



13<sup>th</sup> June 2012

## A commentary on the May 2012 Democratic Republic of Congo Operational Guidance Note

This commentary identifies what the ‘Still Human Still Here’ coalition considers to be the main inconsistencies and omissions between the currently available country of origin information (COI) and case law on the Democratic Republic of Congo (DRC) and the conclusions reached in the May 2012 DRC Operational Guidance Note (OGN). Where we believe inconsistencies have been identified, the relevant section of the OGN is highlighted in blue.

An index of full sources of the COI referred to in this commentary is also provided at the end of the document.

**This commentary is a guide for legal practitioners and decision-makers in respect of the relevant COI, by reference to the sections of the Operational Guidance Note on the DRC issued in May 2012. To access the complete OGN on the DRC go to:**

**<http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylum/policyogns/>**

**The document should be used as a tool to help to identify relevant COI and the COI referred to can be considered by decision makers in assessing asylum applications and appeals. This document should not be submitted as evidence to the UK Border Agency, the Tribunal or other decision makers in asylum applications or appeals. However, legal representatives are welcome to submit the COI referred to in this document to decision makers (including judges) to help in the accurate determination of an asylum claim or appeal.**

**The COI provided in this commentary is not exhaustive and should always be complemented by case-specific COI research.**

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### 3.6 Political opponents and perceived political activists

*Excerpt from the May 2012 DRC OGN*

3.6.21 Conclusion: As the Tribunal in MM and AB and DM observed the level of risk to those having, or perceived to have a political profile in opposition to the government is one that “fluctuates in accordance with the political situation” and low level members / sympathisers are not at real risk on return. However following the elections of November 2011 there are heightened political tensions and each case must be assessed on its individual merits, The credibility and accepted level of any political profile of the applicant must be carefully considered, together with up to date country information, to determine whether the DRC authorities are likely to view the applicant adversely.

3.6.22 As regards political activity in the UK no evidence could be found to support the allegations that the DRC authorities have either the capacity or capability in the UK to monitor low level political opponents, including those participating in anti government rallies in the UK.

The concluding guidance for this category of claimants is based on the findings of the Country Guidance determinations of MM and AB and DM, but adds that “low level members/sympathisers are not at real risk on return”. This statement is not representative of any of the three CG case findings. The Tribunal in MM in fact found that low level members/sympathisers of the UDPS [Union of Democracy and Social progress] only were not at risk as follows:

[MM \(UDPS members, Risk on return\) Democratic Republic of Congo CG \[2007\] UKAIT 00023 \(13 March 2007\)](#)

[...] 202. It follows that we continue to believe that **low level members/sympathisers of the UDPS for that reason alone, will not be at real risk on return to the DRC in the current climate**, but conclude that it is too early in the process of the transition of the DRC to democratic rule, to find that there is no continuing threat on the part of the current Kabila regime to persecute UDPS activists. As the Tribunal in [AB and DM](#) rightly observed, the risk category to those having or being perceived to have a military or political profile in opposition to the government is one that "fluctuates in accordance with the political situation." (See paragraph 51(iii)) of their determination). **[Emphasis added]**

At paragraph 3.6.21 the OGN accurately represents the CG cases' positions that the level of risk fluctuates in accordance with the political situation and therefore the concluding guidance further advises case owners to assess each case together with “up to date country information”. The information contained in the preceding paragraphs 3.6.2-3.6.9, which make up the ‘Treatment’ subsection, is almost exclusively taken from the 2010 U.S. Department of State annual human rights report published in April 2011. This report covers incidents of violence and targeted attacks against political opponents and supporters during 2010. More recent information available in the public domain continues to report on the oppression and harsh treatment of political opponents or those perceived to be in opposition to the government, including low level members/sympathisers, during 2011 and 2012, pre and post-election, as follows:

➤ [The Guardian, Congo embassy workers claim asylum in UK, 20/02/2012](#)

Three senior diplomats have resigned from their posts at the Congolese embassy in London and claimed asylum in the UK.

[...] They resigned earlier this month and have issued a lengthy statement denouncing their government, accusing it of presiding over a "climate of terror".

They claimed the government of the Democratic Republic of the Congo was guilty of abductions, arrests and assassinations as well as turning the police and Republican Guard into a private militia. Congo's incumbent president, Joseph Kabila, was re-elected last November but controversy surrounded the results with opposition politicians claiming the ballot was rigged. The respected Carter Centre observed the election and said the results "lacked credibility". Human Rights Watch reported that at least 24 people

were killed by police after the disputed vote. The three diplomats said in their statement that there had been substantial election fraud and ballot box stuffing. The Metropolitan police made 139 arrests last December during a demonstration organised by Congolese people living in the UK who added their voices to those who argued that the outcome of the election was flawed. "We had many concerns about the situation in Congo and that is why we resigned. We were accused by the Congolese government of taking part in the London demonstration against the government last December but this is not true," said Moussouzo. "The government said that because we were involved in this demonstration we were being recalled to Congo. "We believed that our lives would be in danger if we returned to our country in these circumstances and so we had to resign and claim asylum here in the UK." A spokeswoman for the Congolese embassy said it was not commenting on the resignations.

➤ [U.S. Department of State, Country Reports on Human Rights Practices for 2011: Congo, Democratic Republic of the, 24/05/2012](#)

[...] The three most important human rights issues were: conflict and insecurity in the East that exacerbated an already precarious human rights situation, particularly sexual- and gender-based violence (SGBV); insecurity during the election period; and the lack of an independent and effective judiciary.

Other major human rights problems included the following: impunity enjoyed by SSF throughout the country for many serious abuses, including unlawful killings, disappearances, torture, rape, and arbitrary arrests and detention; severe and life-threatening conditions in prison and detention facilities; prolonged pretrial detention;

[...] Impunity for human rights abuses was a severe problem in both the security services and elsewhere in the government. Authorities did not prosecute or punish the great majority of abusers.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were several occasions during the year when SSF members arbitrarily and summarily killed civilians, sometimes during apprehension or while holding them in custody, sometimes during protests, and often when victims did not surrender their possessions, submit to rape, or perform personal services. For example, Human Rights Watch (HRW) reported that SSF killed 24 individuals, including both bystanders and members of the opposition, in elections-related violence between December 9 and 14. Of these incidents, 20 took place in Kinshasa, two in North Kivu, and two in Kasai Occidental.

[...] b. Disappearance

There were reports of disappearances attributable to SSF, including reports of disappearances of members of opposition political parties

[...] For example, on November 4, former CNDP members of the FARDC allegedly kidnapped and beat a popular musician after he performed songs in support of opposition candidates. They released him on November 6 after community demonstrations. On November 9, he spoke at a press conference in support of President Kabila, reportedly under intense pressure.

[...] d. Arbitrary Arrest or Detention

[...] Arrest Procedures and Treatment While in Detention

[...] Arbitrary Arrest: Security personnel arrested and detained without charge perceived opponents and critics of the government, sometimes under the pretext of state security, and often denying due process, such as access to an attorney

[...] e. Denial of Fair Public Trial

[...] Political Prisoners and Detainees

There were reports of political prisoners and detainees. Voix des Sans-Voix, a Congolese NGO, reported 211 political detainees, which represents an increase from the 142 reported in 2010. While the government permitted access to some of these prisoners by international human rights organizations and MONUSCO, authorities consistently denied access to detention facilities run by the RG and the ANR

[...] Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

[...] Public criticism of government officials and government conduct or decisions regarding issues such as conflict and insurgencies, management of natural resources, and corruption, sometimes resulted in harsh responses, often from the ANR, the intelligence service under the president's control.

[...] b. Freedom of Peaceful Assembly and Association

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#### Freedom of Assembly

[...] State security forces often acted against unregistered protests, marches, or meetings.

On occasion authorities denied permission to hold demonstrations, in particular to opposition parties and their civil society allies. Incidents related to freedom of assembly occurred regularly. For example, according to HRW, 12 opposition supporters and bystanders were killed and 41 were injured on November 26, the final day of the campaign period, when supporters of both Etienne Tshisekedi and President Kabila gathered at N'djili Airport to greet the incoming candidates. RG personnel reportedly fired their weapons into the air and into the crowds.

In addition, the UNJHRO recorded 24 incidents concerning the freedom to assemble between November 2010 and September 2011. One such incident occurred when presidential candidate Kamerhe visited Goma and Bukavu in December 2010. Kamerhe was welcomed by a large crowd in Goma, which was then violently repressed. Thirteen victims, including one child and one 80-year-old woman, were treated after the incident. Local authorities banned subsequent gatherings and jailed Kamerhe's followers in Kasongo and Kindu. At least one woman, Consolante Kanyangire Biringanine, the women's coordinator of Kamerhe's UNC political party, was killed on April 24.

SSF occasionally arrested demonstrators. Opposition party UDPS staged weekly protests in front of the headquarters of the National Independent Electoral Commission (CENI), decrying what it claimed was a lack of transparency and CENI's failure to create an inclusive political process for all parties. During the weekly protests, demonstrators at times burned cars and threw objects while police responded with tear gas, shot bullets into the air, and arrested several individuals.

On September 7, the governor of Kinshasa banned all demonstrations during the final week of the candidacy registration period in response to violent back and forth retaliatory actions between supporters of UDPS and the Parti du Peuple pour la Reconstruction et la Democratie (PPRD). [...]

#### ➤ [Amnesty International, Annual Report 2012: Democratic Republic Of The Congo, 24/05/2012](#)

[...] The general elections were marred by many human rights violations, including unlawful killings and arbitrary arrests by security forces.

[...] Unlawful killings

The periods before and after the elections were marked by unlawful killings and dozens of arbitrary arrests by security forces, including the Republican Guard.

On 4 October, Mayi-Mayi Yakutumba reportedly ambushed a vehicle belonging to Eben Ezer Ministry International, a Congolese NGO, killing seven people, including four staff members, in Kalongwe, Fizi territory, South Kivu.

From December 2010, FARDC soldiers and agents of the national police (PNC) reportedly committed summary executions, rape and lootings in the Mbororo community in Ango, Banda and Buta territories, Orientale province.

After President Kabila was declared the winner of the contested elections on 9 December, Congolese security forces reportedly killed at least 24 people, mostly in Kinshasa.

[...] Freedom of expression

The administrative authorities and security services placed restrictions on the freedoms of expression and association. Government security forces forcibly repressed demonstrators, and clashes occurred between supporters of various political parties. [...]

#### ➤ [UK Foreign & Commonwealth Office, Human Rights & Democracy Report: The 2011 Foreign & Commonwealth Report: Human rights in Countries of Concern: Democratic Republic of Congo, 30/04/2012](#)

[...] Elections

[...] The run-up to the elections was marked by a rise in threats to freedom of expression, delays in the process, reports of irregularities and unrest as opposition supporters clashed with the Congolese security forces.

[...] The Congolese police clashed with opposition supporters on several occasions, which led to a number of deaths. One of the most serious incidents occurred on the weekend before polling day when 18 people, including bystanders, were killed when the presidential guard opened fire on demonstrators.

[...] Freedom of expression and assembly

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There was an increase in violations against the right to freedom of expression during 2011. Opposition candidates, parliamentarians, political activists, journalists, CENI officials and human rights defenders faced increased harassment, intimidation and arbitrary arrests by a variety of state agents. [...]

➤ [Open Society Foundations, The Democratic Republic of Congo: Taking a Stand on Security Sector Reform, April 2012](#)

[...] Insecurity: Congo's Achilles Heel

4. Abuse by Congolese security forces extends beyond immediately conflict-affected zones. The abuse has been most visible in the brutal suppression of political protest or internal unrest, notably in the suppression of the Bundu dia kongo group, the crushing of MLC forces loyal to Jean-Pierre Bemba in Kinshasa, and heavy-handed responses to political protests around the 2011 elections. It has also been felt in the arbitrary arrest or killing of regime opponents, human rights activists and journalists, as well as day-to-day predation and lack of access to even-handed justice. [...]

➤ [UK Foreign & Commonwealth Office, Quarterly Updates: Democratic Republic of Congo, Latest Updated: 31/03/2012](#)

[...] The government's response to opposition protests and other demonstrations both during and after the elections also caused concern, for example the banning of a major demonstration planned by the Catholic Church. The security forces also used tear-gas to disperse crowds and shut off the signals for three radio and two television stations (although these have since been restored). [...]

➤ [Amnesty International, Democratic Republic of Congo. The Congolese government must put an end to impunity for serious human rights violations committed by the defence and security forces during the electoral process, 23/03/2012](#)

[...] Amnesty International has collected several witness statements confirming serious human rights violations by the Congolese defence and security forces before, during and after the presidential and legislative elections of 28 November 2011 in the DRC, notably violations of the rights to life and physical integrity.

[...] Amnesty International has also collected information describing acts of torture, ill-treatment and arbitrary and illegal arrests by the defence and security forces, carried out with the purpose of intimidating members of opposition parties, notably the UDPS and their actual and perceived supporters, as well as journalists, military personnel and police officers.

These waves of arrests in various locations in the country, notably in Kasai Oriental, Équateur, North and South Kivu and Katanga aimed to stifle opposition voices and put an end to the protests launched by the opposition following the announcement of the elections results. Although some of these people have been released, others are still detained incommunicado in military bases in Kinshasa, notably at Kokolo, and at other locations outside the jurisdiction of the judicial authorities, such as the Tshatshi base or the building of the Litho Moboti Group (GLM). [...]

➤ [United States Holocaust Memorial Museum, Political Repression Threatens Increased Violence Against Civilians in Congo, 02/03/2012](#)

[...] Despite having scheduled several protest marches, strikes, and his own presidential inauguration ceremony, however, Tshisekedi and his allies have yet to mobilize enough popular support to pose a significant challenge to Kabila's rule. Tshisekedi has largely been kept under *de facto* house arrest since early December. His supporters who have attempted to rally in Kinshasa and other opposition stronghold cities have been prevented from doing so by Congo's elite Presidential Guard and other security forces, which have not hesitated to use violence and tear gas against UDPS supporters. Tshisekedi responded to this violence by ordering his party's deputies not to attend the parliamentary session currently underway and by continuing to refuse to recognize the Kabila government's legitimacy.

[...] Congo has not yet reached the point of a Cote d'Ivoire-style violent crisis, and for that, the international community should be grateful. We have not seen the massive atrocities, crimes against humanity, or a full-scale civil war many analysts feared in the lead-up to the elections. However, growing repression against those who dissent politically – be it Tshisekedi's unofficial house arrest, the assassination of journalists, or the torture of low-level functionaries who publicly criticize the

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administration – is a sign that democracy in the DRC is far from consolidation. The time to put Congo back on course is now.

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- [MONUSCO/UN Office of the High Commissioner for Human Rights, REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE ON SERIOUS HUMAN RIGHTS VIOLATIONS COMMITTED BY MEMBERS OF THE CONGOLESE DEFENSE AND SECURITY FORCES IN KINSHASA IN THE DEMOCRATIC REPUBLIC OF THE CONGO BETWEEN 26 NOVEMBER AND 25 DECEMBER 2011, March 2012](#)

[...] VIII. Conclusions and recommendations

49. Between 26 November and 25 December 2011, in Kinshasa, members of the Congolese defense and security forces, mainly the GR, the PNC and, to a lesser extent, FARDC soldiers not belonging to the GR, seriously violated human rights of civilians, in particular the rights to life, physical integrity and liberty and security of person, as documented in this report. They are responsible for multiple cases of arbitrary executions and enforced disappearances of civilians and excessive use of force, in particular by firing live ammunition at civilians during demonstrations.

