have no medical insurance.

They work in tunnels, which often collapse, and then die under the rubble. Stories of people beaten up in these mines because they were claiming their

⁴⁵ See: <https://www.wbur.org/onpoint/2024/08/28/cobalt-modern-slavery-congo-labor-energy>.

rights are not acceptable. Besides the unacceptable humanitarian cost, there is also environmental degradation affecting the health of the population, leaving these facilities. Credible scientific reports have shown that exposure to toxic chemicals and waste dumped by mining operations leads to cancer, lung disease, and DNA modification, according to Amnesty International.

Most of the cobalt mines in the DRC are owned by Chinese companies. For example, 15 out of 19 companies operating in Katanga are Chinese. The DRC supplies about 70% of cobalt to the global markets, and 30% of that cobalt originates from what is called artisanal sector mining, small-scale mining that relies not on industrial tools but on manual labour, and is characterised by a lack of transparency/accountability and rampant corruption.

The inhumane mining of cobalt is facilitated by poverty, corruption, lack of quality governance, and the rule of law in the DRC.⁴⁶

Similarly, Prof. Kara stressed the conditions in such mines that affect all aspects of the people in the region:

I spoke with many families whose children, husbands, or spouses had suffered horrific injuries. Oftentimes, when digging in these larger open-air pits, there are pit wall collapses. Imagine a mountain of gravel and stone just avalanching down on people, crushing legs and arms, spines. I met people whose legs had been amputated, who had metal bars where their legs used to be. And then the worst of all is what happens in tunnel digging. There are probably 10,000 to 15,000 tunnels that are dug by hand by artisanal miners. None of them have supports, ventilation shafts, rock bolts, anything like that. And these tunnels collapse all the time, burying alive everyone who is down there, including children. It's a demise that is almost impossibly horrific to imagine. And yet I met mothers pounding their chests in grief, talking about their children who had been buried alive in a tunnel collapse. And these stories never get out of the Congo. People just don't know what's happening down there.⁴⁷

⁴⁶ See: <https://www.congress.gov/event/118th-congress/joint-event/LC72512/text>.

⁴⁷ See: <https://www.npr.org/sections/goatsandsoda/2023/02/01/1152893248/red-cobalt-congo-drc-mining-siddharth-kara>.

Again, with the conflict and instability in the region and poor governance, nothing is being done to address the issue. As long as some actors benefit from this arrangement, no change will follow.

Reportedly, in December 2024, *'a group of 17 Chinese nationals were arrested for their direct and active involvement in illegal gold mining operations in the Walungu and Mwenga territories of the South Kivu Province.'*⁴⁸ However, after instructions were given from Congolese government officials in Kinshasa, they were released with no legal penalties or fines. It is unclear what the justification was for this decision.

2.4. VICTIMS/SURVIVORS

The Trust Fund for Victims explained the effect of CRSV on victims/survivors who have been working with the ICC. The ICC case of Ntaganda included charges of rape and sexual slavery among the 13 counts of war crimes and 5 counts of crimes against humanity. The proceedings documented the impact of CRSV on victims/survivors:

The Chamber has considered how these crimes have often faced **profound physical, psychological, and social consequences compounded by stigma**. For instance, in this case, the Chamber documented/recognised that victims of rape and sexual slavery suffered physical, psychological, psychiatric, and social consequences (ostracisation, stigmatisation, and social rejection), both in the immediate and longer term.

Child soldiers who were also victims of these crimes suffered physical consequences and contracted sexually transmitted diseases, as well as psychological and social harm due to having to stay in close vicinity of their abusers at the training camps or as escorts. Other victims of rape and sexual slavery suffered severe physical violence. The cruelty of some of the rapes was considered an aggravating circumstance, including some rapes being committed in the presence of other persons, heightening the victims' humiliation, and the use of pieces of wood to penetrate victims.

The Chamber recalled testimonies to the effect that rape resulted in fear of stigma and ostracism for the victims, as well as fear of abandonment by their partner.⁶ Testimonies also referred to the effects on victims' personal development and life plans and the impact of trauma. Social stigma, the experience of trauma, and, in many cases, the persistent feelings of personal and social shame often lead to long-lasting socio-

⁴⁸ See: <https://www.hks.harvard.edu/centers/carr/publications/chinas-illegal-mining-operations-democratic-republic-congo>.

economic implications, and victims do not acknowledge that they have suffered from a sexual crime, even if this may negatively affect their ability to access reparations.

In addition, the Chamber recognised that children born out of rape and sexual slavery could qualify as direct victims as the harm they suffered was a direct result of the commission of the crimes of rape and sexual slavery. (...) Children born out of rape and sexual slavery were often rejected by their mothers and community, nicknamed ‘snake children,’ and do not have legal status and may not have Congolese nationality – in combination with multiple other factors (rejection, discrimination, marginalisation, and vulnerability to conscription), these children are viewed as ‘time bombs’ in Iturian communities.⁴⁹

TFV further added that the impact of violence of a sexual nature goes beyond the specific individuals harmed: *‘Today, Congolese women rely on agriculture and small-scale trade, and sexual violence against them has endangered their safety and hampered their participation in agricultural activities, leading to decreased productivity and heightened food insecurity.’*⁵⁰

Sara Elizabeth Dill submitted to the Inquiry about the impact of the stigma suffered by victims/survivors:

The primary reasons victims of CRSV do not report are **stigma, fear of reprisals, lack of medical care, and no legal protections or access to justice**. Stigma is an exceptional problem in the DRC, as women are often held responsible for sexual violence, viewed as a disgrace to their families, outcasts from society, and left with no support or resources. Others are forced to marry their rapist, creating a benefit for perpetrators, a reward for engaging in sexual violence. The proximity of perpetrators and the frequency of government actors engaged in CRSV also leave many victims with no trust in authority, and when combined with their alienation from communities and families, they lack the support systems necessary to pursue accountability efforts. The government also has limited resources and capacity to pursue investigations and accountability, aspects expected to intensify with the withdrawal and disengagement of MONUSCO.⁵¹

⁴⁹ Trust Fund for Victims, Written submission.

⁵⁰ Ibid.

⁵¹ Sara Elizabeth Dill, written submission.

Similarly, Dr Mukwege told the Inquiry that *‘Shame, silence, stigmatisation, and fear of reprisals too often prevent women from filing a complaint. On top of these obstacles, the lack of confidence in State institutions, particularly in the justice system, dissuades many Congolese victims from filing complaints and often leads them to resort to friendly settlements under local customary law.’*⁵²

Gladys Mubuya from Encadrement De Femmes Indigènes Et De Ménages Vulnérables told the Inquiry about the impact of CRSV on teenage girls.⁵³ As she emphasised, teenage girls in IDP camps resort to so-called ‘survival sex’ due to their dire humanitarian situation. She told the Inquiry about the proliferation of brothels in IDP camps, with teenage girls becoming the first victims. She also told the Inquiry about the prevalence of sexual violence in IDP camps with men raping women at night, taking advantage of the lack of security measures in place.

Physicians for Human Rights submitted to the Inquiry that:

Health care workers interviewed by PHR reported a “massive influx of cases” of conflict-related sexual violence among adults and children. **Sexual violence has been largely experienced by adolescents between the ages of 12 and 17, although some survivors were as young as three years old.** Survivors often sought care following very violent encounters with armed groups, which included armed sexual assault by multiple perpetrators, penetration with foreign objects, and sexual slavery. Survivors report facing sexual violence at multiple points: (1) as part of attacks on villages and communities, (2) while passing through insecure areas while fleeing attacks, and (3) then finally in and around internal displacement camps as they seek food and firewood due to resource shortages.⁵⁴ The UN Office for the Coordination of Humanitarian Affairs (OCHA) estimates that a staggering 685,000 people in the DRC are at risk of gender-based violence and will require specialised care in 2024.⁵⁵

⁵² Dr Mukwege, written submission.

⁵³ Gladys Mubuya, oral hearing.

⁵⁴ “‘Massive Influx of Cases’: Health Worker Perspectives on Conflict-Related Sexual Violence in Eastern Democratic Republic of the Congo”, Physicians for Human Rights, 22 October 2024, <https://phr.org/our-work/resources/massive-influx-of-cases-sexual-violence-drc/>.

⁵⁵ PHR, written submission. See also: ‘Democratic Republic of the Congo’, United Nations Office for the Coordination of Humanitarian Affairs, accessed April 5, 2024, <https://www.unocha.org/democratic-republic-congo>; ‘Humanitarian Response Plan Democratic Republic of the Congo 2023,’ OCHA Financial Tracking Service, 3 December 2024. Available at: <https://fts.unocha.org/plans/1113/summary>.

While, statistically, women and girls are the most common victims/survivors of CRSV, men and boys have also been targeted. Their testimonies suggest that they have been severely beaten (including beating directed at the genitals or other sensitive body parts), tortured, anally penetrated, undressed, humiliated in public, and forced to witness violence perpetrated against others.⁵⁶ There are reports that those men who refused to watch or partake in the rape of their female relatives were killed.⁵⁷ Some described being anally penetrated with different objects. Those included sticks and bamboo, inserted with soap and pepper.⁵⁸ The victims displayed visible physical injuries and reproductive health challenges.⁵⁹

2.5. PERPETRATORS

Sexual violence in the DRC is perpetrated by all armed groups. Perpetrators are mostly men, albeit reports of sexual violence committed by women on women exist, too.⁶⁰ There are over 100 armed groups operating in the eastern DRC. This adds to the difficulty of addressing the issue of CRSV in the country.

3. LEGAL RESPONSES TO CRSV IN THE DRC

Recent years have seen some responses to CRSV in the DRC and beyond. However, these responses are the tip of the iceberg in comparison to the scale of the issue. Furthermore, CRSV is a crime that continues to be perpetrated to this day, as exacerbated by the deteriorating situation in the DRC and in the region.

The below engages with some of the steps taken in recent years, which require acknowledgement and must be built upon.

3.1. LEGAL RESPONSES TAKEN BY THE DRC GOVERNMENT

In 2009, the DRC Government launched the Comprehensive Strategy on Combating Sexual Violence in DRC, developed in consultation with UN entities, NGOs, and the

⁵⁶ Ines Yagi, Judith Malette, Timothee Mwindo, Buuma Maisha, 'Characteristics and Impacts of Conflict-Related Sexual Violence against Men in the DRC: A Phenomenological Research Design' (2022) *Social Sciences MDPI* 11, 4.

⁵⁷ The Gender Security Project, 'CRSV: DR Congo.' See: <https://www.gendersecurityproject.com/post/crsv-dr-congo>.

⁵⁸ Ines Yagi, Judith Malette, Timothee Mwindo, Buuma Maisha, 'Characteristics and Impacts of Conflict-Related Sexual Violence against Men in the DRC: A Phenomenological Research Design' (2022) *Social Sciences MDPI* 11, 4.

⁵⁹ Emma Birikorang, Fiiifi Edu-Afful, 'Breaking the Silence on Conflict-Related Sexual Violence against Men and Boys: The Case of the Democratic Republic of Congo', (KAIPTC, 2019) 7. Available at: https://www.kaiptc.org/wp-content/uploads/2020/10/20200901-faar-Final-Occasional-Paper-43_Sexual-Violence-against-Men-and-Boys.pdf.