50. Moreover, several arrests were made, and persons detained, either indiscriminately by being targeting particularly on grounds of their province of origin or their political affiliation. Many civilians were detained in unofficial detention cells for long periods of time. [...]

- [allAfrica.com, Congo-Kinshasa: Security Forces Fire Teargas at Peaceful Demonstrators, 16/02/2012](#)

Security forces in the Democratic Republic of Congo on Thursday fired teargas to break up a "March of Christians" organized by the local Roman Catholic Church to protest alleged fraud in the recent presidential and legislative elections, news reports said.

Police in the capital, Kinshasa, used armored vehicles and water cannon to patrol the neighborhoods where the protesters were to demonstrate. They were prevented from marching and gathered in churches, Radio France Internationale reported.

There were no immediate reports of deaths, although Agence France-Presse reported that thugs entered a church and beat women inside. There were also reports that three priests, two nuns and two protesters were detained.

The demonstration was also called to mark a protest by Christian groups that was held 20 years ago today in Kinshasa called the "March of Hope". More than 30 protesters were killed as they called for the government of then-President Mobutu Sese Seko to reopen a national conference on democracy that was supposed to lead the country out of dictatorial rule. [...]

- [UN Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, 26/01/2012](#)

[...] II. Major developments

[...] 5. There were reports of a number of election-related incidents resulting in deaths, injuries and the destruction of property primarily involving supporters of the opposition party UDPS and Union nationale des fédéralistes du Congo/Parti du peuple pour la reconstruction et le développement, supporters aligned with the presidential majority, in the provinces of Kinshasa, Kasai Oriental and Occidental and Katanga. Other incidents included the burning of polling stations, assault upon electoral workers and the destruction of electoral materials. On 26 November in Kinshasa, clashes between UDPS and presidential coalition supporters, and between UDPS and the national security forces, during which several fatalities were reported and several other people were injured, led to the banning by city authorities of all final election campaign rallies that were scheduled to take place that day. On 28 November, in Lubumbashi, six people were reportedly killed in two separate armed attacks aimed at disrupting the distribution of electoral material.

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[...] III. Implementation of the mandate of United Nations Organization Stabilization Mission in the Democratic Republic of the Congo

[...] Human rights

46. On 9 November 2011, MONUSCO and the Office of the United Nations High Commissioner for Human Rights (OHCHR) issued a report documenting 188 human rights violations of varying degrees of severity linked to the electoral process that occurred between 1 November 2010 and 30 September 2011. From 1 October to 31 December 2011, the United Nations Joint Human Rights Office documented an additional 221 election-related human rights violations, the majority of which were allegedly committed by national security elements. The violations most frequently infringed individuals' freedom of expression, the right to physical integrity and the right to liberty and security of person and the right to freedom of peaceful assembly. Numerous cases of arbitrary arrest and ill-treatment, primarily of supporters of the political opposition, were also reported across the country, often linked with attempts to assemble peacefully. There were also incidents of violence and disturbance of public order committed by supporters of political parties.

47. In particular, a human rights investigation conducted by the United Nations Joint Human Rights Office that is ongoing found that at least 27 people were killed and others wounded in Kinshasa between 26 November and 12 December 2011, including by gunshots fired by elements of the national security forces, including the Republican Guard. Reports of similar incidents, which are also being verified and further investigated, were received from Bas-Congo, North Kivu, Kasai Occidental and Kasai Oriental. In other parts of the country, during the same period, elements of the national security forces reportedly committed several killings, including at least one person in Matadi, one in North Kivu, two in Kasai Occidental and two in Kasai Oriental.

48. On 13 December 2011 in Goma, North Kivu, five members of opposition political parties, including the provincial representative of UDPS and a candidate of the Union pour la nation congolaise for the National Assembly, were arrested following an attempt to organize a public protest that was quickly dispersed by the police. On 20 December 2011, a tribunal in Goma acquitted four of the five accused for lack of evidence. The fifth accused was sentenced to 12 months' imprisonment, including a six-month suspended sentence. On 20 December 2011, in Butembo, Congolese National Police personnel arrested five UDPS members and two Union pour la nation congolaise members for criticizing the electoral process in public. On 2 December 2011, following the intervention of the United Nations Joint Human Rights Office, the prosecutor ordered their release. On 21 December 2011, a tribunal in Bukavu acquitted 11 opposition party members of charges of criminal participation in a rebellion following their attempt to organize a public protest during a period when political demonstrations were prohibited by provincial authorities. They were released from pretrial custody on 22 December 2011. [...]

➤ [Human Rights Watch, World Report 2012: Democratic Republic of Congo, 22/01/2012](#)

[...] Preparations for elections preoccupied Congolese authorities and international partners for much of the year. The months before the elections were marked by threats and physical attacks against opposition members, media, and human rights defenders.

[...] Presidential and Legislative Elections

[...] Politically motivated human rights violations increased as elections approached. UN investigators reported 188 cases before the official campaign began in October. Violence perpetrated by police and other state security services included restrictions on political activities, unnecessary force against demonstrators, and arbitrary arrests primarily directed toward opposition parties, their supporters, and journalists. For example, on October 6 the police violently crushed a demonstration by the Union pour la Democratie et le Progres Social (UDPS) opposition party in Kinshasa, using teargas and firing live rounds in the air. One person was killed and at least 10 others were wounded. Some candidates and their supporters also used inflammatory language and hate speech, inciting youth groups and others to use violence against their opponents. [...]

➤ [MONUSCO/UN Human Rights Office of the High Commissioner, REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS DURING THE PRE-ELECTORAL PERIOD IN THE DEMOCRATIC REPUBLIC OF CONGO, November 2011](#)

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#### I. Summary

[...] During the period under review, the United Nations Joint Human Rights Office (UNJHRO) noted an increase in political activities as well as a concerning number of human rights violations and acts of violence targeting political party members, journalists and human rights defenders. In spite of constitutional guarantees, those seeking to express their opinions and their fundamental freedoms of assembly and association were often subjected to abuse by State agents and saw their right to physical integrity violated. Between 1 November 2010 and 30 September 2011, the UNJHRO documented 188 cases of human rights violations, varying in severity, apparently linked with the electoral process. The situation in the East of the country is of particular concern, as political parties have reportedly been targeted and many of their members have been deprived of their liberty or subjected to ill-treatment and threats. At the same time, some political parties have not imposed sufficient restraint upon their followers, which has contributed to violent acts and the disturbance of public order during political demonstrations.

[...] The report also notes worrying trends of manipulation of the State's police, intelligence and justice sectors by political actors. The report expresses serious concern regarding the current situation and concludes that the continued repression of human rights and fundamental freedoms in the pre-electoral period may increase the likelihood of individuals and political parties resorting to violent means, endanger the democratic process and lead to post-electoral violence. [...]

#### ➤ [UN Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo \[S/2011/298\], 12/05/2011](#)

[...] II. Major developments

[...] 2. With the exception of the eastern provinces of Orientale and North and South Kivu where violence has persisted, the overall situation in the Democratic Republic of the Congo remained relatively stable. Pre-electoral activities intensified across the country, including voter registration and actions by the Commission électorale nationale indépendante (CENI). Constitutional amendments were also promulgated, including the change of the presidential poll to a single round. Delays in voter registration and the adoption of essential electoral legislation, however, are expected to pose continued challenges to the timely conduct of the polls. Although the formal campaign period has not yet begun, opposition parties and civil society expressed concern over the disruption of their political activities by national authorities, particularly the police.

[...] 7. The pre-electoral campaign period has also been marked by an increase in politically motivated human rights violations. Since January, MONUSCO has documented over 100 reported incidents targeting political opposition members and supporters, journalists and human rights defenders. Among those, the Union pour la nation congolaise and the Union pour la démocratie et le progrès social reported cases of restrictions in conducting political activities, including arrests of and violence against supporters by national security elements. [...]

#### ➤ [International Crisis Group, Congo: The Electoral Dilemma, 05/05/2011](#)

EXECUTIVE SUMMARY AND RECOMMENDATIONS

[...] Within what is a general climate of insecurity, intimidation of Kabila's opponents has already become apparent.

[...] II. OPPOSITION AND MAJORITY GETTING READY FOR THE BATTLE

[...] A. THE MAJORITY ON THE CAMPAIGN TRAIL

[...] 1. A strategy combining a charm offensive and taking control

[...] Although Joseph Kabila is trying to convince the country that he is the only guarantor of their security and prosperity, his fall in popularity, including with youth, has led the AMP government to also play the intimidation card. In Katanga, the Union of Congo Nationalists and Federalists (Union des nationalistes et fédéralistes du Congo – UNAFEC) uses young militants known as "Zulus" to intimidate opposition party militants, especially those of the Union for Democracy and Social Progress (Union pour la démocratie et le progrès social – UDPS). At electoral registration centres and during public demonstrations, the Zulus threaten "non-natives" for wanting to rob Joseph Kabila of another election victory. In the Kivus and Maniema, Vital Kamerhe's Union for the Congolese Nation (Union pour la nation congolaise – UNC) faces

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intimidation from the local administrative authorities. Some UDPS militants were harassed and arrested before the major public rally of 24 April in Kinshasa. [...]

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### 3.7 Suspected members of current or former rebel groups and treatment of perceived government collaborators by rebel groups

*Excerpt from the May 2012 DRC OGN*

3.7.11 Conclusion Case owners must assess the level of any involvement of the applicant with any rebel group / group member and whether such involvement would now attract the adverse interest of the DRC authorities given the integration of many groups into the DRC armed forces.

3.7.12 Civilians and former members of rebel groups may be targeted by non state agents on the basis of their perceived collaboration with the FARDC or another rebel group. Case owners should consider whether effective protection is available to the individual in their local area. If not case owners should assess whether internal relocation would be an effective way to avoid ill treatment and whether it would be unduly harsh to expect that person to internally relocate (see also Section 2.4).

3.7.13 Case owners should note that some members of current or former rebel forces have been responsible for numerous serious human rights abuses, some of which amount to war crimes. If evidence suggests that the applicant has been involved in such actions, case owners should consider whether one of the exclusion clauses is applicable. The individual circumstances of joining the particular rebel group should also be taken into account, such as experiencing coerced or forced recruitment. Further guidance on Article 1F can be found in the asylum policy instruction on 'Exclusion- Article 1F and 33(2) of the Refugee Convention'. In such instances case owners should refer all cases to a senior case worker.

The concluding guidance provided for this category of claimants is problematic for two reasons. Firstly, at paragraph 3.7.11 it fails to adequately engage with the risk to civilians who are suspected or perceived to be involved with current or former rebel groups and are being targeted by the Congolese government. This is despite paragraphs 3.7.7 and 3.7.10 including information reporting on the human rights violations civilians face perpetrated by the Congolese armed forces:

*Excerpt from the May 2012 DRC OGN*

3.7.7 Reports published by Human Rights Watch and Oxfam during 2009 documented reprisal attacks by the Congolese army against civilians who were accused of having collaborated in one form or another with the rebel group Democratic Forces for the Liberation of Rwanda (FDLR), whether willingly or unwillingly in Eastern DRC. In these attacks, it was noted that the Congolese army committed “—serious human rights violations against civilians”, including killing, raping, beating, looting, arbitrarily arresting and forced labour. In July 2011, Oxfam noted that FARDC continued to accuse civilians of collaborating with rebel groups, specifically the Lord Resistance Army (LRA). One individual interviewed by Oxfam in South Kivu stated “We are all going to flee from here. We are forced to sell to the FARDC on credit, and the day you dare to demand payment, they accuse you of being Mai Mai [self-defence groups/militia] and arrest you”. The UN Secretary-General in his annual report on conflict-related sexual violence noted that “Acts of sexual violence, including a series of mass rapes, took place in North and South Kivu” in several such incidents they appear “to have been perpetrated as a form of retaliation by elements of the Armed Forces of the Democratic Republic of the Congo (FARDC) against the population for their alleged collaboration with the —enemy.”

[...] 3.7.10 The UN Special Rapporteur on extrajudicial, summary or arbitrary executions noted that “Evidence from a variety of sources indicates that rape and related killing are particularly vicious when either the FARDC or FDLR retaliate against communities they suspect of collaborating with the opposing force. FDLR attackers have also engaged in a campaign of rape, repeatedly telling victims the rape was —punishment|| for alleged cooperation with MONUC or the Government”. In August 2010, more than 300 women and children were raped in North Kivu by “a coalition of about 200 members of three rebel groups as a punishment for colluding with the Congolese army”. More recently, in February 2012, UNHCR reported on the torture and killing of IDPs in the camps of North Kivu who were accused “of collaborating with one armed group or another”. In January 2011, the BBC reported

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that at least 26 people had been killed in attacks by the FDLR in South Kivu who accused them of supporting another local militia.

Secondly, the concluding guidance at paragraph 3.7.12 (see above) leaves it to the discretion of the case owner to assess whether effective protection is available to those civilians who are being targeted by rebel groups accusing them of collaborating with the Armed Forces of the Democratic Republic of the Congo (FARDC). However, as mentioned in the COI included in the OGN as presented above, these same civilians may also be targeted by the FARDC and exposed to human rights violations, making it almost impossible for the victims to seek redress and access effective protection if they are fearing both the army and the rebel groups.

Additional COI available in the public domain continues to report on the Congolese authorities' treatment of civilians suspected or perceived to be involved with current or former rebel groups as follows:

- [U.S. Department of State, Country Reports on Human Rights Practices for 2011: Congo, Democratic Republic of the, 24/05/2012](#)  
[...] Section 1. Respect for the Integrity of the Person, Including Freedom from:  
[...] g. Use of Excessive Force and Other Abuses in Internal Conflicts  
[...] Killings, Physical Abuse, Punishment, and Torture  
[...] FARDC soldiers engaged in anti-FDLR operations often arbitrarily arrested civilians whom they suspected of being collaborators or sympathizers of the FDLR and detained them without charge for days or weeks, often beating them and demanding payment for their release. SSF in the East forced men, women, and children, including IDPs, to serve as porters, miners, and domestic laborers. [...]
- [Amnesty International, Annual Report 2012: Democratic Republic Of The Congo, 24/05/2012](#)  
[...] Torture and other ill-treatment  
[...] Between 27 July and 1 August, during a military operation in Rutshuru territory, North Kivu, FARDC soldiers reportedly arbitrarily arrested 27 people as a reprisal for alleged FDLR collaboration. At least eight of them were allegedly subjected to torture and other cruel, inhuman or degrading treatment, and forced labour. [...]
- [Human Rights Watch, World Report 2012: Democratic Republic of Congo, 22/01/2012](#)  
[...] Attacks on Civilians  
[...] Government soldiers also attacked civilians while fighting in the north against the Lord's Resistance Army (LRA), a Ugandan rebel group with a long record of atrocities. The worst attacks were against the Mbororo nomadic cattle herders who frequently traverse the border between Congo and the Central African Republic (CAR). At least 35 Mbororo women and girls were raped. Some women were taken to army camps where they were held and repeatedly raped. Soldiers also beat and arbitrarily detained Mbororo men and pillaged their cattle. The army claimed the Mbororo were aligned with the LRA, but provided no evidence to support the claim. [...]