⁶⁰ Ibid.

DRC-based Sexual Violence Task Force. The strategy was to strengthen prevention, protection, and response to sexual violence.⁶¹ This was followed by the Government of DRC's National Strategy Against Gender-Based Violence, namely, an action plan to operationalise the strategy.⁶²

On 5 November 2019, the Congolese Vice-Prime Minister of Interior, Security and Customary Affairs signed the Congolese National Police's (PNC) Action Plan on the fight against sexual violence.⁶³ The goal of this Action Plan is to eradicate sexual violence committed by PNC agents and to contribute to the prevention of and response to sexual violence in the DRC through the fight against impunity and the protection of victims and witnesses.⁶⁴ The progress on the implementation of this Action Plan is to be tracked in the Secretary-General on Conflict-Related Sexual Violence's annual report.⁶⁵

3.1.1. LEGAL REFORM

The DRC has also been working on legal reforms to ensure better responses to CRSV, including the Penal Code (2006 reform), the Code of Penal Procedure (2006 reform) and the Law on Judicial Organisation and Jurisdiction (2013 reform).⁶⁶

In 2006, the DRC adopted a new constitution enshrining sexual violence as a crime against humanity (Article 15). However, the new law has not been enforced as judges often encourage out-of-court settlements.⁶⁷ For example, male relatives of victims may negotiate settlements with the perpetrators and their families in the case of an identified civilian perpetrator. Outcomes range from marrying the victims to paying

⁶¹ United Nations, 'Handbook for United Nations Field Missions on Preventing and Responding to Conflict-Related Sexual Violence' (June 2020) 108. Available at: www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/2020.08-UN-CRSV-Handbook.pdf.

⁶² Ibid., 108.

⁶³ United Nations Peacekeeping, 'United Nations officials welcome the signing of an Action Plan to fight sexual violence by the Congolese National Police' (11 November 2019). Available at: <https://peacekeeping.un.org/en/united-nations-officials-welcome-signing-of-action-plan-to-fight-sexual-violence-congolese-national>.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Physicians for Human Rights, 'Submission for Universal Periodic Review of the Democratic Republic of the Congo Fourth Cycle, 47th Session of the Human Rights Council 4-15 November, 2024' (8 April 2024) Para 11. Available at: <https://phr.org/wp-content/uploads/2024/05/DRC-UPR-Submission-April-8-2024.pdf>.

⁶⁷ Malokele Nanivazo, 'Sexual violence in the Democratic Republic of the Congo' (United Nations University, 2012). Available at: <https://unu.edu/publications/articles/sexual-violence-in-the-democratic-republic-of-the-congo.html>.

compensation for the crimes.⁶⁸ This process disregards the needs and wishes of victims/survivors and further stigmatises their experiences.

In 2015, the DRC passed three harmonisation laws to enable better implementation of the Rome Statute, modifying the Military Penal Code (15/023), the Penal Code (15/022) and the Penal Procedure Code (15/024).⁶⁹ To harmonise the DRC's criminal law with the provisions of the Rome Statute, Law No. 15/022 was added to the Decree of 30 January 1940 establishing the Penal Code for the offences of the crime of genocide, crimes against humanity and war crimes.⁷⁰ Notably, the crimes of genocide, crimes against humanity and war crimes (Articles 221-223 of Title IX) are said to be punishable by death.⁷¹ Article 224 of Law No. 15/022 states that the articles of Title IX shall be interpreted and applied in accordance with the elements of crime provided for in Article 9 of the Rome Statute.⁷² Section III bis of Law No. 15/024 sets out the terms and conditions of cooperation between the DRC and the ICC.⁷³

In December 2022, the DRC adopted Law No. 22/065, which establishes the fundamental principles relating to the protection and reparation of victims of CRSV and victims of crimes against the peace and security of mankind.⁷⁴ The law includes sections on the status, rights and duties of victims and their beneficiaries, the obligations of the State, and the procedures for protecting victims.⁷⁵ 'Victim' is defined as any person or group of persons who have directly or indirectly suffered one or more prejudices as a result of CRSV and/or crimes against the peace and security of

⁶⁸ Ibid.

⁶⁹ Physicians for Human Rights, 'Submission for Universal Periodic Review of the Democratic Republic of the Congo Fourth Cycle, 47th Session of the Human Rights council 4-15 November, 2024' (8 April 2024) para 11. Available at: <https://phr.org/wp-content/uploads/2024/05/DRC-UPR-Submission-April-8-2024.pdf>.

⁷⁰ Loi n° 15/022 du 31 décembre 2015 modifiant et complétant le décret du 30 janvier 1940 Portant Code Pénal. Available at: www.leganet.cd/Legislation/DroitPenal/Loi.15.022.31.12.2015.html#:~:text=Seules%20les%20personnes%20physiques%20peuvent,de%20la%20Cour%20p%C3%A9nale%20internationale.&text=Sans%20pr%C3%A9judice%20d'autres%20dispositions,r%C3%A9volus%20au%20moment%20des%20faits.

⁷¹ Ibid., Title IX.

⁷² Ibid., Art 224.

⁷³ Loi n° 15/024 du 31 décembre 2015 modifiant et complétant le décret du 06 août 1959 Portant Code de Procédure Pénale. Available at: <https://www.leganet.cd/Legislation/DroitPenal/Militaire/Loi.015.023.31.12.2015.html>.

⁷⁴ Physicians for Human Rights, 'Submission for Universal Periodic Review of the Democratic Republic of the Congo Fourth Cycle, 47th Session of the Human Rights council 4-15 November, 2024', 8 April 2024. Available at: <https://phr.org/wp-content/uploads/2024/05/DRC-UPR-Submission-April-8-2024.pdf>. See para 12.

⁷⁵ Loi no 22/065 du 26 décembre 2022 fixant les principes fondamentaux relatifs à la protection et à la réparation des victimes de violences sexuelles liées aux conflits et des victimes de crimes contre la paix et la sécurité de l'humanité. Available at: www.leganet.cd/Legislation/Droit%20Public/DH/Loi.022.65.26.12.2022.html.

mankind perpetrated in the DRC.⁷⁶ Article 13 states that victims or their beneficiaries shall have the right of access to justice and shall receive support from the Fund ('Fonds') throughout the legal proceedings.⁷⁷ The protection of victims covers full, fair, adequate and complete reparation for the harm suffered and all other forms of assistance.⁷⁸ Reparation measures include restitution, rehabilitation, compensation or financial compensation, satisfaction, and guarantees of non-recurrence and vetting.⁷⁹

On 11 September 2023, the DRC enacted a law criminalising and punishing gender-based intimidation and stigmatisation and the use of degrading treatment.⁸⁰ According to Article 174p of Law No 23/023 amending and supplementing the decree of 30 January 1940 of the Congolese Criminal Code, the offence of gender-based intimidation and stigmatisation includes any act of harassment, reprisal or threat of reprisal committed intentionally against a person, their relatives, witnesses or informants, with the aim of hindering the treatment of victims and the prosecution of perpetrators.⁸¹ Any person found guilty of this infraction will serve six to 24 months and a fine.⁸² According to Article 174q of Law No 23/023, any person will be punished through a penal sentence of six to 24 months and a fine if they subject a person to humiliating or degrading treatment on the grounds of their sex, based on custom or religious beliefs.⁸³

On the same day, the Criminal Procedure Code was amended to exempt victims of gender-based violence from the costs of criminal proceedings.⁸⁴ Article 7 of Law No

⁷⁶ Loi no 22/065 du 26 décembre 2022 fixant les principes fondamentaux relatifs à la protection et à la réparation des victimes de violences sexuelles liées aux conflits et des victimes de crimes contre la paix et la sécurité de l'humanité, art 2y. Available at: www.leganet.cd/Legislation/Droit%20Public/DH/Loi.022.65.26.12.2022.html.

⁷⁷ Ibid., art 13.

⁷⁸ Ibid., art 42.

⁷⁹ Ibid., art 42.

⁸⁰ Amnesty International, 'DEMOCRATIC REPUBLIC OF THE CONGO 2023.' Available at: www.amnesty.org/en/location/africa/east-africa-the-horn-and-great-lakes/democratic-republic-of-the-congo/report-democratic-republic-of-the-congo/.

⁸¹ Ordonnance-Loi No 23/023 du 11 septembre 2023 modifiant et complétant le décret du 30 janvier 1940 portant Code Pénal congolais, art 174p. Available at: www.droitcongolais.info/files/311.09.23-Ordonnance-du-11-septembre-2023_CP_modifications.pdf.

⁸² Ibid., art 174p.

⁸³ Ibid., art 174q.

⁸⁴ Amnesty International, 'DEMOCRATIC REPUBLIC OF THE CONGO 2023.' Available at: www.amnesty.org/en/location/africa/east-africa-the-horn-and-great-lakes/democratic-republic-of-the-congo/report-democratic-republic-of-the-congo/.

23/024 amending and completing the decree of 6 August 1959 of the Criminal Procedure Code states that, without prejudice to the right to legal assistance, victims of gender-based violence are entitled to free assistance at all stages of the proceedings.⁸⁵ Article 122 bis of Law No 23/024 further states that the costs of gender-based violence proceedings are borne by the public treasury.⁸⁶

3.1.2. INVESTIGATIONS AND PROSECUTIONS

As emphasised by Daniele Perissi, Head of DRC Program, TRIAL International, DRC has seen significant progress in the area of criminal justice for CRSV:

With the support of UN agencies, local and international NGOs and other international organisations, Congolese justice authorities have conducted hundreds of investigations into mass crimes cases of generalised and/or systematic attacks perpetrated by State security forces or armed groups against the civilian population. More than 90% of these cases included the commission of CRSV.⁸⁷

He further added that *‘judicial data show that, despite a precarious and volatile security and political environment, significant progress has been made in recent years in terms of the number of judicial decisions rendered by Congolese courts on mass crimes cases. Quantitatively, **more than 130 judgments for international crimes have been rendered between 2004 and 2023 in the country. Over 110 judgments included CRSV charges.***⁸⁸

MOBILE COURTS

There have been several recent trials concerning CRSV in DRC conducted through mobile courts.⁸⁹ Mobile courts operate in places where the crime was perpetrated, mostly in remote villages. By doing so, they help to facilitate access to justice for victims and improve their visibility across communities.⁹⁰

⁸⁵ Ordonnance-Loi No 23/024 du 11 septembre 2023 modifiant et complétant le décret du 06 août 1959 portant Code de Procédure Pénale, art 7 ter. Available at: <https://usercontent.one/wp/www.sofepadirdc.org/wp-content/uploads/2023/09/ORDONNANCE-LOI-PORTANT-CODE-DE-PROCEDURE-PENALE.pdf?media=1692206460>.

⁸⁶ Ibid., art 122 bis.

⁸⁷ Daniele Perissi, written statement.

⁸⁸ Ibid.

⁸⁹ TRIAL International, ‘Mobile courts in the DRC: why, and how?’ (28 October 2019). Available at: <https://trialinternational.org/latest-post/mobile-courts-in-the-drc-why-and-how/>.

⁹⁰ Ibid.

As stressed by Daniele Perissi:

Despite presenting logistical challenges which have been overcome by counting on the support provided by international partners, mobile court trials offer multiple benefits in terms of facilitating the participation of victims and witnesses, providing a better understanding of the context in which crimes were committed and having a more direct symbolic and pedagogical effect on local communities.⁹¹

For example, since 2008, the American Bar Association Rule of Law Initiative (ABA ROLI), with the collaboration of the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO), HEAL Africa and Panzi hospitals, Congolese NGOs, and international NGOs, has conducted military and civilian rape trials in some of the most remote areas in eastern DRC.⁹² During the period 2008-2012, ABA ROLI has helped facilitate nearly 900 rape trials in both mobile and 'brick-and-mortar' courts, with a conviction rate for alleged rapists at roughly 60%.⁹³

According to the United Nations Joint Human Rights Office (UNJHRO), which supported 12 investigations by military courts and seven mobile court hearings, in 2022, 314 people in the DRC (soldiers and members of armed groups) were convicted of offences related to a litany of human rights violations, including sexual violence.⁹⁴ In March 2023, through a mobile military court in the village of Mangombe, Judge Innocent Mayembe found 12 high-ranking officers guilty of rape of minors.⁹⁵

Significant cases heard before mobile courts include:

Mass rape in Fizi: On 1 January 2011, when soldiers from the Congolese army descended on the town of Fizi, they raped at least 62 girls and women, and

⁹¹ Daniele Perissi, written statement.

⁹² Michael Maya, 'Mobile Courts in the Democratic Republic of Congo: Complementarity in Action?' American Bar Association Rule of Law Initiative (3 December 2012) 34. Available at: https://worldjusticeproject.org/sites/default/files/mobile_courts_in_the_democratic_republic_of_congo_maya.pdf.

⁹³ Ibid.

⁹⁴ Crispin Kyala, 'Mobile court offers rare chance of justice for east Congo rape victims' Reuters (17 March 2023). Available at: www.reuters.com/world/africa/mobile-court-offers-rare-chance-justice-east-congo-rape-victims-2023-03-17/.

⁹⁵ Ibid.

looted property.⁹⁶ Six weeks later, Lieutenant Colonel Kibibi Mutuara, the commanding officer who ordered the attack, and 10 other soldiers were brought before a mobile court.⁹⁷ This court was primarily facilitated by ABA ROLI, with the assistance of MONUSCO, DanChurchAid and Avocats sans frontières, among others.⁹⁸ In this case, the court found Kibibi guilty of rape as a crime against humanity.⁹⁹ Kibibi and three other officers were found guilty and sentenced to 20 years in prison. Five enlisted men were also sentenced to 10 to 15 years in prison.¹⁰⁰ One defendant was acquitted, and one was transferred to another domestic court because he was a minor.¹⁰¹

Mass rape in Minova: In 2012, members of the Armed Forces of the Democratic Republic of the Congo (FARDC) and the Congolese National Police (PNC) committed mass rape, murder and pillage in the village of Minova, with the atrocities spanning across ten days.¹⁰² The UN recorded that 126 women and girls had been raped, of which 56 testified in court.¹⁰³ On 5 May 2014, the Operational Military Court of North Kivu ruled that out of the 39 State officers accused, 25 officers were guilty of pillage, and only 2 low-ranking soldiers were guilty of rape.¹⁰⁴ In a report, Human Rights Watch commented on the outcome of the case: *'[T]he proceedings failed to deliver justice: none of the high-level commanders with overall responsibility for the troops in Minova was indicted and*

⁹⁶ Ibid.; Open Society Foundations, 'Justice in DRC: Mobile Courts Combat Rape and Impunity in Eastern Congo' (January 2013). Available at: www.justiceinitiative.org/uploads/972ab1f9-fae9-49d0-b098-b5238433a859/justice-drc-20130114.pdf.

⁹⁷ Open Society Foundations, 'Justice in DRC: Mobile Courts Combat Rape and Impunity in Eastern Congo' (January 2013). Available at: www.justiceinitiative.org/uploads/972ab1f9-fae9-49d0-b098-b5238433a859/justice-drc-20130114.pdf.

⁹⁸ Michael Maya, 'Mobile Courts in the Democratic Republic of Congo: Complementarity in Action?' American Bar Association Rule of Law Initiative (3 December 2012) 35. Available at: https://worldjusticeproject.org/sites/default/files/mobile_courts_in_the_democratic_republic_of_congo_maya.pdf.

⁹⁹ Open Society Foundations, 'Justice in DRC: Mobile Courts Combat Rape and Impunity in Eastern Congo' (January 2013). Available at: www.justiceinitiative.org/uploads/972ab1f9-fae9-49d0-b098-b5238433a859/justice-drc-20130114.pdf.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² TRIAL International, 'MINOVA' (3 June 2016). Available at: <https://trialinternational.org/latest-post/minova/>.

¹⁰³ The Guardian, 'Revealed: how the world turned its back on rape victims of Congo' (13 June 2015). Available at: www.theguardian.com/world/2015/jun/13/rape-victims-congo-world-turned-away.

¹⁰⁴ TRIAL International, 'MINOVA' (3 June 2016). Available at: <https://trialinternational.org/latest-post/minova/>; Human Rights Watch, 'Justice on Trial Lessons from the Minova Rape Case in the Democratic Republic of Congo' (1 October 2015). Available at: www.hrw.org/report/2015/10/01/justice-trial/lessons-minova-rape-case-democratic-republic-congo.

*some of those who went to prison were convicted on questionable evidence without the right to appeal.*¹⁰⁵ Two victims lodged an appeal before the Military High Court for rape.¹⁰⁶

Mass rape in Kavumu: The Task Force on International Criminal Justice is a joint initiative led by MONUSCO's Prosecution Support Cell in coordination with the UNJHRO, UNCT, NGOs and CSOs to support the investigation and prosecution of international crimes in DRC, including CRSV.¹⁰⁷ The Task Force was alerted to a series of events between 2013 and 2016, in the village of Kavumu, where over 40 young girls have been kidnapped and raped.¹⁰⁸ Following advocacy and technical support provided by the Kavumu Task Force and the Team of Experts on the Rule of Law and Sexual Violence in Conflict (TOE), the Government of the DRC investigated the crimes and prosecuted the case as a matter of priority.¹⁰⁹ On 13 December 2017, the court of Bukavu, which deployed a mobile court in Kavumu, found 11 Congolese militia members guilty of crimes against humanity for murder and the rape of 37 young children.¹¹⁰ They were all found guilty of sexual violence and condemned to life imprisonment.¹¹¹

Mass rape in Ituri: In November 2014, a military court sentenced General Jérôme Kakwaku to a 10-year prison term for serious crimes committed in Ituri by the Forces Armées du Peuple Congolais (FAPC).¹¹² According to MONUSCO,

¹⁰⁵ Human Rights Watch, 'Justice on Trial Lessons from the Minova Rape Case in the Democratic Republic of Congo' (1 October 2015) 103. Available at: www.hrw.org/sites/default/files/report_pdf/drc1015_4up_0.pdf.

¹⁰⁶ TRIAL International, 'MINOVA' (3 June 2016). Available at: <https://trialinternational.org/latest-post/minova/>.

¹⁰⁷ United Nations, Handbook for United Nations Field Missions on Preventing and Responding to Conflict-Related Sexual Violence (2020) 33. Available at: www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/2020.08-UN-CRSV-Handbook.pdf.

¹⁰⁸ TRIAL International, 'Kavumu case: young girls abducted at night and raped' (31 October 2017). Available at: <https://trialinternational.org/latest-post/kavumu-case-young-girls-abducted-at-night-and-raped/>.

¹⁰⁹ United Nations, Handbook for United Nations Field Missions on Preventing and Responding to Conflict-Related Sexual Violence (2020) 33. Available at: www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/2020.08-UN-CRSV-Handbook.pdf.

¹¹⁰ TRIAL International, 'Kavumu case: young girls abducted at night and raped' (31 October 2017). Available at: <https://trialinternational.org/latest-post/kavumu-case-young-girls-abducted-at-night-and-raped/>.

¹¹¹ TRIAL International, 'Justice is delivered for the children of Kavumu' (13 December 2017). Available at: <https://trialinternational.org/latest-post/justice-is-delivered-for-the-children-of-kavumu/>.

¹¹² UN News, 'DR Congo: UN official applauds sentencing of militia leader for war crimes' (9 November 2014). Available at: <https://news.un.org/en/story/2014/11/483172>.

under Kakwaku's leadership, the FAPC perpetrated gross human rights violations between 2003 and 2005, including rape.¹¹³

Forced pregnancy trial: In May 2023, the Military Tribunal of Uvira sentenced Munyololo Mbaio (also known as Ndarumanga), former leader of a faction of the Raia Mutomboki armed group, to life imprisonment for crimes against humanity.¹¹⁴ Among the charges confirmed by the court is the crime of forced pregnancy, the first ever such conviction for the crime before a national court. The conviction comes after Ndarumanga was arrested in November 2021, and a judicial investigation by the military prosecutor led to his indictment in August 2022.

The mobile courts have been collaborating with various actors in seeking justice, including UN-established mechanisms. The UN Security Council has called for the deployment of Women's Protection Advisors (WPAs) and Senior Women's Protection Advisors (SWPAs) to ensure the implementation of the CRSV mandate of United Nations Field Missions.¹¹⁵ Missions are expected to prevent and respond to CRSV based on their respective responsibilities and capacities.¹¹⁶ WPAs possess specific CRSV expertise.¹¹⁷ They support United Nations Field Missions in preventing and responding to CRSV.¹¹⁸ In June 2018, a human rights investigation led by a WPA documented attacks against several villages in Kigulube (South Kivu) perpetrated by a coalition of local armed militia, led by a leader known as 'Kokodikoko'.¹¹⁹ The investigation team was able to identify many victims of human rights abuses, including victims of CRSV.¹²⁰ On 19 November 2019, the Bukavu Garrison Court (mobile court) found three former militiamen guilty of crimes against humanity

¹¹³ Ibid.

¹¹⁴ See: <https://trialinternational.org/latest-post/drc-conviction-for-forced-pregnancy-and-other-crimes-against-humanity-for-warlord-ndarumanga/>.

¹¹⁵ United Nations, Handbook for United Nations Field Missions on Preventing and Responding to Conflict-Related Sexual Violence (2020) 27. Available at: www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/2020.08-UN-CRSV-Handbook.pdf.

¹¹⁶ United Nations Peacekeeping, 'Conflict-related Sexual Violence.' Available at: <https://peacekeeping.un.org/en/conflict-related-sexual-violence>.

¹¹⁷ United Nations, Handbook for United Nations Field Missions on Preventing and Responding to Conflict-Related Sexual Violence (2020) 27. Available at: www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/2020.08-UN-CRSV-Handbook.pdf.

¹¹⁸ Ibid., 27.

¹¹⁹ Ibid., 54.

¹²⁰ Ibid., 54.

(murder, torture, enforced disappearances, sexual violence and enslavement).¹²¹ They received sentences ranging from 15 years to a life sentence for the head of the group - Kokodikoko.¹²² The Court also found that if the perpetrators cannot compensate the victims, the Congolese State should, and this is because it has failed to take all necessary measures to prevent these crimes.¹²³ In June 2024, the South Kivu Military Court confirmed their conviction for crimes against humanity.¹²⁴

3.1.3. CHALLENGES

There are several challenges that prevent effective responses to CRSV. Among others, CRSV is ongoing in the DRC, with new instances of the crime being committed on a daily basis. This means that every single day, there are new cases of CRSV which should be investigated and prosecuted. However, the human and financial capacities in the country do not grow with the growing demand.