Sources also report on human rights violations committed by FARDC soldiers against civilians in Eastern Congo who are not specifically targeted for their suspected or perceived involvement with rebel groups but who just happen to be located in an area where the soldiers pass through or are stationed:

- [U.S. Department of State, Country Reports on Human Rights Practices for 2011: Congo, Democratic Republic of the, 24/05/2012](#)  
[...] Section 1. Respect for the Integrity of the Person, Including Freedom from:  
[...] d. Arbitrary Arrest or Detention  
[...] Role of the Police and Security Apparatus

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[...] FARDC units throughout the country regularly engaged in illegal taxation and harassment of civilians. They set up checkpoints to collect “taxes,” often arresting individuals who could not pay the demanded bribes and stealing food and money.

[...] g. Use of Excessive Force and Other Abuses in Internal Conflicts

[...] Killings, Physical Abuse, Punishment, and Torture

[...] SSF [state security forces] in the East forced men, women, and children, including IDPs, to serve as porters, miners, and domestic laborers.

[...] Child Soldiers

The recruitment and use of children in North Kivu, South Kivu, and Orientale provinces by RMG and FARDC (particularly within the poorly integrated elements, including ex-CNDP), continued.

[...] Other Conflict-related Abuses

[...] In North Kivu and South Kivu RMG and criminal elements of the FARDC continued to illegally exploit and trade natural resources for revenue and power.

[...] In addition, FARDC units and RMG routinely extorted illegal taxes from civilians and at times forced civilians to work for them or relinquish their mineral production.

[...] Section 2. Respect for Civil Liberties, Including:

[...] d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

[...] Local authorities continued to extort taxes and fees from boats traveling on many parts of the Congo River. There were also widespread reports of FARDC soldiers extorting fees from persons taking goods to market or traveling between towns.

[...] Internally Displaced Persons (IDPs)

[...] Displaced women and children were extremely vulnerable to abuses, including rape and forced recruitment, by FARDC, RMG forces, and civilians.

IDPs in North Kivu were victims of abuses, including sexual exploitation of women and children, abduction, forced conscription of children, looting, plundering of crops, illegal taxation, and general harassment, by all factions engaged in fighting, including FARDC, and by other civilians. [...]

➤ [Amnesty International, Annual Report 2012: Democratic Republic Of The Congo, 24/05/2012](#)

[...] Violence against women and girls

Rape and other forms of sexual violence remained endemic and were committed by government security forces, including the PNC, and armed groups. Sexual violence often accompanied other human rights violations, such as looting and torture. While some prosecutions took place, impunity was still widespread and victims were often threatened. Rape survivors did not receive adequate support and assistance and continued to be stigmatized

[...] On 31 December 2010 and 1 January 2011, FARDC soldiers reportedly committed mass rapes in Bushani and Kalambahiro villages, Masisi territory, North Kivu.

On 1 and 2 January, FARDC soldiers committed mass rapes in Fizi town, South Kivu. [...]

[...] Child soldiers

Armed groups and the FARDC continued to recruit and use children, notably in eastern DRC, despite hundreds being released. [...]

➤ [UK Foreign & Commonwealth Office, Human Rights & Democracy Report: The 2011 Foreign & Commonwealth Report: Human rights in Countries of Concern: Democratic Republic of Congo, 30/04/2012](#)

[...] Conflict and protection of civilians

The DRC has continued to suffer the effects of over 15 years of conflict. In the east of the country, the presence of illegal militia groups and Congolese army operations against them still pose a serious threat to civilians. In 2011, a number of serious atrocities, such as mass rapes, were committed by both militia groups and Congolese army soldiers

[...] Women’s rights

[...] In 2011, a number of mass rapes were committed by Congolese soldiers and illegal militia groups, including multiple incidents in January around the town of Fizi. There were reports of a further mass rape committed in July in the same area.[...]

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➤ [Open Society Foundations, The Democratic Republic of Congo: Taking a Stand on Security Sector Reform, April 2012](#)

EXECUTIVE SUMMARY

[...] 3. [...] Yet, far from showing sustained improvement, Congolese security forces continue posing a considerable threat to the civilian population rather than protecting them. The recent allegations of an army Colonel leading his troops to engage in widespread rape and looting of villages near Fizi in 2011 underscores the fact that failed military reform can lead to human rights violations. The military – the Forces Armées de la République Démocratique du Congo (FARDC) - has been accused of widespread involvement in the most serious human rights violations. Police corruption is endemic, and almost any form of judicial protection out of reach for the vast majority

[...] Insecurity: Congo's Achilles Heel

[...] 3. This failure is not just indicative of the inability of the Congolese security apparatus to defeat these groups. It is also the result of abuses at the hands of the security services themselves. A survey of more than 10,000 households in North and South Kivu cited the FARDC as the second most common source of insecurity, after banditry. In June and July 2011, UN human rights monitors recorded more abuses at the hands of the FARDC than armed groups. Congolese soldiers are responsible for some of the rapes reported across Eastern DRC. Members of the security services are also responsible for pervasive low-level predation, including involvement in illegal resource exploitation and theft. Many abuses have been perpetrated by deserters from the military, or by those reacting to abuses at the hands of the army. [...]

➤ [Human Rights Watch, World Report 2012: Democratic Republic of Congo, 22/01/2012](#)

[...] Attacks on Civilians

[...] As in the past, government soldiers frequently killed and raped civilians and pressed them into forced labor or looted their belongings. In one case, on the night of January 1 soldiers raped at least 67 women and girls and arbitrarily detained and tortured dozens of other civilians in Fizi, South Kivu. Also in January soldiers raped at least 47 women and girls in Bushani, North Kivu, and looted and burned some 100 homes.

Government soldiers also attacked civilians while fighting in the north against the Lord's Resistance Army (LRA), a Ugandan rebel group with a long record of atrocities. The worst attacks were against the Mbororo nomadic cattle herders who frequently traverse the border between Congo and the Central African Republic (CAR). At least 35 Mbororo women and girls were raped. Some women were taken to army camps where they were held and repeatedly raped. Soldiers also beat and arbitrarily detained Mbororo men and pillaged their cattle. The army claimed the Mbororo were aligned with the LRA, but provided no evidence to support the claim. [...]

Several sources have also raised their concern that the Congolese authorities' ability to provide effective protection might be further undermined by the recent fighting in North Kivu between Congolese armed forces and FARDC deserters reportedly loyal to either General Bosco Ntaganda – (former leader of the rebel group CNDP and former general in the Congolese national army who recently deserted; he is also wanted by the International Criminal Court) – or Colonel Sultani Makenga (another former Congolese army officer and former member of the CNDP).

➤ [International Crisis Group, Open Letter to the United Nations Security Council on the Situation in the Democratic Republic of Congo, 11/06/2012](#)

[...] History is again repeating itself in the east of the Democratic Republic of Congo (DRC). There is a risk of serious escalation of violence and the United Nations Stabilization Mission in the Congo (MONUSCO) is failing in its core mandate of stabilisation and protection of civilians. This month's renewal of MONUSCO presents a vital opportunity for the Security Council to review its strategy in the DRC. Eastern Congo is again rapidly destabilising with the defection of Bosco Ntaganda from the Congolese army and the formation of the M23 Movement, another Tutsi-led rebellion allegedly supported by Rwanda. The government, weakened by presidential and legislative elections last November that were widely recognised as deeply flawed, is seizing the opportunity to please the international community by at last pursuing the capture of Ntaganda. President Joseph Kabila seems to be gambling that this is an

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opportunity to break the parallel structures maintained by the Congrès national pour la défense du peuple (CNDP) within the army, and to remobilise domestic support around anti-Rwanda sentiment by pursuing a military defeat of the M23. In addition to the fragmentation of the army and new fighting between the Forces armées de la République démocratique du Congo (FARDC) and ex-CNDP elements, various Mai-Mai groups have expanded their reach and the Forces démocratiques pour la libération du Rwanda (FDLR) remains a persistent, if diminished threat, as the FARDC fails to control territory. [...]

➤ [Human Rights Watch, Democratic Republic of Congo: Bosco Ntaganda Recruits Children by Force, 16/05/2012](#)

[...] A Second Mutiny

Many of the soldiers who mutinied with Ntaganda have either returned to the Congolese army or are suspected to have joined Col. Sultani Makenga, another Congolese army officer who launched a separate mutiny on May 3. A Makenga spokesman said in a press release and subsequent media interviews that Makenga was not with Ntaganda and that his mutiny was to highlight the grievances of the Tutsi community and conditions in the Congolese army. Ntaganda and Makenga previously worked together in the Rwanda-backed CNDP rebel group.

The Congolese government is fighting Makenga's forces – known as M23 in reference to the March 23, 2009 peace agreement between the CNDP and the Congolese government – near Runyoni and Djomba in Rutshuru territory, North Kivu.[...]

➤ [Amnesty International, Civilians must be protected amid escalating violence in eastern DRC, 02/05/2012](#)

[...] Warring parties in the Democratic Republic of Congo (DRC) must take measures to ensure civilians are protected, Amnesty International urged as fighting between the army and armed groups intensified in the country's eastern province of North Kivu.

Violent clashes which flared up over the weekend between the Congolese army, the Armed Forces of the Democratic Republic of Congo (FARDC), and FARDC deserters reportedly loyal to General Bosco Ntaganda have put the civilian population of North Kivu region at risk, prompting thousands to flee. At least three women were killed amid fighting between FARDC and FARDC deserters on Monday in the town of Ngungu in Masisi territory but the number of civilian casualties may well be higher, Amnesty International has learnt. [...]

➤ [Refugees International, DR CONGO: LOCAL COMMUNITIES ON THE FRONT LINE, 24/04/2012](#)

[...] Background

[...] The recent defection of several units of the Congolese military (FARDC) in the east demonstrates the poor level of control that the DRC government wields over its own institutions and territory. This was further underlined by the fact that neighboring Rwanda played a critical role in helping to stabilize the situation and force the surrender or return of defecting commanders.

Insecurity continues to be a day-to-day issue for hundreds of thousands of civilians, mainly in the east. Ongoing violence being waged by militia groups, the FDLR (the group founded by Rwandan génocidaires who fled to the DRC in the mid 1990's) and even some units of the FARDC still threatens the lives and livelihoods of ordinary Congolese people. All armed groups regularly ignore the distinction between combatants and civilians. In addition to organized attacks on communities, the Congolese are constantly exposed to looting, forced labor, forced recruitment, and other predatory behaviour [...]

### 3.10 Security Situation: Eastern DRC (including Orientale Province and the Kivus)

*Excerpt from the May 2012 DRC OGN*

3.10.16 Conclusion. In the Kivus, internal conflict continued to affect the human rights situation and both rebel groups and members of the Congolese army committed gross human rights abuses against civilians, including mass rapes, mutilations, forced child soldier recruitment, indiscriminate killings, sexual and gender-based violence. In northern Congo, civilians continue to be at risk of death, injuries, abductions, forced labour, looting, forced displacement and general insecurity from the Lord's Resistance Army. Persons are also at risk of human rights abuses by the FPJC and FRPI.

The concluding guidance emphasises at paragraph 3.10.16 that sexual and gender-based violence including mass rapes, are committed in the Kivus by both rebel groups and members of the Congolese army. It may actually be argued that the extent and violence with which sexual violence and rape is committed with impunity in Eastern DRC amounts to persecution. The information available shows that there is a serious problem of impunity and lack of effective protection for women with very few perpetrators being brought to justice and that those who are, can escape by bribing the authorities. This generalised situation of sexual violence and rape against women and children fosters a culture of impunity throughout the country. In individual cases, women may be at risk of persecution because of their gender and, therefore, on account of their membership of a particular social group, without effective state protection and internal relocation alternatives.

For a list of sources demonstrating the systematic, widespread and state orchestrated or sanctioned high prevalence of sexual violence against women throughout the DRC please consult the section below '[Women](#)'.

*Excerpt from the May 2012 DRC OGN*

3.10.16 Conclusion. In the Kivus, internal conflict continued to affect the human rights situation and both rebel groups and members of the Congolese army committed gross human rights abuses against civilians, including mass rapes, mutilations, forced child soldier recruitment, indiscriminate killings, sexual and gender-based violence. In northern Congo, civilians continue to be at risk of death, injuries, abductions, forced labour, looting, forced displacement and general insecurity from the Lord's Resistance Army. Persons are also at risk of human rights abuses by the FPJC and FRPI.

3.10.17 A state of civil instability and/or where law and order has sometimes broken down does not of itself give rise to a well-founded fear of persecution for a Refugee Convention reason. The claimant must demonstrate a well-founded claim for asylum where he or she is at risk of persecution on Convention grounds, however, consideration must be given to the up to date country of origin information.

3.10.18 Each case must be considered on its individual merits to assess whether effective protection is available. In those cases where effective protection is not available, then careful consideration must be given as to whether internal relocation would be an effective way to avoid a real risk of ill-treatment and whether it would not be unduly harsh to expect the applicant to internally relocate to another part of the DRC. The areas of conflict are approximately one thousand miles from Kinshasa and there is no evidence that those who make a claim based on the violence and/or humanitarian situation in an area of conflict would not be able to relocate to Kinshasa or other government-controlled areas where they will, should the need arise, be able to seek protection. It is therefore unlikely that the grant of asylum or Humanitarian Protection will be appropriate in most cases.

3.10.19 The Courts found in NA that members of the Hema tribe are likely to be treated by the authorities in the DRC in the same way as Tutsis and Rwandans and may be at risk of persecution on return to the Ituri region. Tribal membership by itself is not determinative. Whether a member of the Hema is at real risk of persecution or is able to relocate internally depends not only on his ethnicity

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but also on his profile, background and circumstances looked at in the light of the country evidence as a whole.

3.10.20 Case owners should note that some members of current or former rebel forces have been responsible for numerous serious human rights abuses, some of which amount to war crimes. If evidence suggests that the applicant has been involved in such actions, case owners should consider whether one of the exclusion clauses is applicable. Account should be taken of the individual circumstances of joining a particular rebel group, such as experiencing coerced or forced recruitment. Guidance on Article 1F can be found in the asylum policy instruction on ‘Exclusion- Article 1F and 33(2) of the Refugee Convention’. In such instances case owners should refer all cases to a senior case worker.

The concluding guidance for this category of claimants also finds at paragraphs 3.10.17 and 3.10.18 that “up to date country of origin information” needs to be considered in relation to their particular claim, availability of effective protection and internal relocation.

With regard to an assessment of effective protection and internal relocation please view the commentary provided further below in the sections ‘[2.3 Actors of protection](#)’ and ‘[2.4 Internal relocation](#)’.

For a list of useful sources to research the current security situation in the DRC please consult the database [Useful sources to consult on the security situation in the DRC](#) included in the Appendix. A similar database for researching the humanitarian situation in the DRC, [Useful sources to consult on the humanitarian situation in the DRC](#), can also be found in the Appendix.