Furthermore, the DRC is currently plagued by a lack of protection services, as well as a lack of means to identify and track victims. The escalation in conflict restricts access of humanitarian and human rights actors to document and investigate CRSV.

More legal aid services are needed to represent and guide victims through the investigative and accountability processes. Displacement facilities are essential to provide a safe, secure, private place for women and girls who have been rejected by their families and communities. Training and resources for women seeking political or government office or careers are lacking, as are protections and support for those who achieve such positions, leaving them vulnerable.

Further reforms are needed. For example, the Family Code contains some discriminatory provisions that can hurt the fight against sexual violence.¹²⁵ Among other things, a woman must obtain her husband's permission to access judicial institutions, as well as to travel or accept a job.¹²⁶ Marital rape is not explicitly

¹²¹ TRIAL International, 'Shining verdict in the Kokodikoko case (DRC)' (19 November 2019). Available at: <https://trialinternational.org/latest-post/shining-verdict-in-the-kokodikoko-case-drc/>.

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Marta Latek, Sexual violence in the Democratic Republic of Congo (EP, 2014) 2. Available at: <https://www.europarl.europa.eu/EPRS/EPRS-AaG-542155-Sexual-violence-in-DRC-FINAL.pdf>

¹²⁶ Ibid.

criminalised.¹²⁷ Such laws are obstacles in the path to access to justice for female victims/survivors of sexual violence.

Also, acts of sexual violence committed by the army, police, and armed groups are under the exclusive jurisdiction of the military justice system.¹²⁸ The latter, however, has significant delays in arresting and prosecuting suspects.¹²⁹

The DRC has made some progress, especially with the adoption of laws on protection and reparations for victims of CRSV and the National Reparations Fund. However, these laws and programmes have yet to be implemented. It has been proposed that 11% of mining royalties be used to fund reparations. In March 2024, a decree was issued on a military and police code of conduct and ethics, as well as ongoing training of justice actors. NGOs and other community-based organisations are supporting efforts at family reunification and community-based reintegration of survivors, but there is a great need for more mental health and rehabilitative services. Some organisations are also engaged in risk mitigation and rapid response in conflict-affected areas. The DRC is engaging in appointing more women to judicial roles, as well as recruiting and advancing women in the armed forces. This is a step forward, however, further and significant work is yet ahead.

3.2. LEGAL RESPONSES FROM THE INTERNATIONAL ACTORS

This section presents some of the steps taken by states and international actors to support victims/survivors of CRSV to seek justice and accountability, including through targeted sanctions.

3.2.1. STATE-LED/-SUPPORTED INITIATIVES

The UK Government has been supporting several initiatives on justice and accountability in the DRC. Among others, via TRIAL International, it provided free legal advice to victims/survivors, strengthened the capacity of the country to investigate, document and litigate effectively against crimes, and helped to tackle impunity.¹³⁰ In 2021-2022, the UK funded the Panzi Foundation to support victims/survivors of sexual

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Foreign, Commonwealth & Development Office, Preventing Sexual Violence in Conflict Initiative & Lord (Tariq) Ahmad of Wimbledon KCMG, 'Royal visit to Democratic Republic of Congo shows urgent need to tackle sexual violence in conflict' (4 October 2022). Available at: www.gov.uk/government/news/royal-visit-to-drc-shows-urgent-need-to-tackle-sexual-violence-in-conflict.

violence in DRC through access to justice, establishing legal clinics and mobile courts, and working directly with communities to help women and build cohesion.¹³¹

Between 2021 and 2022, the UK has provided over £500,000 to the UN Team of Experts on CRSV to increase the capacity of the DRC investigative and judicial authorities to look into and prosecute CRSV crimes and ensure judicial decisions on reparations are enforced.¹³² This funding supported training for police, special protection units, civil and military prosecutors and judges on the investigation and prosecution of CRSV cases and on ensuring protection measures for victims and witnesses are in place.¹³³

On 19 June 2023, the UK government imposed targeted sanctions on several perpetrators of CRSV in the DRC.¹³⁴ The sanctions include an asset freeze and a travel ban. This action was taken on International Day for Elimination of Sexual Violence in Conflict to demonstrate the UK's commitment to holding offenders to account.¹³⁵ Amongst those sanctioned are Désiré Londroma Ndjukpa and William Yakutumba who both have been involved in violations of international humanitarian law in the DRC, including rape, mass rape and other forms of sexual and gender-based violence.¹³⁶

3.2.2. REGIONAL AND INTERNATIONAL MECHANISMS

i. The African Court on Human and Peoples' Rights

¹³¹ Foreign, Commonwealth & Development Office, 'Call for proposals to support the British Embassy of Kinshasa's initiative on strengthening justice for survivors of CRSV and holding perpetrators to account.' Available at: https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fmedia%2F6448fa9ef12683000cca6839%2FPSVI_programme_call_for_proposals.odt&wdOrigin=BROWSELINK.

¹³² Foreign, Commonwealth & Development Office, Preventing Sexual Violence in Conflict Initiative & Lord (Tariq) Ahmad of Wimbledon KCMG, 'Royal visit to Democratic Republic of Congo shows urgent need to tackle sexual violence in conflict' (4 October 2022). Available at: www.gov.uk/government/news/royal-visit-to-drc-shows-urgent-need-to-tackle-sexual-violence-in-conflict.

¹³³ Ibid.

¹³⁴ Foreign, Commonwealth & Development Office & Lord (Tariq) Ahmad of Wimbledon KCMG, 'UK sanctions perpetrators of conflict-related sexual violence' (19 June 2023). Available at: www.gov.uk/government/news/uk-sanctions-perpetrators-of-conflict-related-sexual-violence.

¹³⁵ Ibid.

¹³⁶ Ibid.

On 21 August 2023, the DRC filed an application with the African Court on Human and Peoples' Rights (ACHPR) against Rwanda.¹³⁷ The DRC alleged that because of a conflict between its army and a coalition of Rwanda's armed forces and the rebel movement M23, Rwanda must be found responsible for the violation of various human rights protected by the African Charter on Human and Peoples' Rights.¹³⁸ The DRC sought reparation for the harm resulting from the alleged violations, including the withdrawal of Rwanda's troops from its territory and the immediate cessation of all forms of support to M23.¹³⁹ The DRC requested an expedited procedure and asserted that the continued occupation of its territory by Rwanda causes murders, rapes, thefts, and displacement of persons, in addition to preventing its administration from deploying across the country.¹⁴⁰ The Court decided to consider this application on a priority basis.¹⁴¹ On 12 and 13 February 2025, they held a public hearing on the matter. This case is still pending.

ii. The International Court of Justice (ICJ)

In 1999, the DRC instituted proceedings before the ICJ against Uganda, Rwanda, and Burundi as a result of military armed activities resulting in acts of armed aggression and human rights violations in the DRC.¹⁴² By letters dated 15 January 2001, the Government of the DRC notified the Court that it intended to discontinue the two proceedings.¹⁴³ In January 2001, Burundi and Rwanda informed the Court that they concurred in the discontinuance.¹⁴⁴ As a result, the cases against Burundi and Rwanda were both removed from the ICJ's list in 2001.¹⁴⁵

¹³⁷ Democratic Republic of the Congo v Republic of Rwanda (African Court on Human and Peoples' Rights, 7 March 2024) Application No. 007/2023, para 1. Available at: <https://africanlii.org/akn/aa-au/judgment/afchpr/2024/6/eng@2024-03-07>.

¹³⁸ *Ibid.*, para 2.

¹³⁹ *Ibid.*, para 3.

¹⁴⁰ *Ibid.*, para 14.

¹⁴¹ *Ibid.*, para 34.

¹⁴² International Court of Justice, 'Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi). Available at: www.icj-cij.org/case/115.

¹⁴³ *Ibid.*

¹⁴⁴ *Ibid.*

¹⁴⁵ International Court of Justice, 'Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) and (Democratic Republic of the Congo v. Rwanda) The two cases are removed from the List at the request of the Democratic Republic of the Congo', Press Release No. 2001/2 (1 February 2001). Available at: www.icj-cij.org/sites/default/files/case-related/115/115-20010201-PRE-01-00-EN.pdf.

The DRC filed a new case against Rwanda in 2002 for ‘*massive, serious and flagrant violations of human rights and international humanitarian law*’ resulting from acts of armed aggression perpetrated by Rwanda on the territory of the DRC.¹⁴⁶ In February 2006, the ICJ found that it did not have jurisdiction to adjudicate the case.¹⁴⁷ The Court rejected the DRC's argument that, by participating in every stage of the proceedings, Rwanda accepted the Court's jurisdiction.¹⁴⁸ Rwanda's participation in the proceedings could not be interpreted as consent to the Court's jurisdiction since the purpose of the participation was to challenge that jurisdiction.¹⁴⁹ The Court found that:

international instruments invoked by the DRC could not be relied on, either because Rwanda (1) was not a party to them (as in the case of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) or (2) had made reservations to them (as in the case of the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Elimination of All Forms of Racial Discrimination), or because (3) other preconditions for the seisin of the Court had not been satisfied (as in the case of the Convention on the Elimination of All Forms of Discrimination against Women, the Constitution of the WHO, the Constitution of UNESCO and the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation).¹⁵⁰

In 2005, the ICJ ruled that Uganda, by engaging in military activities against the DRC on the DRC's territory, violated the principle of non-use of force and of non-intervention, and violated its obligations under international human rights law and international humanitarian law.¹⁵¹ The ICJ ordered Uganda to pay reparations to the DRC. On 9 February 2022, the ICJ ruled that Uganda owes DRC \$325 million in

¹⁴⁶ International Court of Justice, ‘Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)’. Available at: www.icj-cij.org/case/126.

¹⁴⁷ International Court of Justice, ‘Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)’. Available at: www.icj-cij.org/case/126.

¹⁴⁸ International Court of Justice, ‘Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)’ No. 2006/4 (3 February 2006) 2. Available at: <https://icj-cij.org/sites/default/files/case-related/126/126-20060203-PRE-01-00-EN.pdf>.

¹⁴⁹ Ibid., 2.

¹⁵⁰ International Court of Justice, ‘Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)’. Available at: www.icj-cij.org/case/126.