## 5. Returns

### Excerpt from the May 2012 DRC OGN

5.5 In May 2009, the 'The Guardian' revealed that two Congolese returnees had been detained and tortured after arrival. One of the returnees declared that "The government in Congo views Congolese people deported back home from the UK as enemies [...]. The guards who beat me kept saying to me "You are a spy, give us information, why are you doing this to your country. The International Organization for Migration (IOM) was asked whether it had been informed of returnees (whether forced or voluntary) being ill-treated upon return to DRC, the IOM contact declared that they are not aware of such problems. IOM added that returnees are heard by DGM and kept by DGM only if they are criminals. Otherwise, DGM let them go.

The highlighted sentence is referenced as the March 2012 COIS report on the DRC, which in turn cites at paragraph 32.12 a response by researchers in the Belgian and French Country of Origin Information (COI) Research Units dated 9<sup>th</sup> February 2011. The same source further notes, which is included in the COIS report at paragraph 32.12, that the IOM is "not involved in the forced returns of rejected asylum seekers, unless they have accepted to return voluntarily" for whom they then "can be present at the airport to provide for transportation to the returnee's home".<sup>1</sup> This implies that the IOM is not well placed to comment on whether it would be aware of forced returnees being ill-treated upon return to the DRC and undermines the reliability of the information presented above in paragraph 5.5 of the OGN.

### Excerpt from the May 2012 DRC OGN

5.2 Except in the case of people leaving the country to avoid prosecution, the illegal exit from the country of origin has no negative consequence per se. Upon arrival at the airport, immigration agents will wait for the returnee and identify him before taking him to the litigation office of the DGM for the formalities before the hearing. Returning Congolese are likely to be interviewed by DGM officials and subjected to systematic searches and extortion of their private belongings, e.g. shirts, pants, shoes, watches, lighters, as well as money) if for example the vaccination certificate isn't valid. This may continue in the parking area, after leaving the passenger zone of the airport, as individuals from the security forces rightly or wrongly believe that returnees have a lot of money and goods with them. The Tribunal concluded in BK (see caselaw) – paragraph 323 that in general the treatment faced by returnees required to pay a bribe will not breach Article 3.

5.3 In terms of the impact of crimes committed outside of the country; persons having purged their sentence in the asylum country after sentence do not risk prosecution from Congolese courts.

5.4 The United Nations High Commissioner for Refugees (UNHCR) noted in 2011 —In January 2011 there were 107,900 returnee refugees (whose country of origin was DRC) in the country of which UNHCR assisted 10,900. In December 2011 there were 145,500 of which UNHCR assisted 145,500.

5.5 In May 2009, the 'The Guardian' revealed that two Congolese returnees had been detained and tortured after arrival. One of the returnees declared that "The government in Congo views Congolese people deported back home from the UK as enemies [...]. The guards who beat me kept saying to me "You are a spy, give us information, why are you doing this to your country. The International Organization for Migration (IOM) was asked whether it had been informed of returnees (whether forced or voluntary) being ill-treated upon return to DRC, the IOM contact declared that they are not aware of such problems. IOM added that returnees are heard by DGM and kept by DGM only if they are criminals. Otherwise, DGM let them go.

5.6 In February 2011, the president of the 'Voix des Sans Voix' (VSV or Voice of the Voiceless'), a Congolese Human Rights NGO stated: we continue going to the airport in order to monitor the arrivals of returnees. Since we have been present in the airport, we have established good contacts

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<sup>1</sup> [UKBA/COI Service, The Democratic Republic of Congo: Country of origin \(COI\) Report, 09/03/2012](#), paragraph 32.12.

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with agents of DGM and security services. We go to Ndjili roughly once a week, especially when they are international flights, like Air France or SN Brussels, landing in Kinshasa. In the last year or so, we have not observed any ill treatment of returnees. Of course, extortion is still practiced, even though more rarely now. Airport agents may take clothes or other belongings from returnees. Another Congolese NGO representative, the president of the 'Comité des observateurs des droits de l'Homme' (CODHO or Committee of Observers of Human Rights) provided a somewhat different light on the situation of returnees : "Returnees are placed in the hands of the DGM agents who interrogate them on their departure from DRC and the reasons they asked for asylum in Europe. They are then kept a few hours in the airport while DGM agents report to their hierarchy and wait for further instructions. Those who do not represent a problem are immediately released. For the returnees who represent a problem - amongst whom political opponents who made no secret of their political position in European cities - after they are interviewed by DGM, it may occur that they are taken to the city centre, to the DGM national office for more questioning and possibly, to be handed over to the Public Prosecutor's office to be charged. Only the Public Prosecutor's office may decide on such charge. In other words, activists who are well-known for their position against authorities, who are failed asylum-seekers, are obviously exposed to ill-treatments when arriving in Ndjili".

5.7 A report by Justice First, UK-based Non Government Organisation set up to work with people whose asylum claims had been refused, 'Unsafe Return, Refoulement of Congolese Asylum Seekers', compiled by Catherine Ramos, dated 24 November 2011 (JF Report 2011), stated in its introduction: This report has been prepared in response to a growing concern for the plight of Congolese nationals who have sought asylum in the UK, whose appeals have been refused and who have been forcibly removed to the Democratic Republic of the Congo between 2006 and 2011. During this period, first hand reports which were received from nine people who had been living in the Tees Valley area alleged inhuman and degrading treatment at the hands of the Congolese authorities.

The JF Report provided a summary of its findings, —documented that the human rights of 9 children and 15 adults were violated after removal. The returnees in this report were perceived or actual political opponents of the current DRC regime. The UK Border Agency is considering the findings of this report.

5.8 In accordance with the current country guidance in BK (Failed asylum seekers) DRC CG [2007] UKAIT 00098 the UK Border Agency maintains that failed asylum seekers per se do not face a real risk of persecution or serious harm on return to the DRC. However BK does accept that returnees are likely to be questioned and case owners should review each case to determine whether the applicant falls into the risk categories identified in Country Guidance, whilst taking into consideration appropriate evidence which post dates BK.

The OGN concludes at paragraph 5.8 that despite country of origin information post-dating the Country Guidance case of *BK* and included in the OGN at paragraphs 5.5-5.7 (see highlighted sentences above), which details that returnees are subject to interrogation and ill-treatment on return, UKBA "maintains that failed asylum seekers per se do not face a real risk of persecution or serious harm on return to the DRC". It further states that the findings of the report by the UK-based charity Justice First are still being considered (see paragraph 5.7 above), without providing further guidance as to when this will be done and on what basis.

Based on a further finding in the CG case *BK*, the OGN accepts at paragraph 5.8 that returnees are likely to be questioned by Congolese authorities upon their return. Sources available in the public domain report on the recent prolonged arrest of Congolese returnees, who were deported from South Africa. Please note that the two sources are in French. Should they be presented in court an official translation of the full articles needs to be sought.

- [7sur7, Alors que la RDC est en guerre et en pleine crise post électorale - Un charter ramène des Congolais expulsés par Londres, 08/06/2012](#)

[...] Cette situation nous rappelle le sort des Congolais expulsés de l'Afrique du Sud dont certains se trouvent encore en détention illégale à la prison de Kasapa, au Katanga sans jugement.

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Il sied d'indiquer que le Gouvernement sud africain a expulsé, au cours des quatre derniers mois 81 Congolais, au motif qu'ils étaient en séjour irrégulier. Le premier groupe, constitué de 51 personnes, est arrivé à Lubumbashi 'au mois de février 2012 ; et le second, constitué de 30 personnes est arrivé le 06 mai 2012.

A leur arrivée à l'aéroport de la Loano à Lubumbashi, ils ont été embarqués dans des camions par les agents de l'ordre et conduits directement à la prison de Kasapa où ils sont détenus pendant plusieurs jours sans connaître les charges qui pèsent sur elles. Les 51 refoulés du premier lot ont été libérés après avoir signé, au Parquet Général de Lubumbashi, un acte d'engagement de ne plus rentrer en Afrique du Sud.

La plupart d'entre elles ont rapporté qu'elles ont été arrêtées, détenues à la prison de Lindela, proche de Sun City, et refoulées à cause de leur participation aux différentes manifestations de colère qui étaient organisées dans différentes villes de l'Afrique du Sud après la publication des résultats des élections présidentielle et législatives organisées en RDC en novembre 2011. [...]

➤ [Afrique Redaction, Alors que leur libération était déjà acquise : Les trente Congolais chassés d'Afrique du Sud toujours maintenus en prison, 17/05/2012](#)

La libération des trente sujets congolais expulsés d'Afrique du Sud et détenus à la prison de Kassapa à Lubumbashi continue à poser problème. Pourtant, leur relaxation avait déjà été acquise au terme d'une identification effectuée par des agents de la Direction générale de migration (DGM) et ceux l'Agence nationale des renseignements (ANR). Le ministre de la Justice est donc interpellé au plus haut point. Expulsés d'Afrique du Sud pour séjour irrégulier, trente sujets congolais avaient rentré au pays par Lubumbashi où ils ont été cueillis par les services de sécurité depuis février 2012 au fallacieux motif de séjour irrégulier.

Pendant six jours après leur arrivée à Lubumbashi, ces Congolais avaient été gardés à la prison centrale de Kassapa. Après une identification effectuée par des agents de la DGM et ceux de l'ANR, les autorités judiciaires ont vite fait d'ordonner leur libération, 48 heures plus tard. A en croire l'équipe de la MONUSCO qui les avait visités à trois fois successives dans leur geôle de Kassapa, ces Congolais faits prisonniers avaient été illégalement privés de leur liberté. Il est cependant à noter que leur libération était conditionnée par la présence de leurs membres de famille. Pour sa part, l'équipe de la MONUSCO pense que la décision d'exiger la présence des membres de leurs familles ne constituait qu'un obstacle en vue de trouver l'occasion de prolonger leur détention ou ne serait que de manoeuvres dilatoires en vue de pouvoir les rançonner. La plupart des prisonniers réclament l'amélioration de leurs conditions de détention. Ils sont originaires des provinces soit du Katanga, soit du Nord ou Sud-Kivu pendant que d'autres proviennent de Kinshasa. Si à leur arrivée, l'équipe pénitentiaire avait soutenu que ces expulsés n'encouraient aucune poursuite judiciaire quelle est alors la raison qui justifie leur détention jusqu'à ce jour à la prison centrale de Kassapa.

En février dernier, cinquante-deux expulsés d'Afrique du Sud avaient été détenus pendant plusieurs jours à la même prison pour de raisons inavouées avant qu'ils ne regagnent leurs milieux d'origine. L'opinion s'interroge sur les raisons fondées des autorités judiciaires à continuer à retenir en prison ceux qui ont droit à leur liberté. Le nouveau ministre de la Justice qui se voit interpellé à ce sujet est donc appelé de faire la lumière là-dessus et ordonner la relaxation de ces trente compatriotes.  
Louison Mulenge

Depending on the particular circumstances of the claimant and the likely length of interrogation in a detention facility/prison, the concluding guidance provided in paragraph 3.11.11 in relation to prison conditions may be of use to argue an Article 3 claim:

Excerpt from the May 2012 DRC OGN

**3.11.11 Prison conditions in the DRC are severe and taking into account the severely decayed infrastructure, lack of meaningful control by the authorities, torture and abuse of inmates and extremely poor health facilities and sanitary conditions, prisons and detention facilities in the DRC are likely to reach the Article 3 threshold.** Where case owners believe that an individual is likely to face imprisonment on return to the DRC they should also consider whether the applicant's actions means they fall to be excluded by virtue of Article 1F of the Refugee Convention. Where case owners

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consider that this may be the case they should contact a Senior Case worker for further guidance. Where individual applicants are able to demonstrate a real risk of imprisonment on return to the DRC and exclusion is not justified, a grant of Humanitarian Protection is likely to be appropriate. [**Emphasis added**]

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## 2.3 Actors of protection

*Excerpt from the May 2012 DRC OGN*

2.3.16 If the applicant's fear is of ill-treatment/persecution by the state authorities, or by agents acting on behalf of the state, then it is improbable that they can apply to those authorities for protection. Consideration needs to be given as to whether the fear is based on a localised, random or national threat.

2.3.17 If the ill-treatment/persecution is at the hands of non-state agents, then the provision of state protection is unlikely to be available due to the structural weakness of the security services and the criminal justice system, also the widespread existence of corruption in state institutions. Case owners should assess the availability of effective protection on a case by case basis taking into account the specific characteristics of the claimant, the area of operation of the particular group; and evidence of effective State intervention against any criminal activity or human rights violations perpetrated by these agents.

The guidance provided in paragraph 2.3.16 with respect to effective protection states that an assessment needs to be made whether ill-treatment and/or persecution by the state authorities is based on a "localised, random or national threat". This is problematic on three levels:

1. it diverges from UNHCR's position in its 2003 *Guidelines on International Protection: "Internal Flight or Relocation Alternative" within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*:

➤ [UNHCR, Guidelines on International Protection: "Internal Flight or Relocation Alternative" within the Context of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, 23/07/2003](#)

[...] 13. The need for an analysis of internal relocation only arises where the fear of being persecuted is limited to a specific part of the country, outside of which the feared harm cannot materialise. **In practical terms, this normally excludes cases where the feared persecution emanates from or is condoned or tolerated by State agents, including the official party in one party States, as these are presumed to exercise authority in all parts of the country. Under such circumstances the person is threatened with persecution countrywide unless exceptionally it is clearly established that the risk of persecution stems from an authority of the State whose power is clearly limited to a specific geographical area or where the State itself only has control over certain parts of the country.**

14. **Where the risk of being persecuted emanates from local or regional bodies, organs or administrations within a State, it will rarely be necessary to consider potential relocation, as it can generally be presumed that such local or regional bodies derive their authority from the State.** The possibility of relocating internally may be relevant only if there is clear evidence that the persecuting authority has no reach outside its own region and that there are particular circumstances to explain the national government's failure to counteract the localised harm. **[Emphasis added]**

2. it contradicts the highlighted information contained in the following paragraph 2.3.17 (see above) which considers that state protection is unlikely to be available due to "structural weaknesses of the security services and the criminal justice system" as well as "widespread [...] corruption in state institutions".

3. it disregards the COI included in the preceding paragraphs and that included in section '3.6 Political opponents and perceived political activists', as well as additional sources available in the public domain that report on the widespread human rights violations committed by state authorities throughout the DRC.

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Excerpt from the May 2012 DRC OGN

2.3.9 In July 2009, the government adopted a policy of "zero tolerance" for human rights violations by the state security forces following intense criticism by donor countries and international human rights groups. The FARDC disseminated instructions to all soldiers that protecting the population was their duty and warned that rape and other crimes against civilians would be punished. In December 2009 several members of the Universal Periodic Review Working Group (UPRWG) congratulated the government for adopting this policy, but expressed concern over severe deficiencies in its implementation. In March 2012 the UN released a report detailing that, in the context of the 2011 presidential and legislative elections, members of the Congolese defence and security forces were —responsible for multiple cases of arbitrary executions and enforced disappearances of civilians and excessive use of force, in particular by firing live ammunition at civilians during demonstrations.