¹⁵¹ Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Reparations, Judgment, I.C.J. Reports (2022) para 345. Available at: www.icj-cij.org/sites/default/files/case-related/116/116-20220209-jud-01-00-en.pdf.

reparations.¹⁵² The Court considered that ***‘[U]ganda can be required to pay compensation for acts of rape and sexual violence, to the extent substantiated by the relevant evidence, even though such acts were not mentioned specifically in the 2005 Judgment [...].’***¹⁵³ Although the exact number of victims of rape and other forms of sexual violence could not be identified, the Court found *‘that it is beyond doubt that rape and other forms of sexual violence were committed in the DRC on a large and widespread scale.’*¹⁵⁴ The Court awarded compensation for rape and sexual violence as part of a global sum for all damages to the person.¹⁵⁵ Although receiving the first instalments of 65 million USD from Uganda in reparations following the 2022 ICJ ruling, the DRC has yet to share a public plan for how it would disburse reparations to survivors.¹⁵⁶

As Rwanda is implicated in the new wave of atrocities across eastern DRC, it is crucial to consider further legal challenges before the ICJ.

iii. The International Criminal Court (ICC)

In April 2002, the DRC ratified the Rome Statute.¹⁵⁷ In March 2004, the country referred the situation in its territory since 1 July 2002 to the ICC. As such, the ICC may exercise its jurisdiction over crimes listed in the Rome Statute committed on the territory of the DRC or by its nationals from 1 July 2002 onwards. The DRC made a second referral in May 2023 concerning alleged crimes committed in North Kivu from 1 January 2022. In October 2024, the Office of the Prosecutor of the ICC announced the renewal of investigative efforts in the DRC, focusing on alleged Rome Statute crimes committed in North Kivu since 1 January 2022.¹⁵⁸

International crimes in the Ituri region and the North and South Kivu provinces

¹⁵² Ibid., para 409.

¹⁵³ Ibid., para 188.

¹⁵⁴ Ibid., para 191.

¹⁵⁵ Ibid., para 193.

¹⁵⁶ Physicians for Human Rights, Submission for Universal Periodic Review of the Democratic Republic of the Congo, Fourth Cycle, 47th Session of the Human Rights Council (8 April 2024) para 12. Available at: <https://phr.org/wp-content/uploads/2024/05/DRC-UPR-Submission-April-8-2024.pdf>.

¹⁵⁷ See: www.icc-cpi.int/drc.

¹⁵⁸ International Criminal Court, ‘Statement of ICC Prosecutor Karim A.A. Khan KC on the Situation in the Democratic Republic of the Congo and renewed investigations’ (14 October 2024). Available at: <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-situation-democratic-republic-congo-and-renewed>.

There have been six cases relating to international crimes in the Ituri region and the North and South Kivu provinces, with three leading to convictions, one resulting in a verdict of acquittal, and one case considered closed unless and until the Prosecutor submits new evidence.¹⁵⁹ One of the suspects, Mr Sylvestre Mudacumura, is still at large despite a warrant of arrest against him.¹⁶⁰ The Prosecutor considered that there are reasonable grounds to believe that the suspect is responsible for nine counts of war crimes, including cruel treatment, rape, torture and outrage against personal dignity.¹⁶¹

The Katanga case: The ICC ruled that Katanga was guilty as an accessory to one crime against humanity (murder) and four war crimes (murder, attacking a civilian population, destruction of property and pillaging) committed on 24 February 2003 during the attack on the village of Bogoro.¹⁶² The Chamber found that there was evidence beyond reasonable doubt that the crimes of rape and sexual slavery were committed.¹⁶³ However, the Chamber concluded that the evidence presented in support of the accused's responsibility did not satisfy the required threshold of beyond a reasonable doubt.¹⁶⁴ He was sentenced to 12 years of imprisonment.¹⁶⁵

The Ntaganda case: The former Congolese rebel leader Bosco Ntaganda was found guilty of 18 counts of war crimes and crimes against humanity, committed in Ituri province in 2002-2003.¹⁶⁶ He was sentenced to 30 years of imprisonment.¹⁶⁷ With regards to CRSV, Mr. Ntaganda was found guilty of rape as a crime against humanity and as a war crime. He was also found guilty of sexual slavery as a crime against humanity and as a war crime, as an indirect co-perpetrator under Article 25(3)(a) of the

¹⁵⁹ Ibid.

¹⁶⁰ International Criminal Court, 'Democratic Republic of the Congo.' Available at: www.icc-cpi.int/drc/mudacumura.

¹⁶¹ International Criminal Court, 'DRC situation: ICC issues an arrest warrant for Sylvestre Mudacumura' (13 July 2012). Available at: www.icc-cpi.int/news/drc-situation-icc-issues-arrest-warrant-sylvestre-mudacumura.

¹⁶² International Criminal Court, 'Germain Katanga found guilty of four counts of war crimes and one count of crime against humanity committed in Ituri, DRC' (7 March 2014). Available at: www.icc-cpi.int/news/germain-katanga-found-guilty-four-counts-war-crimes-and-one-count-crime-against-humanity.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ The Prosecutor v Germain Katanga (Judgment) ICC-01/04-01/07 (23 May 2014) para 147. Available at: www.icc-cpi.int/sites/default/files/CourtRecords/CR2015_19319.PDF.

¹⁶⁶ International Criminal Court, 'Ntaganda Case'. Available at: www.icc-cpi.int/drc/ntaganda.

¹⁶⁷ Ibid.

ICC Statute.¹⁶⁸ This landmark case is the only ICC case where the alleged perpetrator has been convicted on counts of CRSV-related offences committed in the DRC.

The Lubanga case: Mr. Lubanga was found guilty of the war crimes of enlisting and conscripting children under the age of 15 years and using them as child soldiers.¹⁶⁹ On 15 March 2020, Mr Lubanga was released after having served 14 years of imprisonment.¹⁷⁰ All 129 victims testified they had suffered harm as a result of the enlistment or conscription, or their use to participate actively in the hostilities. 30 victims (18 female and 12 male) also alleged they had suffered harm as a result of acts of sexual violence, which they either suffered or witnessed.¹⁷¹ Although the prosecution referred to sexual violence in its opening and closing submissions, it has not requested any relevant amendment to the charges.¹⁷² The prosecution failed to apply to include rape and sexual enslavement at the relevant procedural stages and submitted that it would cause unfairness to the accused if he was tried and convicted on this basis.¹⁷³

Investigations are ongoing with respect to the situation in the DRC.

International crimes in North Kivu

On 23 May 2023, the Office of the Prosecutor of the ICC received a new referral from the Ministry of Justice of the Government of the DRC under article 14(1) of the Rome Statute.¹⁷⁴ In its referral, the Government of the DRC requested that the Court initiate an investigation into alleged crimes under the Statute committed by armed forces and groups in the North Kivu province of DRC from 1 January 2022 to date.¹⁷⁵ The letter of

¹⁶⁸ The Prosecutor v Bosco Ntaganda (Judgment) ICC-01/04-02/06 (8 July 2019) 536. Available at: www.icc-cpi.int/sites/default/files/CourtRecords/CR2019_03568.PDF.

¹⁶⁹ International Criminal Court, ‘Lubanga Case’. Available at: www.icc-cpi.int/drc/lubanga.

¹⁷⁰ Ibid.

¹⁷¹ The Prosecutor v Thomas Lubanga Dyilo (Judgment) ICC-01/04-01/06 (14 March 2012) 20. Available at: www.icc-cpi.int/sites/default/files/CourtRecords/CR2012_03942.PDF.

¹⁷² Ibid., 286.

¹⁷³ Ibid., 286-287.

¹⁷⁴ International Criminal Court, ‘Statement of the Prosecutor of the International Criminal Court, Karim A.A. Khan KC, on the referral by the Democratic Republic of the Congo regarding the situation in its territory’ (15 June 2023). Available at: www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-karim-aa-khan-kc-referral-democratic.

¹⁷⁵ Ibid.

referral makes reference to alleged crimes committed by ‘the Rwandan Defence Forces and the armed group Mouvement du 23 mars (M23).’¹⁷⁶

The Ministry of Justice joined supporting documents to the referral, including a white paper on the alleged aggression that took place between 21 November 2021 and 8 December 2022, reports from NGOs and the UNJHRO, the decision of the European Union from 8 December 2022 relating to sanctions and restriction measures against eight persons involved in the eastern situation, and the June 2022 final report of the UN Group of Experts on the DRC.¹⁷⁷ The white paper includes information about the massacre of Kishishe and the acts perpetrated between 29 and 30 November 2022 in Kishishe and Bambo, where at least 22 women and five girls were raped.¹⁷⁸

North Kivu Updates

In October 2024, Prosecutor Karim A.A. Khan KC announced that the Office of the Prosecutor of the ICC is renewing active investigative efforts in the DRC, focusing on alleged Rome Statute crimes committed in North Kivu since 1 January 2022.¹⁷⁹ The Office of the Prosecutor conducted a preliminary assessment to determine whether international crimes committed in North Kivu since January 2022 fall within the scope of its ongoing investigation of the situation in the DRC, which was opened in June 2004.¹⁸⁰ Prosecutor Khan concluded that the recent violence in North Kivu is interrelated with a longstanding pattern of hostilities dating back to at least 1 July 2002, when the Court’s jurisdiction in the DRC commenced.¹⁸¹ As a result, it was determined that any alleged Rome Statute crimes committed in the region since 1 January 2022 are considered within the investigation’s remit.¹⁸² The Office of the

¹⁷⁶ International Criminal Court, ‘Annex I Public’ ICC-01/23-1-AnxI (15 June 2023) 2. Available at: www.icc-cpi.int/sites/default/files/RelatedRecords/0902ebd1804cb5fe.pdf.

¹⁷⁷ International Criminal Court, ‘Annex I Public’ ICC-01/23-1-AnxI (15 June 2023). Available at: www.icc-cpi.int/sites/default/files/RelatedRecords/0902ebd1804cb5fe.pdf.

¹⁷⁸ Democratic Republic of the Congo (Government), ‘Agression avérée de la République Démocratique du Congo par le Rwanda et crimes internationaux commis dans ce contexte par le Rwanda Defence Force et le M23 (21 novembre 2021 - 08 décembre 2022)’ (December 2022) 27. Available at: <https://communication.gouv.cd/assets/livre-blanc-crimes-m23.pdf>.

¹⁷⁹ International Criminal Court, ‘Statement of ICC Prosecutor Karim A.A. Khan KC on the Situation in the Democratic Republic of the Congo and renewed investigations’ (14 October 2024). Available at: <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-situation-democratic-republic-congo-and-renewed>.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

¹⁸² Ibid.

Prosecutor stated that credible sources reveal thousands of individuals have been wounded and hundreds killed in and around, in particular, the provincial capital of North Kivu, Goma.¹⁸³ To investigate, the Office has launched an urgent call for information and cooperation from all partners on the situation in the DRC, and has called upon victims, witnesses, national and international organisations, civil society groups, journalists, national authorities, State and non-State parties to provide any evidence or information regarding allegations of international crimes committed by all parties in the DRC.¹⁸⁴

ICC Visit to the DRC in 2025

From 24 to 26 February 2025, Prosecutor Khan conducted his second official mission to the DRC.¹⁸⁵ Prosecutor Khan held meetings with President Félix-Antoine Tshisekedi Tshilombo, with discussions centred on the urgent need to combat impunity, deliver lasting accountability, and address the escalating violence in the eastern DRC.¹⁸⁶ As a step toward these objectives, the President confirmed plans to convene an international conference in Kinshasa in April 2025, aimed at developing a holistic, sustainable, and comprehensive justice framework for the DRC.¹⁸⁷ Prosecutor Khan issued a stark warning to all warlords and militia leaders, emphasising that the ICC is actively exploring ways to strengthen collaboration with the DRC, including the potential establishment of a special court.¹⁸⁸

To further reinforce cooperation, Prosecutor Khan engaged with the Prosecutor of the Cassation Court, the Auditor General of the Armed Forces, and the First President of the High Military Court to assess mechanisms for enhancing judicial coordination.¹⁸⁹ He also held discussions with the President of the Constitutional Court and the President of the Supreme Council of the Judiciary, focusing on the necessity for a robust national judicial system to work alongside the ICC in tackling impunity and

¹⁸³ International Criminal Court, ‘Call for Information on the Situation in the Democratic Republic of the Congo’. Available at: <https://www.icc-cpi.int/drc/call-for-information-drc>.