Information included in the OGN under this section is mainly taken from the 2010 U.S. Department of State annual human rights report and also a recent March 2012 UN report, which clearly show that the government's adopted policy in 2009 of "zero tolerance" for human rights violations as presented in the OGN above has not been implemented in practice. Additional sources available in the public domain and not included in the OGN continue to report on the ongoing human rights violations committed with impunity by the state authorities throughout the DRC as follows:

➤ [Amnesty International, "IF YOU RESIST, WE'LL SHOOT YOU": THE DEMOCRATIC REPUBLIC OF THE CONGO AND THE CASE FOR AN EFFECTIVE ARMS TRADE TREATY, 12/06/2012](#)

[...] 3 PATTERNS OF HUMAN RIGHTS AND HUMANITARIAN LAW VIOLATIONS

Serious violations of international human rights and humanitarian law, including crimes against humanity and war crimes have been committed by Congolese security forces and armed groups throughout the DRC over the last two decades and continue to be committed.

Amnesty International and other organizations have on numerous occasions documented the scale and gravity of the violations committed in the DRC and the almost total impunity that prevails. These include torture, enforced disappearances, and sexual violence committed on a systematic or widespread basis by all forces, the widespread use and recruitment of children into the armed conflicts, countless acts of extrajudicial executions and other unlawful killings, unlawful arrest and detention, as well as violations in the context of exploitation of mineral resources. A significant proportion of these violations have been committed in the context of armed conflict.

[...] Violations by Congolese security forces have also been committed that are not directly related to the armed conflict. Amnesty International and other organizations have documented widespread and politically motivated extrajudicial killings, arbitrary detentions and torture and other ill-treatment committed against alleged supporters of the opposition to President Joseph Kabila and his ruling party, in the aftermath of the 2006 elections and during the electoral process in 2011.

[...] 4 FLAWED SECURITY APPARATUS – THEFT, DIVERSION AND LACK OF CONTROLS

Congolese security institutions are characterized by a marked lack of control and transparency over weapons, munitions and related equipment. This, in a climate of widespread corruption and impunity, makes theft and diversion of weapons and ammunition easier. Such a situation results in the persistent misuse of such arms by soldiers, police and armed groups to commit and facilitate serious violations of international human rights and humanitarian law.

[...] 5 IMPUNITY AND CORRUPTION – FUELLING ABUSES

Impunity for crimes under international law committed by security forces along with corruption within the FARDC, fuel human rights violations and facilitate the diversion of weapons to armed groups that also commit abuses. [...]

➤ [U.S. Department of State, Country Reports on Human Rights Practices for 2011: Congo, Democratic Republic of the, 24/05/2012](#)

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[...] State security forces (SSF) acted independently of civilian control and of military command in many instances. The three most important human rights issues were: conflict and insecurity in the East that exacerbated an already precarious human rights situation, particularly sexual- and gender-based violence (SGBV); insecurity during the election period; and the lack of an independent and effective judiciary.

Other major human rights problems included the following: impunity enjoyed by SSF throughout the country for many serious abuses, including unlawful killings, disappearances, torture, rape, and arbitrary arrests and detention; severe and life-threatening conditions in prison and detention facilities; prolonged pretrial detention; arbitrary interference with privacy, family, and home; SSF members' abuse and threatening of journalists and human rights advocates, and threatening and obstructing the work of UN investigators; abuse of internally displaced persons (IDPs) by SSF and rebel and militia groups (RMG); widespread official corruption; SSF and RMG retention and recruitment of child soldiers; and use of forced civilian labor.

[...] Impunity for human rights abuses was a severe problem in both the security services and elsewhere in the government. Authorities did not prosecute or punish the great majority of abusers.

[...] Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were several occasions during the year when SSF members arbitrarily and summarily killed civilians, sometimes during apprehension or while holding them in custody, sometimes during protests, and often when victims did not surrender their possessions, submit to rape, or perform personal services.

[...] c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

In July the president promulgated a law criminalizing torture. However, the government did not effectively enforce the law, and there were many reports from the UN Joint Human Rights Office (UNJHRO) and other human rights organizations that SSF tortured civilians, particularly detainees and prisoners, and employed other types of cruel, inhuman, and degrading punishment. Members of the police, the National Intelligence Agency (ANR), and the FARDC perpetrated most cases of torture. There were very few reports of government authorities taking action against persons responsible for these acts.

[...] d. Arbitrary Arrest or Detention

[...] Role of the Police and Security Apparatus

[...] The SSF generally were undisciplined, corrupt, undertrained, and grossly underfunded. Salaries were often late or unpaid, although the initiative of the European Union Mission for Security Sector Reform in the DRC (EUSEC), which provided biometric identification cards to soldiers to facilitate disbursement of pay and census of soldiers, resulted in some progress (see section 4).

There were mechanisms available to investigate abuses by SSF and address internal discipline problems, although the mechanisms remained weak and ineffective, particularly for addressing misconduct by mid- and high-ranking officials.

[...] The FARDC was ineffective, due in part to weak command and control, poor operational planning, low administrative and logistical capacity, lack of training, and questionable loyalty of some of its soldiers, particularly those in eastern Congo. Other serious obstacles to the formation of a coherent national army included lack of equipment and barracks. Poor integration of former militias, particularly the CNDP, remained a significant problem

[...] FARDC units throughout the country regularly engaged in illegal taxation and harassment of civilians. They set up checkpoints to collect "taxes," often arresting individuals who could not pay the demanded bribes and stealing food and money.

[...] Impunity in the SSF remained a severe, widespread problem, and the weaknesses of the justice system continued to play a large role in causing it (see section 1.e.). The government rarely prosecuted and disciplined security force personnel for abusing civilians. Military justice institutions continued to face challenges, including a severe shortage of military judges and prosecutors. Magistrates, prosecutors, and investigators were poorly trained, had little or no resources for investigations, and had limited access to legal codes. In addition, the military justice system was often subjected to political and command interference, and security arrangements for magistrates in conflict-affected areas were inadequate. Magistrates who attempted to investigate politically connected high-level FARDC officers were threatened, as were witnesses providing information to judicial officers as, for example, occurred in the investigation into the Walikale and Bushani mass rapes by the Military Prosecutor's Office in North Kivu.

[...] Section 4. Official Corruption and Government Transparency

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[...] Nevertheless, the authorities did not implement the law against corruption, and corruption remained endemic throughout the government and state security forces. Bribery was still routine in public and private business transactions, especially in the areas of government procurement, dispute settlement, and taxation. The public perceived the government to be widely corrupt at all levels. According to the World Bank's Worldwide Governance Indicators, official corruption was a severe problem.

Corruption in the judicial and penal systems continued to be severe (see section 1.c.). In rural areas where there were often no courts within a 300-mile radius, justice was administered on an ad hoc basis by any available authority, creating extraordinary opportunities for corruption and abuse of power. Some observers asserted that members of both the executive and legislative branches were content to keep the judiciary weak and ineffective because it protected their power and allowed them to engage in corruption and abuse of power without consequence.

Weak financial controls and lack of a functioning judicial system encouraged officials to engage in corruption with impunity [...]

➤ [Amnesty International, Annual Report 2012: Democratic Republic of The Congo, 24/05/2012](#)

[...] Impunity for crimes under international law continued in the Democratic Republic of the Congo (DRC), despite some limited progress. Government security forces and armed groups committed scores of human rights violations in eastern DRC.

[...] The general elections were marred by many human rights violations, including unlawful killings and arbitrary arrests by security forces

[...] Abuses by armed groups

Armed groups, including the LRA, the FDLR, FNL, the ADF/NALU and various Mayi-Mayi groups, reportedly committed numerous human rights abuses against civilians. These included rapes, killings, looting and abduction, notably in Orientale, North and South Kivu provinces. Mayi-Mayi armed groups targeted civilians in protest against the government, despite the government policy of integrating national armed groups into the army as an incentive to stop fighting.

The former armed group National Congress for the Defence of the People (CNDP), which was integrated into the national army in 2009 while retaining its autonomy, allegedly committed human rights violations including unlawful killings and arbitrary arrests. Disputes between the army and armed groups about control over mining areas also worsened the security situation and prompted more abuses.

[...] Unlawful killings

The periods before and after the elections were marked by unlawful killings and dozens of arbitrary arrests by security forces, including the Republican Guard.

[...] Torture and other ill-treatment

Torture and other ill-treatment were committed by armed groups and government security forces, including the FARDC, the national police, the National Intelligence Agency and the Republican Guard. Security forces often committed torture and other ill-treatment in detention facilities following arbitrary arrests.

[...] Impunity

The justice system remained largely incapable of securing justice and reparations for victims. Impunity for past and current violations of human rights and international humanitarian law remained widespread, despite some prosecutions and convictions. Suspected perpetrators of crimes under international law were not removed from their posts or brought to justice. A lack of resources, corruption and political and military interference continued to paralyse courts throughout the country. Scores of civilians were tried by military courts. [...]

➤ [UK Foreign & Commonwealth Office, Human Rights & Democracy Report: The 2011 Foreign & Commonwealth Report: Human rights in Countries of Concern: Democratic Republic of Congo, 30/04/2012](#)

[...] In 2011, security forces and illegal armed groups in the Democratic Republic of Congo (DRC) continued to commit human rights violations and abuses against the country's civilian population. The main underlying factors remain the ongoing conflict in the east of the country, a lack of state authority in many areas, and weak institutions. There is generally strong legislation covering human rights issues but implementation is weak and impunity remains a major problem.

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[...] Freedom of expression and assembly

There was an increase in violations against the right to freedom of expression during 2011. Opposition candidates, parliamentarians, political activists, journalists, CENI officials and human rights defenders faced increased harassment, intimidation and arbitrary arrests by a variety of state agents.

[...] Access to justice and the rule of law

The judicial system in the DRC lacks resources, independence and capacity. It suffers from corruption at all levels. As a result, few cases reach court, and impunity for the perpetrators of human rights crimes remains a serious problem.

[...] Conflict and protection of civilians

The DRC has continued to suffer the effects of over 15 years of conflict. In the east of the country, the presence of illegal militia groups and Congolese army operations against them still pose a serious threat to civilians. In 2011, a number of serious atrocities, such as mass rapes, were committed by both militia groups and Congolese army soldiers. [...]

➤ [Open Society Foundations, The Democratic Republic of Congo: Taking a Stand on Security Sector Reform, April 2012](#)

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[...] 3. The central cause of this suffering is continued insecurity. The Congolese government's inability to protect its people or control its territory undermines progress on everything else. An effective security sector - organized, resourced, trained and vetted - is essential to solving problems from displacement, recruitment of child soldiers and gender-based violence, to economic growth or the trade in conflict minerals. This is not a new finding. The imperative of developing effective military, police and judicial structures has been repeatedly emphasized. Yet, far from showing sustained improvement, Congolese security forces continue posing a considerable threat to the civilian population rather than protecting them. The recent allegations of an army Colonel leading his troops to engage in widespread rape and looting of villages near Fizi in 2011 underscores the fact that failed military reform can lead to human rights violations. The military – the Forces Armées de la République Démocratique du Congo (FARDC) - has been accused of widespread involvement in the most serious human rights violations. Police corruption is endemic, and almost any form of judicial protection out of reach for the vast majority.

4. The root of the failure to implement security sector reform (SSR) is a lack of political will at the highest levels of the Congolese Government. Rather than articulating a vision for Congolese security and marshaling assistance to achieve it, the Government has instead encouraged divisions among the international community and allowed corrupt networks within the security services to flourish, stealing the resources intended to pay basic salaries or profiting from exploitation of natural resources. Unless this is changed, sustainable reform will be impossible. The investment made by Congo's partners could be wasted, and Congo's people will continue to suffer. [...]

➤ [UN Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, 26/01/2012](#)

[...] III. Implementation of the mandate of United Nations Organization Stabilization Mission in the Democratic Republic of the Congo

[...] Human rights

46. On 9 November 2011, MONUSCO and the Office of the United Nations High Commissioner for Human Rights (OHCHR) issued a report documenting 188 human rights violations of varying degrees of severity linked to the electoral process that occurred between 1 November 2010 and 30 September 2011. From 1 October to 31 December 2011, the United Nations Joint Human Rights Office documented an additional 221 election-related human rights violations, the majority of which were allegedly committed by national security elements. The violations most frequently infringed individuals' freedom of expression, the right to physical integrity and the right to liberty and security of person and the right to freedom of peaceful assembly. Numerous cases of arbitrary arrest and ill-treatment, primarily of supporters of the political opposition, were also reported across the country, often linked with attempts to assemble peacefully

[...] 47. In particular, a human rights investigation conducted by the United Nations Joint Human Rights Office that is ongoing found that at least 27 people were killed and others wounded in Kinshasa between 26 November and 12 December 2011, including by gunshots fired by elements of the national security

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forces, including the Republican Guard. Reports of similar incidents, which are also being verified and further investigated, were received from Bas-Congo, North Kivu, Kasai Occidental and Kasai Oriental. In other parts of the country, during the same period, elements of the national security forces reportedly committed several killings, including at least one person in Matadi, one in North Kivu, two in Kasai Occidental and two in Kasai Oriental.

[...] IV. Observations

[...] 72. Incidents of violence connected with the elections are of serious concern. Elections should be an opportunity to consolidate stability and the gains of peace and development. In this regard, while a significant deterioration in the security situation was avoided, the presidential and legislative elections were seriously marred by a number of deaths and injuries. Furthermore, national security force elements were reportedly involved in a number of extrajudicial executions and arbitrary arrests, and committed other serious human rights violations. I strongly urge the Congolese authorities to ensure respect for human rights, including through avoiding the excessive use of force and complying with international human rights law in dealing with public demonstrations and other instances of civil unrest that may accompany future elections. Perpetrators of human rights violations should also be held accountable. In this connection, the findings of MONUSCO investigations into reported human rights violations related to the elections will be included in my next report. [...]

➤ [Human Rights Watch, World Report 2012: Democratic Republic of Congo, 22/01/2012](#)

[...] The human rights situation in the Democratic Republic of Congo (DRC) remained grave. All sides in the country's ongoing armed conflicts continued to attack civilians and commit other serious human rights abuses.

[...] Preparations for elections preoccupied Congolese authorities and international partners for much of the year. The months before the elections were marked by threats and physical attacks against opposition members, media, and human rights defenders.

[...] Attacks on Civilians

The east and the north of the country remained volatile and were marked by frequent attacks on civilians, particularly sexual violence against women and girls.

[...] Justice and Accountability

There was mixed progress in the government's efforts to hold perpetrators of serious violations to account. Congo's judicial officials had some notable successes in prosecuting sexual violence and other crimes.

[...] No progress was made in apprehending the perpetrators of a mass rape of 387 women, men, and children, committed by a coalition of armed groups in Walikale territory, North Kivu, in July and August 2010.

[...] Efforts to combat impunity also suffered a serious blow with the promotion and growing power of Ntaganda, living openly in Goma, and the escape from prison of Gedeon Kyungu Mutanda and many of his co-perpetrators, who had been found guilty of crimes against humanity in 2009. Authorities had ignored many earlier requests from civil society to incarcerate Mutanda at a maximum security prison [...]

➤ [Amnesty International, The time for justice is now: New strategy needed in the Democratic Republic of the Congo, August 2011](#)

[...] 1. THE TIME FOR JUSTICE IS NOW

Crimes under international law<sup>1</sup> have been committed in almost every corner of the Democratic Republic of the Congo (DRC) over the last two decades.<sup>2</sup> These include crimes against humanity, war crimes, torture, sexual violence, the recruitment and use of children associated with the armed forces and armed groups, enforced disappearances and killings. Such crimes continue to take place, most notably in the east and northeast. Impunity remains pervasive: while millions of men, women and children have suffered as a result of the violence, only a handful of perpetrators have ever been brought to justice. The failure to hold those responsible for violations to account has a pernicious impact; it further entrenches a culture of impunity; it fosters cycles of violence and violations; it undermines any efforts to create a culture of respect for the rule of law; and it damages credibility of the justice system in the eyes of the Congolese people.

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[...] In the DRC, given the scale of the crimes committed, the number of victims and the level of impunity, a strong, effective and credible national criminal justice system is essential. However, a major obstacle to ensuring truth, justice and reparation for past and current violations is the current weakness of the Congolese criminal justice system and the lack of a comprehensive strategy to rebuild and reform it.

[...] Few people have access to existing justice mechanisms, and confidence in the justice system is low. Victims and witnesses are reluctant to come forward, as there is no national system to protect them.

[...] Legal aid services, though guaranteed by law, are scarce, preventing many victims and their families from pursuing justice and limiting defendants' access to lawyers. Awareness of legal rights and the justice system remains low, and outreach efforts to address this gap are inadequate. The judiciary is far from independent, and interference is common in both the military and civilian justice systems. In the military justice system, officers shield soldiers under their command from justice and the political and military hierarchy protects senior military figures. This is of particular concern in a country where the army is one of the main perpetrators of crimes under international law. Corruption and the widespread belief that the system is corrupt are endemic and affect every level of the judicial chain [...]

➤ [Refugee International, DR Congo: Too soon to walk away, 10/07/2011](#)

[...] HOLD CONGOLESE GOVERNMENT ACCOUNTABLE ON SECURITY SECTOR REFORM

The Kinshasa government has the primary responsibility for securing the safety of its own citizens. Despite having not yet proved itself willing or able to consistently discharge this vital task, it has adopted a policy of refusing coordinated assistance with security sector reform. Donor governments have been too accepting of the restrictions imposed on their assistance to professionalize the Congolese army and police.

[...] Currently, a lack of coordinated assistance has resulted in disconnected attempts to reform small parts of the security services by various donor governments [...]

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## 2.4 Internal relocation

*Excerpt from the May 2012 DRC OGN*

2.4.6 The significant risk of rape by soldiers and non-governmental armed entities, coupled with government inability to secure eastern territories, effectively restricted freedom of movement by women in many rural areas, particularly in the east of the country.

2.4.7 It may be practical for applicants in some categories who may have a well-founded fear of persecution in one area to relocate to other parts of the DRC where they would not have a well-founded fear and taking into account their personal circumstances, it would not be unduly harsh to expect them to do so. Where the applicant's fear is of ill treatment / persecution by the DRC state authorities then internal relocation may not be possible.

The guidance in paragraphs 2.4.6 and 2.4.7 highlight the “significant risk of rape” and the “restricted freedom of movement” for women, as well as stating that an assessment of whether internal relocation would not be unduly harsh depends on the personal circumstances. The preceding paragraphs only include limited country information on the difficulties faced regarding internal travel and the humanitarian situation in eastern DRC which are inadequate to form an assessment of the relevance and reasonableness of internal relocation. It is therefore imperative that case-specific research is conducted taking into account the client's personal circumstances and specific characteristics.

See the subsequent section on [‘Women’](#) for country information which address whether effective protection is available for women fearing sexual violence and the difficulties women may experience in living alone as a result of being rejected by their families.

For a list of useful sources to research the current humanitarian situation in the DRC please consult the database [Useful sources to consult on the humanitarian situation in the DRC](#) included in the Appendix.

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## **Women**

The May 2012 OGN does not include a section on women. This is surprising given the extent to which sexual violence is committed against women with impunity in the DRC. Such violence against women is perpetrated by family members, community actors, rebel forces in the East of the country, and by state authorities themselves, including the army and the police.

Whilst women may fear many forms of gender based violence in the DRC, country of origin information is presented here which documents the high prevalence of sexual violence against women, which is not just limited to the conflict-areas of eastern DRC, but indicative of a wider problem throughout the country. The following sources demonstrate that such violence is systematic, widespread and state orchestrated or sanctioned and that extremely limited state protection is available to prevent violence against women or to prosecute those responsible. Information is also presented which documents the rejection and stigma that victims of sexual violence may face from their immediate families and communities and the difficulties women may experience in living alone, the consequence of which may force women into poverty and even prostitution.

[\*Extent of sexual violence against women\*](#)

[\*Access to effective protection\*](#)

[\*Ability of women to live alone\*](#)

### Extent of sexual violence against women

- [U.S. Department of State, Country Reports on Human Rights Practices for 2011: Congo, Democratic Republic of the, 24/05/2012](#)  
[...] Women  
[...] The law criminalizes rape, but the government did not effectively enforce this law, and rape was common throughout the country and especially pervasive in conflict areas in the East. [...] SSF [state security forces], RMG [rebel militia groups], and civilians perpetrated widespread and sometimes mass rape of women and girls (see section 1.g.). In 2009 the United Nations Population Fund (UNFPA) reported 12,838 cases of sexual violence against both adults and minors in North Kivu, South Kivu, and Orientale provinces, with a total of 17,507 cases across the entire country. According to the March 2009 UN Secretary General's 27th report to the UN Security Council, more than 1,100 women and girls were raped each month in the East alone. An American Journal of Public Health study published in June supported this assertion.  
Statistical information on rape, often based on information from the judiciary and agencies providing services to victims, remained fragmented and incomplete. According to UN officials and NGOs such as HRW, statistics on sexual violence represented a small percentage of the actual number of crimes committed and excluded victims who were unable, afraid, or ashamed to seek assistance. The June study also supported the claim that rape and sexual violence were widespread and not limited to conflict zones.  
[...]
- [Amnesty International, Annual Report 2012: Democratic Republic of Congo, 24/05/2012](#)  
[...] Violence against women and girls  
Rape and other forms of sexual violence remained endemic and were committed by government security forces, including the PNC, and armed groups. Sexual violence often accompanied other human rights violations, such as looting and torture. [...]
- [UK Foreign & Commonwealth Office, Human Rights & Democracy Report: The 2011 Foreign & Commonwealth Report: Human rights in Countries of Concern: Democratic Republic of Congo, 30/04/2012](#)  
[...] Women's rights  
Women in DRC face extraordinarily high levels of sexual violence, including conflict related rapes and domestic abuse. The problem is compounded as women in DRC suffer widespread disempowerment, lack of access to education, reduced political participation and severe poverty. [...]
- [Immigration and Refugee Board of Canada, Democratic Republic of the Congo: Domestic and sexual violence, including legislation, state protection, and services available to victims \(2006-March 2012\) \[COD104022.E\], 17/04/2012](#)  
[...] 2.3 Characteristics of Sexual Violence and Notable Cases  
[...] Sources also note a rise in the number of civilian perpetrators of sexual violence (RI 10 July 2011; HHI Apr. 2010, 39; ABA June 2011). Peterman et al. note that men from local communities "often join the military on rape raids or exploit the conflict to sexually assault women without fear of punishment" (June 2011, 1065). Meanwhile, according to Minority Rights Group International,  
[a]nalysts believe that the widespread use of rape, inflicted by all sides and affecting all ethnic groups, has led to the 'normalization' of rape even among the civilian population and has resulted in greater levels of sexual violence generally. (6 July 2011, 67) [...]
- [UN Human Rights Council, Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office in the Democratic Republic of the Congo\\*, 13/01/2012](#)  
[...] C. Sexual violence

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[...] Action taken by the Government and current situation

16. The number of victims registered by UNJHRO remained high over the course of 2011. The High Commissioner is particularly preoccupied by the high incidence of rape of minors and by several grave cases of mass rapes committed by FARDC soldiers and various armed groups. For instance, between the end of April and the beginning of May 2011, UNJHRO conducted, with judicial authorities, several missions to camps of internally displaced persons (IDPs) in Katanga province. During these missions, UNJHRO documented allegations of rape, including gang-rape, of at least 102 women and one girl by combatants of the Democratic Forces for the Liberation of Rwanda (FDLR) between November 2010 and January 2011. [...]

➤ [UN Human Rights Council, Conflict-related sexual violence Report of the Secretary-General, 13/01/2012](#)

[...] 27. Acts of sexual violence, including a series of mass rapes, took place in North and South Kivu in the eastern Democratic Republic of the Congo during the reporting period. In several incidents, mass rapes appear to have been perpetrated as a form of retaliation by armed groups or by elements of the Armed Forces of the Democratic Republic of the Congo (FARDC) against the population for their alleged collaboration with the “enemy”. Acts of sexual violence are also used as an instrument to assert economic or political control over the population. [...]

[...] 30. LRA combatants in Orientale Province often attack villages with the aim of looting supplies for the group but also abducting adults and children to carry stolen goods. Most of the abducted girls and women are subjected to sexual slavery during their captivity, including being forcibly married to LRA commanders. Individual cases of rape were reported as perpetrated by elements of the national security forces and armed groups against farmers on their way to their fields. Cases of sexual violence perpetrated by FARDC elements allegedly occurred during patrols or when extorting supplies from the population. The limited progress in the development of an accountable and professional security force, the lack of regular payment of salaries and the weak command and control structure of the Congolese army contribute to continued human rights violations, including sexual violence. [...]

➤ [UN Office on Drugs and Crime \(UNODC\), Organized Crime and Instability in Central Africa: A Threat Assessment, October 2011](#)

[...] Is rape a weapon or a symptom?

[...] Describing the problem of rape in the DRC, John Holmes, a former United Nations Under-Secretary-General and Emergency Relief Coordinator, has said, “The intensity and frequency is worse than anywhere else in the world.”<sup>21</sup>

[...] The figure of 15,000 recorded rapes per annum in the DRC is alarming and represents an immense human tragedy.<sup>26</sup> [...]

[...] number of recorded rapes committed in the DRC between January and July 2010 by province

Source: UNFPA, Violences Sexuelles Enregistrees en RDC, Janvier - Juin 2010

Bas-Congo, 443

Equateur, 419

West Kasai, 615

Kinshasa, 453

Katanga, 294

East Kasai, 230

Maniema, 149

Orientale, 354

North Kivu, 2245

Bandundu, 208

South Kivu, 2275

➤ [The New York Times, Congo Study Sets Estimate for Rapes Much Higher, 11/05/2011](#)

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[...] A new study in The American Journal of Public Health, expected to be published Thursday online, estimates that nearly two million women have been raped in the Democratic Republic of Congo, with women victimized at a rate of nearly one every minute.

[...] The study, one of the first comprehensive looks at the prevalence of rape in Congo, indicates that the problem is much bigger and more pervasive than previously thought. Women have reported alarming levels of sexual abuse in the capital and in provinces far from Congo's war-torn east, a sign that the problem extends beyond the nation's primary conflict zone.

[...] The researchers found that around 12 percent were raped at least once in their lifetime and 3 percent were raped in the one-year period before the survey. Around 22 percent had been forced by their partners to have sex or perform sexual acts against their will, the study showed, implying that sexual abuse often happened at home. The women, ages 15 to 49, were interviewed in a demographic and health survey partly financed by the American government.

The study's authors then used current population estimates, which put Congo's population at around 70 million, to extrapolate that as many as 1.8 million Congolese women had been raped, with up to 433,785 raped in the one-year period, which would mean almost a rape a minute. [...]

- [UN Human Rights Council, Third joint report of seven United Nations experts on the situation in the Democratic Republic of the Congo\\*, 09/03/2011](#)

[...] 7. The High Commissioner also stressed that sexual violence remains a cause of major concern not only in the eastern part of the country but throughout the rest as well. [...]

- [UN Human Rights Council, Report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo, 10/01/2011](#)

[...] III. Measures and response to recommendations

[...] C. Sexual violence and impunity

[...] Actions taken by the Government and the current situation

22. Sexual violence remains widespread despite the authorities' efforts to stop it. The phenomenon is rampant throughout the country and affects thousands of women and children in particular. The recent mass rapes committed in Walikale territory exemplify this scourge and are proof that rape continues to be used as a weapon of war in the Democratic Republic of the Congo.<sup>12</sup> [...]

- [Sarah Mosely, Talita Cetinoglu and Marit Glad, Protection from sexual violence in DRC, in Forced Migration Review, Democratic Republic of Congo: Past. Present. Future?, Edition 36, November 2010](#)

[...] DRC is struggling with both gender-based violence in society and conflict-related sexual violence.

[...] While the cases of sexual violence being documented across the country, including in non-conflict areas, indicate that a significant percentage of reported cases are perpetrated by armed groups, there is no doubt that women and girls are also being sexually assaulted by civilians. Traditional gender roles and the already low status of women in Congolese society exacerbate their vulnerability to violence and exploitation. [...]

- [UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston: Mission to the Democratic Republic of the Congo, 14/06/2010](#)

[...] IV. Sexual violence and extrajudicial executions

63. Sexual violence in the Congo, and especially in the Kivus, falls squarely within my mandate because it has reached such levels of brutality that women have literally been raped to death.<sup>21</sup> Many others have died subsequently. Women and girls, including babies,<sup>22</sup> have been gang-raped, had guns, wood, sand or glue inserted into their bodies, and had their genitals mutilated. Some pregnant women have had fetuses ripped out of their wombs by perpetrators. I received multiple accounts in the Kivus of gang rapes so vicious that women died from bleeding or from ruptured uteruses. I also received numerous accounts of severe rape-related injuries (e.g., gunshots to a woman's vagina) that resulted in death days or weeks later. Such deaths are especially likely in remote areas where victims have little or no access to

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health services. Those who survive are often left with debilitating physical injuries, such as fistula or displaced uterus, and deep psychological harm. [...]

### Access to effective protection

- [U.S. Department of State, Country Reports on Human Rights Practices for 2011: Congo, Democratic Republic of the, 24/05/2012](#)

[...] Women

[...] Prosecutions for rape and other types of sexual violence remained rare. According to the High Military Prosecutors Office, in 2010 the military justice system convicted 17 FARDC soldiers of crimes of sexual violence in North Kivu Province. HRW and several other human rights groups continued to criticize the government for failing to investigate and prosecute members of SSF, particularly high-ranking officers, who were responsible for rape (see section 1.d.) or failed to take action against personnel under their command. Of the 14,200 rape cases that were registered in South Kivu between 2005 and 2007, only 287, or 2 percent of the cases, were taken to court. [...]

- [Amnesty International, Annual Report 2012: Democratic Republic of Congo, 24/05/2012](#)

[...] Violence against women and girls

[...] While some prosecutions took place, impunity was still widespread and victims were often threatened. Rape survivors did not receive adequate support and assistance and continued to be stigmatized. [...]

- [UK Foreign & Commonwealth Office, Human Rights & Democracy Report: The 2011 Foreign & Commonwealth Report: Human rights in Countries of Concern: Democratic Republic of Congo, 30/04/2012](#)

[...] Women's rights

[...] The DRC authorities made a welcome step towards addressing impunity and the implementation of their zero-tolerance policy on sexual violence, with the arrest, trial and conviction of a senior commander in the Congolese army, Lt Col Mutuare Daniel Kibibi, and eight other soldiers for their role in the mass rapes committed in Fizi in January. However, more needs to be done, as the majority of sexual violence crimes in the DRC still go unpunished. [...]