¹⁸⁴ Ibid.

¹⁸⁵ International Criminal Court, ‘ICC Prosecutor Karim A.A. Khan KC concludes visit to the DRC: Effective justice must be at the heart of our response to this crisis’ (27 February 2025). Available at: <https://www.icc-cpi.int/news/icc-prosecutor-karim-aa-khan-kc-concludes-visit-drc-effective-justice-must-be-heart-our>.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

¹⁸⁹ Ibid.

violence cycles effectively.¹⁹⁰ After discussions with various NGOs and CSOs and victims of sexual violence, he highlighted the critical need for NGO support, reparations and accountability for survivors.¹⁹¹ He further reaffirmed his Office's unwavering commitment to prosecuting gender-based crimes and crimes against children in alignment with its December 2023 policy framework.¹⁹²

iv. UN Human Rights Council

On 25 March 2014, for the first time, the Human Rights Council held a high-level dialogue on combatting sexual violence in DRC.¹⁹³ It discussed lessons learned and the continuing challenges in combatting sexual violence in the DRC and allowed countries in conflict and post-conflict situations to share their experiences in the area.¹⁹⁴ In her opening remarks, Ms Navi Pillay, former UN High Commissioner for Human Rights, highlighted the considerable efforts made in the DRC to prevent sexual and gender-based violence, such as the adoption, in 2009, of the National Strategy on Combating Sexual and Gender-Based Violence.¹⁹⁵ She confirmed that the Joint Human Rights Office has been implementing one of the five pillars of this Strategy (the fight against impunity).¹⁹⁶ Ms Pillay stated that sexual and gender-based violence remain alarmingly prevalent in the DRC, in the context of the armed conflict in the eastern provinces and in the rest of the country.¹⁹⁷ She expressed concerns about the absence of reparation schemes for survivors of sexual violence.¹⁹⁸

An enhanced interactive dialogue on a comprehensive report of the High Commissioner on the situation of human rights in the DRC also took place on 8

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

¹⁹² Ibid.

¹⁹³ OHCHR, 'DRC Sexual Violence' (25 March 2014). Available at: <https://media.un.org/unifeed/en/asset/u140/u140325e>.

¹⁹⁴ Human Rights Council 'Report of the Human Rights Council at its 25th session' A/HRC/25/2) (29 December 2021) para 36. Available at: www.ohchr.org/sites/default/files/hrbodies/hrc/regularsessions/session25/documents/2022-12-05/A_HRC_25_2_AdvanceEditedVersion.docx.

¹⁹⁵ OHCHR, 'Opening remarks Ms. Navi Pillay, High Commissioner for Human Rights' (25 March 2014) 2. Available at: <https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/25thSession/OralStatements/HLD%20-%20HC's%20speech%20reviewed%2024%20March%20approved%20FINAL.doc>.

¹⁹⁶ Ibid., 2.

¹⁹⁷ Ibid., 2.

¹⁹⁸ Ibid., 2.

October 2024 during the 57th session of the Human Rights Council.¹⁹⁹ In the High Commissioner's report, the team of international experts expresses its concerns regarding the growing risk of armed-conflict-related sexual violence, especially with the intensification of armed violence in North Kivu Province.²⁰⁰ In the report's conclusions, the team of international experts further invites the Government of the DRC *'to strengthen its support for the judicial response to serious violations and abuses of international human rights law and international humanitarian law, particularly conflict-related sexual violence.'*²⁰¹

UNHRC Updates

On 7 February 2025, the Human Rights Council concluded its thirty-seventh special session on the human rights situation in the DRC, adopting a resolution to establish a fact-finding mission to investigate serious human rights violations and breaches of international humanitarian law in North Kivu and South Kivu.²⁰² An independent commission of inquiry was also established to follow and further the efforts of the fact-finding mission. The fact-finding mission is mandated with investigating the facts, circumstances, and causes of all alleged human rights abuses and violations of international humanitarian law; collecting, consolidating, and analysing evidence; identifying any international crimes and those responsible for them; and making recommendations to ensure accountability, criminal justice, and access to justice for victims.²⁰³ The fact-finding mission will present an oral update at the Council's fifty-ninth session, followed by a comprehensive report at its sixtieth session, and another comprehensive report to the General Assembly at its eightieth session.²⁰⁴

¹⁹⁹ United Nations Human Rights Council, Meeting calendar of the 57th session of the UN Human Rights Council. Available at: <https://hrc57session.sched.com/event/1jbxv/enhanced-id-on-report-hc-and-experts-on-the-democratic-republic-of-congo>.

²⁰⁰ United Nations General Assembly, 'Report of the team of international experts on the Democratic Republic of the Congo' A/HRC/57/81 (16 August 2024) para 21. Available at: <https://documents.un.org/doc/undoc/gen/g24/141/39/pdf/g2414139.pdf>.

²⁰¹ Ibid., para 104.

²⁰² OHCHR, 'Human Rights Council Establishes Fact-Finding Mission on Human Rights Abuses and Violations in the Provinces of North Kivu and South Kivu in the Democratic Republic of the Congo, Also Establishes Independent Commission of Inquiry to Continue Work of the Fact-Finding Mission' (7 February 2025). Available at: <https://www.ohchr.org/en/news/2025/02/human-rights-council-establishes-fact-finding-mission-human-rights-abuses-and>.

²⁰³ Ibid.

²⁰⁴ Ibid.

The resolution (A/HRC/37/L.1), adopted without a vote, strongly condemned the violations of human rights and humanitarian law; in particular, conflict-related sexual violence; summary executions; enforced disappearances; attacks on human rights defenders, journalists, and other civil society actors and peacekeepers; and the bombing of schools, hospitals, and sites for displaced persons.²⁰⁵ The Council also condemned the military and logistical support provided by the Rwanda Defence Force to the M23.²⁰⁶ It demanded the M23 and Rwanda Defence Force immediately end the violations, and called for an immediate end to hostile actions, the withdrawal of M23 from occupied areas, and the cessation of Rwandan support.²⁰⁷

v. MONUSCO

Since 2008, MONUSCO has been providing technical, financial and logistical support to military justice authorities to investigate and prosecute international crimes, including CRSV.²⁰⁸ MONUSCO's support to the military justice authorities resulted in several trials and convictions of perpetrators of CRSV.²⁰⁹ Since April 2024, MONUSCO has ceased its operations in South Kivu Province.²¹⁰ MONUSCO is now limiting the implementation of its mandate to the provinces of North Kivu and Ituri from May 2024 at the request of the DRC government.²¹¹

In 2018, serious crimes were perpetrated in the Shabunda territory.²¹² To fight impunity, the multisectoral plan called the Shabunda Action Plan was launched in March 2019 by MONUSCO.²¹³ Several actors are involved to ensure the implementation

²⁰⁵ Ibid.

²⁰⁶ Ibid.

²⁰⁷ Ibid.

²⁰⁸ United Nations, 'Handbook for United Nations Field Missions on Preventing and Responding to Conflict-Related Sexual Violence' (June 2020) 120. Available at: www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/2020.08-UN-CRSV-Handbook.pdf.

²⁰⁹ Ibid., 120.

²¹⁰ MONUSCO, 'MONUSCO ceases operations in South Kivu Province' (30 April 2024) . Available at: https://monusco.unmissions.org/sites/default/files/pr_monusco_ceases_operations_in_south_kivu_province_30_april_2024_0.pdf.

²¹¹ Ibid.

²¹² TRIAL International, 'The United Nations and its partners in the DRC have launched a stabilization plan for Shabunda' (29 March 2019). Available at: <https://trialinternational.org/latest-post/the-united-nations-and-its-partners-in-the-drc-have-launched-a-stabilization-plan-for-shabunda/>.

²¹³ Ibid.

of this plan, namely the Congolese authorities, as well as UN and NGO partners.²¹⁴ Implementation of this action plan in 2019 in South Kivu led to a 72% reduction in cases of CRSV in the targeted area and the conviction of an armed group leader for crimes against humanity.²¹⁵

In 2024, the Maputo Protocol on the Rights of Women in Africa reached its twentieth year. The Protocol includes important rights and legal protections, which, if implemented and protected and resourced, can play a key role in investigating and prosecuting CRSV, but also as risk mitigation and deterrent factors. These rights include taking part in political processes, social and political equality with men, and autonomy in health, education, and employment decisions. Similarly, Agenda 2063, an initiative to promote gender equality throughout Africa, particularly focuses on the needs of women and youth. The Agenda's goal is to provide women with equal opportunities at land and asset ownership, leadership roles in government and the private sector, and access to education, and thus reduce the widespread violence against women that presently pervades the continent. Steps should be taken to implement these initiatives as a means to help prevent CRSV in the DRC.

3.2.3. DOMESTIC COURTS - UNIVERSAL JURISDICTION

CRSV in the DRC has also been subject to domestic investigations and prosecutions globally under the principle of universal jurisdiction.

i. Ignace Murwanashyaka and Straton Musoni

On 17 November 2009, German authorities arrested two Rwandan leaders of the Hutu militia group Forces Démocratiques pour la Libération du Rwanda (FDLR), Ignace Murwanashyaka and Straton Musoni.²¹⁶ Both were charged in December 2010 with ordering and coordinating 26 counts of crimes against humanity and 39 counts of war crimes occurring as part of 16 actions allegedly committed by the FDLR in eastern DRC

²¹⁴ United Nations, 'Handbook for United Nations Field Missions on Preventing and Responding to Conflict-Related Sexual Violence' (June 2020) 54. Available at: www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/2020.08-UN-CRSV-Handbook.pdf.

²¹⁵ OHCHR, 'OHCHR in Democratic Republic of the Congo'. Available at: www.ohchr.org/en/countries/democratic-republic-congo/our-presence.