- [Immigration and Refugee Board of Canada, Democratic Republic of the Congo: Domestic and sexual violence, including legislation, state protection, and services available to victims \(2006-March 2012\) \[COD104022.E\], 17/04/2012](#)

[...] Numerous sources indicate that justice for victims of sexual and domestic violence is difficult to achieve (RFDA 24 Feb. 2012; RFDP 1 Mar. 2012; RI 10 July 2011; Enough Feb. 2012, 2; The Economist 13 Jan. 2011). The Enough Project, a Washington-based analysis and advocacy organization working on genocide and crimes against humanity (n.d.), points to a culture of impunity within the Congolese justice system, stating that police, prosecutors and judges are corrupt (Feb. 2012, 3, 5). Sources also report that a lack of institutional resources or capacity may be a barrier to justice (Enough Feb. 2012, 5; The Economist 13 Jan. 2012). The Economist states that the court system is "in pieces" and that police have no money or training (ibid.). Enough also indicates that formal legal mechanisms in rural areas are virtually non-existent (Feb. 2012, 5). The representative of the ABA ROLI said that there are not enough courts in North Kivu, South Kivu, Maniema and the Ituri region, meaning that women must travel distances of up to 400 kilometres to access them (5 Mar. 2012). Additionally, sources indicate that informal settlements known as "arrangements à l'amiable" are used to resolve sexual violence cases (RI 10 July 2011; ABA 5 Mar. 2012); the ABA ROLI representative notes that these informal settlements are a traditional practice that occasionally take place against the will of the woman (ibid.).

Victims' inability to pay for legal services and procedures has also been identified as an obstacle (RI 10 July 2011; RFDA 24 Feb. 2012; ABA 5 Mar. 2012). According to the representative of the RFDA, women who wish to prosecute their attackers are assisted by local women's rights NGOs because police demand bribes

for their assistance (24 Feb. 2012). The representative added, however, that women would also have to pay for legal aid from NGOs and fees charged within the justice system; thus, women without money cannot exercise their legal rights (RFDA 24 Feb. 2012). Her assessment was corroborated by the representative of the ABA ROLI, who added that women may also not be able to afford transportation to attend the various follow-up legal dates that are necessary to attend (5 Mar. 2012).

#### 6.2 Prosecutions

Sources note that there have been some successful prosecutions of perpetrators of sexual violence (Human Rights Watch Jan. 2011, 4; RI 10 July 2011; UN 9 Mar. 2011, para. 7). However, RI states that "there are still so many cases where justice is not seen to be done that these few successful prosecutions are failing to shift the common perceptions over the lack of justice in sexual violence cases" (10 July 2011). The Economist notes that there have been fewer than 20 prosecutions of rape as a war crime or a crime against humanity (13 Jan. 2011). According to the ABA, the ROLI in the DRC has helped file over 2,800 complaints of rape with the police in North and South Kivu and Maniema (June 2011). These complaints have resulted in 645 cases going to trial and 434 convictions (ABA June 2011). Human Rights Watch reports that, in March 2011, the High Military Court in Kinshasa began the trial of the first general to be arrested for the war crime of rape (Jan. 2012, 4). [...]

➤ [UN Human Rights Council, Conflict-related sexual violence Report of the Secretary-General, 13/01/2012](#)

[...] 32. Despite the increased efforts by the Government of the Democratic Republic of the Congo, supported by the international community including MONUSCO, to arrest and try perpetrators of sexual violence, a significant number of cases of sexual violence committed by armed groups and FARDC elements have not been followed up through judicial means. Some cases are not investigated, or if they are, trials are not held, or sentences are not served by the perpetrators. Even when perpetrators are prosecuted and convicted, judges often apply a penalty below the minimum set out in the law. Of particular concern is the impunity enjoyed by high-ranking officers responsible for human rights violations, including sexual violence. For instance, the perpetrators of the rapes that took place in Kikozi and in Bushani are still at large. It is also regrettable that the trial of "Lieutenant Colonel" Mayele has yet to begin despite efforts by MONUSCO and other partners to support the judicial process.

33. Between December 2010 and August 2011, more than 250 trials of elements of national security forces were held with the assistance of MONUSCO and other United Nations entities, including through holding mobile hearings. As a result, more than 150 FARDC and Congolese National Police elements were sentenced for rape and other acts of sexual violence. In addition, on 16 August 2011, in a landmark trial, the Bukavu military tribunal convicted two Rwandan FDLR combatants charged with crimes against humanity, including rape, committed against the population of Kalonge and Bunyakiri from June 2006 to January 2007. [...]

➤ [UN Human Rights Council, Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office in the Democratic Republic of the Congo\\*, 13/01/2012](#)

[...] C. Sexual violence

[...] Action taken by the Government and current situation

[...] 18. Despite progress in holding perpetrators of rape to account, relatively few rape cases result in conviction of the perpetrators. Moreover, alleged perpetrators often benefit from provisional release, causing impediments in the judicial procedure.

[...] Obstacles to the implementation of existing recommendations

23. Despite some progress, high-profile perpetrators are still rarely prosecuted and the criminal justice system remains structurally dysfunctional. However, obstacles to the fight against sexual violence go beyond the weakness of State institutions and are related to cultural and socio-economic issues. Victims are often reluctant to disclose what has taken place and to initiate legal processes, fearing rejection by their community. Out-of-court settlements, although prohibited by the 2006 law on sexual violence, are still often pursued by victims and their families. Apart from strengthening State responses to cases of sexual violence, the root causes must be addressed, notably women's precarious and disadvantaged socio-economic position in Congolese society. [...]

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➤ [Refugees International, DR Congo: Too soon to walk away, 10/07/2011](#)

[...] SLOW IMPACT OF EFFORTS TO ADDRESS SEXUAL VIOLENCE

Sexual violence remains a horrific phenomenon in eastern DRC despite international focus on the problem. Recurrent incidents of mass rape, as well as a disturbingly high number of individual cases of sexual violence, continue to be reported, and the response to the needs of survivors is frequently too slow. Nonetheless, a concerted effort by donors and the UN to combat sexual violence in DRC has seen some impact.

The DRC's "comprehensive strategy on sexual violence" was drafted by UN Action on Sexual Violence in Conflict and then adopted by the DRC government. This strategy divides up work on sexual violence into five components – prevention and protection, multi-sectoral assistance to survivors, fighting impunity, security sector reform, and data and mapping. The comprehensive strategy currently only focuses on the east of the DRC and it has been adopted as part of the Congolese government's stabilization plan for the east.

Funding for sexual violence programming in DRC has increased but is still insufficient to address prevention and response needs. [...] The comprehensive strategy on sexual violence has had some success in gaining a greater level of government ownership at the provincial level, but commitment by the national government is still totally insufficient. On provincial government leadership, a local NGO leader in South Kivu told RI that "it scares members of the army and the police who rape that the authorities are involved with the issue." There have been a few fairly high-level prosecutions of perpetrators of sexual violence, which is encouraging, but there are still so many cases where justice is not seen to be done that these few successful prosecutions are failing to shift the common perceptions over the lack of justice in sexual violence cases. [...]

RELIABLE MAPPING NECESSARY TO IMPROVE SEXUAL VIOLENCE PROGRAMMING

There is still no reliable mapping of the services that are available for survivors of sexual violence and gaps that exist, nor data to give a clear picture of trends in sexual violence in DRC. Although many people have focused on the problem of lack of data, the lack of accurate mapping of current services is even more critical. OCHA, and other agencies with greater technical capacity on mapping, must pay urgent attention to this issue. [...]

SUPPORT SEXUAL VIOLENCE PROGRAMMING, BUT NOT IN ISOLATION

The increase in resources and attention to sexual violence, and particularly to conflict-related sexual violence, tends to obscure communities' wider protection needs, which are currently severely underfunded. For example, forced recruitment of children into armed forces remains a serious problem in DRC, but there is now minimal funding allocated to child protection. As highlighted above, shortfalls in humanitarian funding lead to increased risks of sexual violence. Sexual violence rarely takes place in a vacuum and planning to respond only to sexual violence is short-sighted. [...]

Women in DRC are subjected to other forms of violence, not just sexual violence, and programs that address wider issues of GBV such as domestic violence and forced marriages must be supported, too. There has been a disproportionate focus on conflict-related sexual violence in DRC with the attention given to "rape as a weapon of war." This phenomenon certainly does exist in DRC and there are armed groups in the country that use this tactic, notably the FDLR, but this is a very small proportion of the sexual violence that is perpetrated in DRC, most of which is opportunistic and not part of a specific war strategy. Further, possibly as a result of continuing impunity for sexual violence following decades of conflict, a large proportion of sexual violence cases are now in fact committed by civilians. Future funding for the UN comprehensive sexual violence strategy should be considered in the wider context of the Congolese government's National Strategy on GBV, which is not focused on sexual violence alone and which covers the whole country, not only the east. [...]

➤ [IRIN, New laws have little impact on sexual violence in DRC, 07/06/2011](#)

[...] Five years after the Democratic Republic of Congo (DRC) revised its laws against sexual and gender-based violence (SGBV), these crimes continue to go unpunished because of judicial inaction and a legal culture at odds with the changes. The laws, ignored and misinterpreted, have left escalating numbers of sexual violence survivors unprotected, and perpetrators free to violate again. [...]

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Given the lack of confidence in the judicial system, many survivors choose to handle sexual assault allegations at the family level. This allows them to avoid the shame and stigma of publicity. But it also means some survivors must marry their rapists. “The traditional chief of the village or family sees the marriage of a young girl to her aggressor as a kind of reparation,” explained Zoro. “Even the victim sometimes shares the same wish. She prefers this solution to dishonour, and the impossibility of marrying afterward since she is no longer a virgin.” [...]

➤ [Freedom House, Freedom in the World: Congo, Democratic Republic of \(Kinshasa\) \(2011\), May 2011](#)

[...] Violence against women and girls, including rape and sexual slavery, has soared since fighting began in 1994, though sex crimes often affect men as well.

[...] An atmosphere of almost total impunity for such crimes means that perpetrators are rarely prosecuted, regardless of whether they are soldiers, rebels, or civilians.

➤ [UN Office of the High Commissioner for Human Rights, Report of the Panel on Remedies and Reparations for Victims of Sexual Violence in the Democratic Republic of Congo to the High Commissioner for Human Rights, March 2011](#)

[...] 6. The panel was struck by the difference between the urban centres and the villages it visited in each province. In remote areas there is so little infrastructure that access to any form of assistance or reparation is virtually non-existent. Most women outside the cities are unable to get medical assistance within 72 hours of rape. Nor are there prisons and courts within reachable distance, making detention and trial of perpetrators very challenging and rendering justice unattainable. [...]

7. The panel met with victims of sexual violence who have been able to overcome the many challenges of bringing a case to court and getting a judgment that condemns the perpetrators and awards them reparations in the form of damages and interest. These victims expressed great frustration because their perpetrators have escaped from prison while they have not been paid the damages and interest awarded to them by the court, even in those cases where the state has been held liable in solidum. This is a matter of widespread concern to judicial officers and provincial government authorities, as well as civil society and the victims themselves. The failure to pay these awards is undermining the judiciary and the confidence of victims in the justice system. The panel recommendations call on the Government of the DRC to take immediate action to pay the damages and interest that have already been awarded to victims by the courts, in installments if necessary, and to make greater efforts to bring perpetrators to justice, including officers with command responsibility. The panel found that widespread sexual violence perpetrated with impunity by illegal armed groups as well as national security forces has led to a widely noted increase in sexual violence perpetrated by civilians as a result of war.

8. Most victims interviewed by the panel are unable to seek justice through the courts because they cannot identify their perpetrators, or in some cases their perpetrators have not been arrested, leaving these victims with no possibility of access to reparation through judicial proceedings, as the justice system does not provide for reparations in the absence of the perpetrator. Victims have a right to reparations, which include restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. There is a need to highlight the responsibility of the government in this regard, with support from the international community. [...]

➤ [Sarah Mosely, Talita Cetinoglu and Marit Glad, Protection from sexual violence in DRC, in Forced Migration Review, Democratic Republic of Congo: Past. Present. Future?, Edition 36, November 2010](#)

[...] Both conflict-related sexual violence and societal gender-based violence will require a security and judicial system capable of ensuring accountability of sexual offenders. Impunity for sexual offenders in DRC is widespread. Few sexual criminals are brought in front of a court of law and even fewer actually spend time in prison for their actions. Corruption, a fee-for-service system (under which the survivor has to pay to press charges) and length of trial are only some of the many factors discouraging survivors from seeking justice. As a result, despite the fact that survivors are offered legal services free of charge through IRC’s programme, fewer than 5% of the women assisted by IRC seek support for judicial action following a

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sexual assault and an even smaller percentage take their cases to court. Fear of retaliation, stigmatisation by the community and spousal rejection can prove insurmountable obstacles for survivors when considering legal action. Safety and security concerns compound the issue, with police forces unable or unwilling to ensure arrest and incarceration of convicted perpetrators or those awaiting trial. [...]

➤ [Human Rights Watch, Soldiers Who Rape, Commanders Who Condone: Sexual Violence and Military Reform in the Democratic Republic of Congo, 16/07/2009](#)

[...] Summary

[...] FARDC soldiers have committed gang rapes, rapes leading to injury and death, and abductions of girls and women. Their crimes are serious violations of international humanitarian law. Commanders have frequently failed to stop sexual violence and may themselves be guilty of war crimes or crimes against humanity as a consequence. Although other armed groups also commit brutal acts of sexual violence against women and girls, the sheer size of the Congolese army and its deployment throughout the country make it the single largest group of perpetrators.

[...] Many of the soldiers from newly integrated armed opposition groups have also committed acts of sexual violence. [...]

Despite protests by victims, residents, NGOs, and even politicians, Congolese military courts have done little to bring to justice those responsible. Commanders have protected their soldiers. The army hierarchy has even left it unclear under whose command the 14th brigade is. [...]

Less money has been allocated to prevention and protection; according to a MONUC estimate, only 11 percent of donor funds for sexual violence have been allocated for the physical protection of women and girls. As part of those efforts, the government, international donors, and NGOs have taken specific steps to deal with the army's poor human rights record, sometimes as part of broader security sector reform. Such measures include training on international humanitarian law and Congolese law; building the capacity of the military justice system and the police; improving access to justice; and ensuring regular payment of army soldiers. As a result of these efforts, some progress has been made. The military justice system is better equipped to deal with sexual violence than a few years ago, and has made some limited progress in bringing ordinary soldiers to account for their sexual crimes.

Despite these important advances, the military justice system remains a weak institution. To date, only a small fraction of the total number of acts of sexual violence committed by soldiers has been prosecuted. Access to justice remains difficult.

[...] Moreover, almost all military prosecutions of sexual violence to date have focused on low-ranking soldiers. No senior military figure has been prosecuted for sexual crimes; the criminal responsibility of senior officials, including their command responsibility, is rarely the subject of investigations by military prosecutors. The most senior officer convicted of crimes of sexual violence in the Kivus has been a captain—no major, lieutenant colonel, colonel, or general has been prosecuted. Military commanders continue to be powerful figures who are treated as untouchable by political and military leaders; brigade commanders in particular are often given free reign. Commanders also continue to protect their soldiers in many instances, obstructing the course of justice. This undermines ongoing efforts to render justice even for crimes committed by lower-ranking soldiers.