²¹⁶ UN Security Council, 'IGNACE MURWANASHYAKA.' Available at: <https://main.un.org/securitycouncil/en/sanctions/1533/materials/summaries/individual/ignace-murwanashyaka>; UN Security Council, 'STRATON MUSONI.' Available at: <https://main.un.org/securitycouncil/en/sanctions/1533/materials/summaries/individual/straton-musoni>.

between January 2008 and November 2009, and of belonging to a terrorist group.²¹⁷ Allegedly, they coordinated attacks against civilians which resulted in deaths, pillage, recruitment of child soldiers, rape and other forms of sexual violence.²¹⁸ The attacks were often accompanied by the rape of women and girls.²¹⁹ Between January and September 2009, Human Rights Watch documented 290 cases of CRSV perpetrated by FDLR combatants in North and South Kivu.²²⁰ The two men ‘were accused of directing the political arm of the FDLR from Germany.’²²¹ They were accused of bearing command responsibility for these crimes through determining and guiding the FDLR’s approach, strategies and tactics from Germany via various modes of communication.²²²

On 28 September 2015, the Higher Regional Court of Stuttgart, Germany, convicted and sentenced Mr Murwanashyaka to 13 years of imprisonment for aiding five war crimes and Mr Musoni to 8 years of imprisonment for leadership of a foreign terrorist organisation.²²³ They were not held liable on the basis of command responsibility.²²⁴ Many charges were dropped over the course of the proceedings, including all charges relating to sexual violence (the five charges involving rape, mass rape and/or sexual enslavement).²²⁵ The original charges encompassed the rape of at least 15 women.²²⁶ This case was the first to be tried under the German 2002 Code of Crimes Against International Law, which integrates the Rome Statute of the ICC into German law and

²¹⁷ Human Rights Watch, ‘DR Congo: German Court Convicts Two Rwandan Rebel Leaders’ (28 September 2015) Available at: www.hrw.org/news/2015/09/28/dr-congo-german-court-convicts-two-rwandan-rebel-leaders; TRIAL International, ‘Universal Jurisdiction Annual Review 2019’ (2019) 51. Available at: https://trialinternational.org/wp-content/uploads/2019/03/Universal_Jurisdiction_Annual_Review2019.pdf; European Center for Constitutional and Human Rights e.V. (ECCHR), ‘Universal Jurisdiction in Germany? The Congo War Crimes Trial: First Case under Code of Crimes against International Law’ (20 May 2016) 11. Available at: www.ecchr.eu/fileadmin/Juristische_Dokumente/Report_Executive_Summary_FDLR_EN.pdf.

²¹⁸ TRIAL International, ‘Universal Jurisdiction Annual Review 2019’ (2019) 51. Available at: https://trialinternational.org/wp-content/uploads/2019/03/Universal_Jurisdiction_Annual_Review2019.pdf.

²¹⁹ Human Rights Watch, ‘“You Will Be Punished”: Attacks on Civilians in Eastern Congo’ (13 December 2009). Available at: www.hrw.org/report/2009/12/13/you-will-be-punished/attacks-civilians-eastern-congo.

²²⁰ Ibid.

²²¹ European Center for Constitutional and Human Rights e.V. (ECCHR), ‘Universal Jurisdiction in Germany? The Congo War Crimes Trial: First Case under Code of Crimes against International Law’ (20 May 2016) 9. Available at: www.ecchr.eu/fileadmin/Juristische_Dokumente/Report_Executive_Summary_FDLR_EN.pdf.

²²² Ibid., 11-12.

²²³ Ibid., 13.

²²⁴ Ibid., 13.

²²⁵ Ibid., 13 and 21.

²²⁶ Ibid., 22.

allows German courts to investigate and prosecute war crimes, crimes against humanity, and genocide irrespective of where they are committed.²²⁷

On 20 December 2018, the German Federal Court of Justice dismissed the appeal of Straton Musoni. There was no legal error in his conviction for being a ringleader in a foreign terrorist organisation.²²⁸ However, the Federal Court of Justice partially overturned on appeal the verdict of guilt on the grounds of aiding and abetting war crimes against Ignace Murwanashyaka and ordered a retrial.²²⁹ Mr Murwanashyaka died before the new hearing took place.²³⁰

ii. Roger Lumbala Tshitenga

Roger Lumbala Tshitenga, a Congolese national, was the leader of the Rassemblement Congolais pour la Démocratie-National (RCD-N), an armed group created in 2000 to fight Congolese public forces in an attempt to take control of resource-rich areas in the eastern part of the DRC.²³¹ He is accused of participating in crimes that took place between 1 July 2002 and the end of December 2003 in the provinces of Ituri and Haut Uélé, in particular during a military operation labelled *Effacer le tableau* (Erasing the Board).²³² Between October 2002 and January 2003, the RCD-N and the Mouvement de libération du Congo (MLC) jointly committed systematic attacks against the civilian population of Ituri in the areas of Epulu, Mambasa, Teturi, Byakato and Erengeti, which they named Operation ‘Erasing the Board.’²³³ Between 12 and 29 October 2002, the RCD-N and the Armée de Libération du Congo (ALC) killed at least 173 civilians, and committed acts of cannibalism, mutilation, rape of women and children and looting in

²²⁷ Human Rights Watch, ‘DR Congo: German Court Convicts Two Rwandan Rebel Leaders’ (28 September 2015). Available at: www.hrw.org/news/2015/09/28/dr-congo-german-court-convicts-two-rwandan-rebel-leaders.

²²⁸ Friedrich-Alexander-Universität, International Criminal Law Research Unit of the FAU, ‘Case Information Sheet Straton Musoni’. Available at: https://vstgb-datenbank.de/media/pdfs/CIS_Mustervorlage_StratonMusoni_englisch_KB_0LPsAch.pdf.

²²⁹ Friedrich-Alexander-Universität, International Criminal Law Research Unit of the FAU, ‘Case Information Sheet Dr. Ignace Murwanashyaka’. Available at: https://vstgb-datenbank.de/media/pdfs/CIS_Mustervorlage_DrIgnaceMurwanashyaka_englisch_FH_KB.pdf.

²³⁰ Ibid.

²³¹ TRIAL International, ‘Universal Jurisdiction Annual Review 2024’ 39. Available at: https://trialinternational.org/wp-content/uploads/2024/04/UJAR-2024_digital.pdf.

²³² Ibid.

²³³ Minority Rights Group International, ‘“Erasing the Board”: Report of the international research mission into crimes under international law committed against the Bambuti Pygmies in the eastern Democratic Republic of Congo’ (2004) 2. Available at: <https://minorityrights.org/app/uploads/2023/12/mrg-rep-twa-eng.pdf>.

Mambasa.²³⁴ A report published by OHCHR described the involvement of the RCD-N in grave human rights violations, including rape and other forms of sexual violence, summary executions, torture, mutilation and cannibalism.²³⁵

In 2016, an investigation was opened against Mr Tshitenga following the rejection of his asylum application.²³⁶ He was arrested on 2 January 2021 in Paris and ‘*charged while under investigation (mise en examen) for his alleged participation in a group formed with a view to preparing the commission of crimes against humanity committed in the DRC between 2002 and 2003.*’²³⁷ On 6 November 2023, the investigative judges indicted and sent Mr Tshitenga to trial for his alleged complicity in and conspiracy to commit crimes against humanity including murder, torture, rape, pillage and enslavement, including sexual slavery, in the DRC between 2002 and 2003.²³⁸ Mr Lumbala Tshitenga is currently being detained and awaiting trial, which will be held in Paris in November 2025.²³⁹

²³⁴ OHCHR, ‘Rapport du Projet Mapping concernant les violations les plus graves des droits de l’homme et du droit international humanitaire commises entre mars 1993 et juin 2003 sur le territoire de la République démocratique du Congo’ (August 2010) 235. Available at: www.ohchr.org/sites/default/files/Documents/Countries/CD/DRC_MAPPING_REPORT_FINAL_FR.pdf.

²³⁵ TRIAL International, ‘Universal Jurisdiction Annual Review 2024’ 39. Available at: https://trialinternational.org/wp-content/uploads/2024/04/UJAR-2024_digital.pdf.

²³⁶ Ibid., 39.

²³⁷ Ibid., 39.

²³⁸ Ibid., 40.

²³⁹ Ibid., 39-40.

4. ASSISTANCE TO VICTIMS/SURVIVORS

Physicians for Human Rights submitted to the Inquiry about the needs of the victims/survivors and some of the responses delivered to date:

Survivors presented at health facilities with a range of medical and psychological needs, including lacerations, sexually transmitted infections, unwanted pregnancies, incontinence, paralysis, post-traumatic stress disorder, depression, and developmental delays.²⁴⁰ In the face of these staggering levels of sexual violence, local Congolese health workers mounted a robust response, including reproductive health care, access to contraception, and psychological support for the mental health consequences of sexual violence. In addition, clinicians aim to document critical forensic evidence necessary to prosecute cases of sexual violence. The number of survivors seeking care and the needs they present are both high. To ensure healing and access to justice, it is critical to bring interventions and support to the camps.²⁴¹

However, resources are scarce due to a funding gap, but also attacks on healthcare facilities in the region. As the group further explained:

In 2022 alone, there were 159 attacks on healthcare facilities, forcing these centres to reduce care provisions or cease operating for up to a month.²⁴² Health care workers PHR spoke with said they are overwhelmed by the number of patients they see. Clinicians who PHR spoke with underscored the need for training for service providers on the documentation of forensic evidence, abortion care, mental health support, post-rape care, child-friendly interviewing, and vicarious trauma.²⁴³

As of October 2024, OCHA data indicates that only 45% of the funding requested for the Humanitarian Response Plan in DRC has been covered, meaning a gap of over US\$1.4 billion.²⁴⁴

²⁴⁰ Ibid.

²⁴¹ Physicians for Human Rights, written statement.

²⁴² ‘The impact of violence against health care on the health of children and mothers: A case study in three health zones in Eastern DRC’, International Rescue Committee and Insecurity Insight, 21 April 2024. Available at: <https://reliefweb.int/report/democratic-republic-congo/impact-violence-against-health-care-health-children-and-mothers-case-study-three-health-zones-eastern-drc>.

²⁴³ Physicians for Human Rights, ‘Massive Influx of Cases’ (2024). Available at: <https://phr.org/our-work/resources/massive-influx-of-cases-sexual-violence-drc/>.

²⁴⁴ Physicians for Human Rights, written statement.

There are several initiatives providing assistance to victims/survivors with their humanitarian and legal needs that require attention here.

Panzi Hospital

The Panzi Foundation and Hospital is a nonprofit organisation headquartered in Bukavu, Democratic Republic of Congo, with a satellite office in Washington, DC. The Panzi Foundation and Hospital are dedicated to healing survivors of SGBV and creating lasting change in the DRC.

City of Joy

The City of Joy is a transformational leadership community for women survivors of violence, located in Bukavu, Eastern DRC. Conceived, owned, and run by local Congolese, the City of Joy first opened its doors in June 2011, healing women from their past trauma through therapy and life skills programming while providing them with the essential ingredients needed to move forward in life – love and community. Serving 90 survivors of gender violence aged 18 to 30 at a time, City of Joy has graduated 2240 women leaders since it opened in 2011. The City of Joy is a project of the Fondation Panzi (DRC) and V-Day.

HEAL

HEAL Africa is a non-governmental hospital in Goma. It is located in the capital of North Kivu province in eastern DRC. It serves as a hospital, but also boosts community-based initiatives in public health, community development, and conflict resolution.²⁴⁵ It serves as a research and training centre for healthcare professionals.²⁴⁶ Survivors of sexual violence receive holistic care. For instance, HEAL Africa's comprehensive Sexual Violence Program provides free medical and surgical care to survivors and supports psychological and emotional well-being. It aims for long-term rehabilitation, skills building and community development.²⁴⁷

²⁴⁵ Justin Paluku Lussy, Annie Dube, Jonathan Kasereka M. Lusi, Aurélien Mahamba Kikoli, Eugénie Kamabu Mukekulu, Susan A. Bartels, 'Trends in sexual violence patterns and case management; a sex disaggregated analysis in Goma, Democratic Republic of Congo', (2021) Conflict and Health 2. Available at: <https://conflictandhealth.biomedcentral.com/track/pdf/10.1186/s13031-021-00398-x.pdf>.

²⁴⁶ Ibid.

²⁴⁷ Ibid.

SOFEPADI

SOFEPADI (Solidarité féminine pour la paix et le développement intégral) is an organisation offering legal aid for those survivors wanting justice and covers all legal costs and training for civil society actors on the body of Congolese law criminalising sexual violence.²⁴⁸ On top of that, it works to spread awareness among members of the judiciary on sexual violence.²⁴⁹ The SOFEPADI's medical unit (Karibuni Wa Mama) utilises its position as one of the first entry points for victims seeking justice by collecting medical details to underpin cases filed with the courts.²⁵⁰ Such evidence comprises medical certificates, photo evidence, and victims recounting the facts of their ordeal.²⁵¹

Tearfund

Tearfund is a non-governmental organisation working with local churches and organisations in over 50 of the world's poorest countries. Tearfund has several projects addicting victims/survivors of CRSV in the DRC. Among others, their 'Transforming Masculinities' initiative aims to prevent and address SGVB in communities - working towards reducing stigma for victims/survivors, equipping communities to support victims/survivors, promoting gender equality, and providing positive models of masculinity.

The Trust Fund for Victims

TFV indicated that victims/survivors have stressed the need for holistic support. In this respect, through the programme for the benefit of victims launched in 2008, the TFV, together with its partners, has sought to apply a holistic approach to the harm suffered by CRSV victims in the DRC, which has included innovative projects that aim to aid women who have suffered from these crimes. The TFV has also assisted children born out of rape who are particularly at high risk of being rejected, stigmatised, or abused and denied access to education, inheritance rights, or even a name. The support that has been provided to victims in DRC includes, among others:

²⁴⁸ See more here: <https://www.sofepadirdc.org/>.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ Ibid.

- Reconstructive surgeries, HIV care, and physical rehabilitation support to mutilated victims and survivors of CRSV.
- Psychological rehabilitation, including counselling and trauma therapy targeted for CRSV victims, to help survivors recover from psychological harm, and community-based psychosocial programs to address stigma and reintegrate survivors into their communities.
- Income-generating activities may include livelihood support such as vocational training, income-generating activities, access to microfinance to help survivors regain economic independence, and education and skills-building programs for survivors and their children.
- Community peacebuilding and reconciliation for conflict resolution through non-violence are mainly carried out through the partner Missionnaire d'Afrique in Ituri Province.

The interventions by the TFV complement interventions of other actors such as the Mukwege Foundation, the Panzi Hospital (South Kivu), the United Nations Sexual and Reproductive Agency (UNFPA), UNICEF, the Ministry of Women and Gender, and the Ministry of Public Health.

As the TFV submitted to the Inquiry:

As far as mental health and psychosocial support are concerned, psychosocial agents are trained at the state service level to respond to the basic needs of victims, families, and communities. However, the capacities of state personnel and national NGOs need to be strengthened for targeted care, and many more psychologists would need to be trained and then assigned to specific accessible structures, given the severity of psychological trauma of many of the CRSV victims. Also, mental health and psychosocial support services are often provided by a non-specialised structure with non-specialised staff, which means that the care is not appropriate.

Despite a national mental health and psychosocial support strategy with a roadmap, the Ministry of Health appears not yet to have the resources to implement it. There is, however, the possibility of setting up the [assistance] programme (integration of the minimum mental health package into primary

health care). It is also necessary to improve the integrated multi-sectoral care centres built within the province's referral medical facilities, which lack safe and material spaces for survivors' collective (group) care. (...)

In addition, victims have stressed the importance of amplifying their voices in secure environments, which is also required in addition to the urgent need to strengthen the national legal systems to ensure that perpetrators are held accountable for their crimes. Victims have also called for traditional justice mechanisms, specialised mixed chambers, legal and judicial support, strengthening and setting up legal clinics, training for magistrates and military courts and tribunals, and more collaboration with organisations fighting against sexual violence.

Finally, victims have extensively indicated that what they need most is for the conflict to end so that their lives can return to a certain level of safety and stability, which is essential for them to begin their healing.²⁵²

²⁵² Trust Fund for Victims, written submission.

5. CONCLUSIONS AND RECOMMENDATIONS:

CRSV is a weapon of war which continues to be used against women and girls in the DRC to this day. Its use is exacerbated by every spike in violence in the region. Despite some positive steps taken to address it, prevention continues to be a promise yet to be fulfilled. Some accountability measures help to show how justice could be achieved, however, they are but a drop in the ocean and inadequate to deliver a meaningful (and much-needed) change.

As long as the DRC continues to be a stamping ground for militias, including M23, and other neighbouring countries, instability will create the perfect conditions for atrocity crimes to be perpetrated. In such conditions, women and girls will always be at risk of CRSV. This is not a theoretical scenario but the lived reality of women and girls, as manifested before our eyes.

The Inquiry, after a consultation with experts and communities, makes the following recommendations to the UK Government:

Assistance to communities

- As the situation in the DRC is deteriorating, exacerbated by the recent spike in violence by M23, there is an urgent necessity to ensure the basic needs of the population, such as basic health needs, including:
 - Supporting the establishment and expansion of government-run and supported safe houses/shelters, providing immediate protection for victims/survivors and their families.
- Assess all UKAid-supported projects in the DRC, whether CRSV or justice and accountability-related, and consider how to strengthen them and ensure that they have the support needed to be able to deliver results.

Avenues for justice and accountability

- Work with national institutions, victims' groups, civil society, and international partners to facilitate the implementation of a comprehensive transitional justice policy. This should integrate:

- Truth-seeking: through inclusive truth commissions that enable survivors of CRSV and other crimes to share their experiences and have them recognised in the historical record.
- Justice: by ensuring access to judicial and non-judicial mechanisms at national and international levels.
- Reparation: through victim-centred programs addressing material, physical, psychological, and symbolic harms.
- Guarantees of non-repetition: including institutional reform, vetting, security sector reform, and civic education initiatives.
- Support the creation of a specialised hybrid judicial mechanism with the mandate to investigate and prosecute CRSV and other international crimes. Such a mechanism should ensure credible, impartial and fair prosecutions while building on and strengthening the current national judicial capacities.
- Work with communities and experts on establishing a truth and justice commission to enable victims/survivors of CRSV to testify and tell their stories and memorialise them as part of the nation's history.
- Ensure the allocation of a national budget and the establishment of an effective system to ensure that the state finally pays reparations to the victims it has been ordered to compensate. Accelerate the implementation by FONAREV (Fonds National des Réparations des Victimes de violences sexuelles liées aux conflits et des victimes des crimes contre la paix et la sécurité de l'humanité) of a national reparations policy and administrative reparations programs for communities of victims who do not benefit from a judicial decision.

Working with victims/survivors and affected communities

- Provide assistance to better accommodate cooperation with victims/survivors and affected communities. All decisions that affect victims/survivors must be taken with full participation of victims/survivors, including:
 - in designing and implementing prevention, response, and reparations programmes to ensure their voices and priorities are heard.

- Community leaders must be fully involved—including women leaders—in mechanisms for preventing, managing, and resolving conflicts, as well as consolidating stability and lasting peace.

Education and awareness raising

- Assisting the implementation of programmes and awareness campaigns, including long-term psychosocial support and economic reintegration activities tailored to the needs of women, girls, and boys affected by CRSV.
- Providing assistance with designing and implementing training for the military, including becoming prominent in all military training manuals, legislation, military codes, and repeatedly enforced in education, training, information, and review/disciplinary settings, in line with the NATO policy.²⁵³

Legislative reforms and policy changes

- Assist the DRC in pursuing necessary legislative reforms, such as amending existing laws or enacting new ones on sexual violence and the protection of victims in line with international standards, and ensuring the effective application of these laws. This includes developing implementation mechanisms, allocating adequate resources, training judicial and law enforcement actors, and establishing monitoring systems to close the gap between law and practice. Any legal changes should be accompanied by strategic communication campaigns and top-level messaging and narratives, combined with an educational curriculum to ensure that the people are educated on and comply with the new laws, incorporating them into their beliefs and actions.
- Ensure that all political and military authorities, especially the highest political and military authorities of the DRC, show unwavering and unconditional support for the independence of the courts responsible for prosecuting perpetrators of international crimes. It is crucial for the Congolese state to respond firmly to any attempt at interference to demonstrate that such actions will not be tolerated.
- Engage the DRC government to ensure that they abolish the death penalty for international crimes. To comply with international best practices and promote

²⁵³ See: https://www.nato.int/cps/en/natohq/official_texts_184570.htm.

international support and cooperation, lawmakers should abolish the death penalty for international crimes. Pending this reform, the state should immediately restore the moratorium on executions, which was lifted in March 2024.

Legal training

- Provide training, including through the ROLE UK and PSVI team, for investigators, lawyers and other legal professionals, and magistrates working with victims/survivors of war crimes. Such training should focus on protecting the rights of victims/survivors, minimising their re-traumatisation, and balancing this with effective defence strategies for the accused, including in accordance with the International Protocol and the Murad Code.
- Help the establishment of networks of professionals working on CRSV, to facilitate easier exchanges, further continuing professional development training, including on new technologies, etc.
- Facilitate the transfer of the jurisdictional competence over CRSV and other grave human rights violations from military and civilian courts in the medium to long term so that civilian courts become the sole competent jurisdiction to prosecute and judge perpetrators of international crimes, even when they are members of the armed forces. In parallel, reform the civilian justice system with the goal of eradicating the serious corruption it suffers from. Increase initiatives aimed at enabling civilian judges to benefit from the expertise acquired by military judges in the prosecution of international crimes.

Financial regulations and sanctions

- Impose sanctions on all those responsible for CRSV in the DRC, including perpetrators of historic atrocities and those ongoing, for example, as perpetrated by members of M23.
- Identify whether there are any assets belonging to Bosco Ntaganda, a rebel leader from Congo who was convicted of 18 counts of crimes against humanity and war crimes, to assist the ICC in providing reparations to his victims.

- Identify the best ways to ensure that the frozen assets could be repurposed to provide assistance to victims/survivors of CRSV and also reparations.

Critical minerals

- Support the efforts to map all mines with critical minerals (conflict minerals) and work with the DRC to develop a strategy for the provision of safety and security of the sites.
- Introduce stricter requirements for companies using conflict minerals to show the source of the minerals.
- Introduce stricter punishments upon companies which fail to disclose blind spots in their supply chains, among others.
- Introduce legislation creating a rebuttable presumption that the cobalt used in the batteries of rechargeable gadgets or EVs is tainted by human rights violations and environmental destruction.
- Introduce in the UK, and assist the DRC to establish independent, third-party schemes to provide trustworthy auditing for supply chains.
- Ensure that the supply chain provisions in the UK Modern Slavery Act go beyond simple reporting requirements to include actual deterrent mechanisms or penalties that motivate a change in corporate behaviour. Accountability must sit at the top of the chain, with directors being personally accountable for compliance.
- Convene a dedicated commission to conduct independent research on ground conditions, which can guide future policy efforts.

Monitoring

- Monitor the situation in the DRC, with regular JACS assessment and other atrocity crimes risk assessments.
- Consider the risk of Islamist terrorism in the DRC and regularly report to the Parliament on the issue.