[...] II. Sexual Violence by the Congolese Army

The FARDC: An Army of Former Enemies

[...] Since its creation in 2003, the FARDC has been one of the main perpetrators of documented sexual violence in Congo. Army commanders have frequently failed to stop sexual violence and punish those responsible. These crimes are serious violations of international humanitarian law, and some constitute war crimes.<sup>37</sup> Although other armed groups have also committed many brutal acts of sexual violence against women and girls, the sheer size of the Congolese army and its deployment throughout the country make it the single largest group of perpetrators. FARDC soldiers continue to commit gang rapes, rapes involving injury and death, and abductions of women and girls. [...]

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### Ability of women to live alone

- [U.S. Department of State, Country Reports on Human Rights Practices for 2011: Congo, Democratic Republic of the, 24/05/2012](#)

[...] It was common for family members to pressure a rape victim to remain silent, even to health care professionals, to safeguard the reputations of the victim and her family. Victims of SGBV faced enormous social stigma. After a sexual assault, many young women and girls were often labeled as unsuitable for marriage, and married women were frequently abandoned by their husbands. Some families forced rape victims to marry the men who raped them or to forego prosecution in exchange for money or goods from the rapist. [...]

Women experienced economic discrimination. The law forbids a woman from working at night or accepting employment without her husband's consent. According to the International Labor Organization (ILO), women often received less pay in the private sector than men doing the same job and rarely occupied positions of authority or high responsibility. [...]

- [Refugees International, DR Congo: Too soon to walk away, 10/07/2011](#)

[...] FOCUS ON THE INTERNALLY DISPLACED

[...] IDP women have also resorted to prostitution as the only way to support their families. [...]

- [Institute for War and Peace Reporting, DRC Women Wary of Pursuing Abuse Cases, 20/07/2011](#)

[...] Fear of retribution and social disgrace discourages female workers reporting sexual harassment. By Rehema Kabuo - International Justice - ICC ACR Issue 300, 19 Jul 11 Concerns have been raised over the reluctance of women in the east of the Democratic Republic of Congo to pursue sexual harassment cases against men who abuse them in the workplace.

Experts say the problem stems from both women's reluctance to speak out on the issue and the difficulties in proving cases. And with perpetrators not being prosecuted, the number of offences is growing, they warn.

According to statistics from the Synergy of Women for Sexual Violence Victims, a local advocacy group, at least 80 per cent of women in the region's workforce have experienced some form of sexual harassment. The problem affects both the private and public sector, the group says.

"Sexual harassment is a common problem. But if women keep silent about it, it will never decrease," said Major Bodeli Dombi, the deputy commander of the special police unit for the protection of women and children, PSPE, in the town of Goma in eastern DRC.

"I've been working for two years in this company. I had to pass by my boss's office each morning so he could touch me," one victim of sexual harassment told IWPR. "Then he forced me to have sexual intercourse with him so I would get a promotion. He left and I didn't get my promotion."

Employers who engage in sexual harassment are often thought to take advantage of the fears female employees have of losing their jobs if they speak out.

"To keep my job, my boss asked me to sleep with him and, since then, it has become a habit," another female employee told IWPR. "If I refuse [him], I would risk losing my job."

While many keep quiet in case they're fired, others do so because they want to avoid becoming the subject of rumours or being stigmatised.

"Women who are victims of sexual harassment at work do not report it [as they] fear they won't be taken seriously. They could then be subjected to provocations and wouldn't know whom to turn to. This creates psychological problems including fear, anxiety and anger," Gérôme Mukasa, a psychotherapist in Goma, said. [...]

- [Medecins Sans Frontieres, Mass rape expands range and depth of violence against villagers in DRC, 04/07/2011](#)

[...] "In addition to the physical trauma suffered, the medical consequences of sexual violence are many, including increased risk of transmission of HIV/AIDS, unwanted pregnancy, sexually transmitted infections and serious complications in reproductive health. Women who are pregnant at the time of the attack risk losing the foetus.

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“Fear, nightmares and psychosomatic body pain are just some of the psychosocial problems experienced by victims of sexual violence. For women, the stigma of rape often means rejection by their families, and even the community as a whole. Victims of sexual violence feeling isolated and ashamed can suffer from socio-economic hardship as a result.” [...]

➤ [UN Office of the High Commissioner for Human Rights, Report of the Panel on Remedies and Reparations for Victims of Sexual Violence in the Democratic Republic of Congo to the High Commissioner for Human Rights, March 2011](#)

[...] Executive Summary

[...] 3. The Panel was informed about efforts undertaken by the Government to address sexual violence, including the adoption of a National Strategy to Combat Gender-Based Violence and the passing of two laws against sexual violence in 2006. The panel found that the needs of the victims of sexual violence it interviewed are largely unmet, particularly in remote areas. The lives they knew have been largely destroyed, and they are suffering greatly - physically, psychologically, and materially. This victimization continues and is compounded by the stigma they often face in families and communities. Their husbands abandon them, and they are socially ostracized. Often this rejection is further compounded for victims who suffer from fistula, victims who become pregnant and bear children as a result of rape, and victims who contract sexually transmitted diseases, including HIV/AIDS. Shifting the stigma from the victims to the perpetrators would have a great impact on the ability of victims to reclaim their dignity and rebuild their lives. [...]

Findings

[...] 2. Despite all their own often desperate personal needs, the victims who met with the panel expressed concern first and foremost for their children. They are determined but in many cases unable to send their children to school. The rejection by their husbands, or in some cases the death of their husbands, has left women without the means of support they had relied on, and often without shelter. Displaced, they do not have any means of survival or the ability to care for their children. Victims the panel met with who have contracted HIV/AIDS are deeply troubled by concern over what will happen to their children when they die. [...]

➤ [UNDP \(ILO\), International Human Development Indicators, 15/05/2011](#)

[...] Ratio of female to male of the working-age population (ages 15–64) that actively engages in the labour market, by either working or actively looking for work.

Data in the tables are those available to the Human Development Report Office as of 15 May 2011, unless otherwise specified.

2009

Very high human development 0.754 ..

High human development 0.643 ..

Medium human development.644 ..

Low human development 0.655

2009

1 Norway 0.887 [...]

186 Niger 0.444

187 Congo (Democratic Republic of the) 0.661

.. Tuvalu ..

.. Somalia 0.649 0.667

.. San Marino ..

.. Nauru .. ..

.. Monaco .. ..

.. Marshall Islands ..

.. Korea (Democratic People's Rep. of) 0.711

➤ [Peace Women, GENDER INEQUALITY AND SOCIAL INSTITUTIONS IN THE D.R.CONGO, April-December 2010](#)

[...] 1. LABOUR RIGHTS

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Regardless of their 53% representation in the population 2,3, and that the right to employment is constitutionally recognised for all9, women only constitute 2,8% of state waged employment/activities against 12% of men in the DRC. Opportunities for women have generally been limited. They are underrepresented in the formal workforce, especially in higher-level positions, and generally earn less than their male counter-parts in the same jobs1, 2, 15,16. Married women’s lack any lawful capacity to independently sign legal contracts as by law; they needed their husband’s permission to work, to open a bank account, to obtain credit, to start a business or to travel. Furthermore, many women are often illegally denied pensions and right of inheritance, particularly widows 15, 16. [...]

#### 5. SOCIO-ECONOMIC RIGHTS

The DRC has a myriad of international and domestic legislation regarding women’s socio-economic rights. However the current socio-economic situation of the DRC is characterized by the feminisation of poverty. This is accentuated by the absence of policies and mechanisms for the promotion of women and the persistence usages of discriminating practices on women15,36.

In spite of the weak female economic power due to several factors such as poverty, the lack of access to lands, lack of estate property, lack of access to appropriate technologies, their marginalisation in the macro-economic sector, as well as insecurity in rural areas following armed conflicts, Congolese women are true agents of development. Thanks to their small income generating activities, they have been significantly contributing to the survival of their families and the whole DRC nation. However, taking into account the low rate of female access to basic social welfare (healthcare, education, accommodation, water and electricity), human development indicators demonstrate that the DRC would not meet the targets of the Millennium Development Goals by 201515,36. [...]

#### ➤ [Oxfam and the Harvard Humanitarian Initiative, “Now, the world is without me”: An investigation into sexual violence in eastern Democratic Republic of Congo, April 2010](#)

[...] Sexual violence survivors were also devastated by spousal abandonment. Even if not completely abandoned, many survivors seemed to have lost the support of their husbands. This observation is upheld by the finding that fewer than 1% of women were accompanied to medical care by their spouses. Loss of spousal support was also evident from the qualitative analysis where women sometimes mentioned marital discord followed sexual violence. For other women, continuation of their marriages was contingent on having a negative HIV test. Regardless of the reason for abandonment or marital discord, without the economic support and protection traditionally provided by men in DRC, women become exceptionally vulnerable. Congolese policy and socio-cultural customs continue to discriminate against women, effectively preventing their economic advancement and independence. Sexual violence programs must therefore focus on the family as a whole and must include support services for the spouses of women who have been raped. [...]

#### Livelihoods

Almost 74% of sexual violence survivors in this study reported agriculture as their source of livelihood. It has been estimated that in DRC generally women “account for 73% of those economically active in agriculture and produce more than 80% of the food crops.”(65) In South Kivu more specifically, women are responsible for such a large share of the agriculture, that they are described as being the primary driving force behind the whole subsistence economy.(2) How then, does this epidemic of sexual violence affect the livelihoods of women in South Kivu? First, women who suffer bodily injuries may be unable to return to the heavy physical labor required to cultivate the fields. Other women may be in a position to return, but may only be able to work in a reduced capacity, thus reducing their income and limiting the ability to support their families. Some sexual violence survivors are displaced from their homes and their communities either because the family home was lost in the attack, because their marriages dissolve, because they can no longer feel secure in their homes, because they are ostracized by the community or because they move to a larger town to access the services they require. Regardless of the etiology behind the displacement, these women are all forced to desert their fields and to at least temporarily abandon their source of livelihood. Because many of these women move to larger towns, such as Bukavu, this displacement has resulted in an accelerated rate of conflict-induced urbanization. Although not specifically documented for Bukavu, other under-developed countries have described high rates of prostitution among young, uneducated women who move to larger cities without a means of supporting themselves.(66) We therefore speculate that sexual violence survivors who are displaced to larger towns

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and cities in Eastern DRC may be at a similarly high risk of turning to prostitution to support themselves and their families. [...]

➤ [IOM, Returning to the Democratic Republic of Congo Country Information, November 2009](#)

[...] 4. Economic Situation and Employment

The DRC remains among the world's least developed countries, ranking 168th in the latest human development index (2007/2008). Finding a job in the DRC is difficult and the informal labour market is a good deal larger than the formal labour market.

[...] Women have access to the labour market in the DRC and the majority of small businesses are run by women. Also, some 65% of the active population in the agricultural sector are women. They are in fact strongly encouraged to work, particularly in urban areas.

[...] 2. Housing

[...] No system of housing loans exists in the DRC. The government does not provide subsidised housing although a limited number of homes for the elderly can be found in Kinshasa. People returning from abroad will receive no assistance from the government in finding accommodation and need to know that they will need to cover this cost entirely by themselves.

➤ [Institute for War and Peace Reporting \(UK\), Grim Fate of Street Girls, 30/07/2009](#)

[...] Bijou, 16, speaks in a soft, low voice as she paints a grim picture of what life is like for a young girl living on the streets of Lubumbashi, the second largest city in the Democratic Republic of Congo, DRC.

On her first day away from home, men older than her but also living on the streets shaved her head and ripped her clothes off. These "big brothers", as she calls them, also tortured her by putting melted plastic bags on her skin and then raped her.

"This continued until all the men had had me," she recalled. "This is the baptism ritual. It happens to everyone who is new."

Bijou was then sent out on to the streets to earn money as a prostitute. When she returned, she says she was beaten up and the money taken from her.

She was only 11 when she began this way of life.

Many hundreds of girls are forced to live this way across the city, where poverty and unemployment are rife. Family life has often broken down and divorce has increased in the wake of two wars in the 1990s, which has led to many children leaving home or being thrown out.

The exact number of street children in the city is not known, but a 2006 study by Lubumbashi University suggested a figure of nearly 17,000. Lubumbashi has an estimated population of around 1.2 million.

Since then, the global financial crisis has exacerbated the widespread poverty and unemployment in the country. [...]

➤ [Country of Return Information Project, Country Sheet Democratic Republic of Congo \(DRC\), June 2009](#)

[...] 3.3.1. Employment

The lack of jobs, mostly because of the destruction of industrial structures, the plundering of the 90's and the political mismanagement of the government has become a national problem.

[...] 3.3.1.1. Unemployment

According to Mr Mavinga, deputy director of the national system for developing statistics (SNDS), based on the poverty indicators from a survey for the city of Kinshasa, the activity rate is 47,7%, the unemployment rate of the population is 14,9% the unemployment rate of the broader population is 23,8% and the informality rate is 72,5 %."80

[...] «In this country, women mainly do trade and specialize in food or clothes. They are also very present in the parallel market of exchange and they have established a kind of informal banking system. Female entrepreneurship exists in sewing, hair-dressing, catering, salting fish, production and selling of coal or soap, etc. In a way, women make and/or distribute the everyday products while men find themselves mostly in manufacturing and/or repairing of tools, utensils, in mechanics, etc. Except in some rare cases, those involved in formal and informal economy remain poor and many are only at a stage of survival.

[...] 3.2. Housing, accommodation

Kinshasa is a megalopolis with almost no social housing infrastructures.

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[...] 3.2.2. Housing programs by return area

[...] «With its 10 million inhabitants, Kinshasa has a deficit housing deficit of 4 million units. The housing policy initiated by the central government only plans 4500 units currently under construction in Mitendi and Kinkole. An executive from the Ministry of town planning and housing believes this is insignificant and will not eliminate the deficit.

[...] 3.2.5. Opportunities of renting a house or apartment

3.2.5.1. *Vulnerable groups*

«According to Ignace Tambwe Nkanka, real estate agent, no groups face obstacles when renting or buying a house. However, sometimes, lessors often set barriers for certain group (large families, too or three singles girls living together, one person known for it's membership to a mystical religious group, in order to protect either their house from accelerated depreciation or their own family when the lessor shares the same plot with the tenants.”<sup>73</sup> «Finding a house for rent in the capital is not an easy task. If the expatriate workers and those getting a great salary are often welcome, all the others face a tough journey. In fact, many lessors raise a never-ending list of conditions to their potential clients. By fear of being overcrowded they only accept married couple with one child maximum. Others try and find out the ethnic origins of the future tenants before accepting. What can they do? They submit to the lessor’s whim.”<sup>74</sup>

- [United Nations Children's Fund \(UNICEF\), UNICEF Executive Director Ann M. Veneman decries continued rape and violence against women and children in the DRC, 27/08/2009](#)

[...] The war started in 1998 and claimed an estimated five million lives. Although it officially ended in 2003, rape and violence continues in this conflict-riddled region.

“Sexual violence is impacting the next generation,” said Veneman. “These women and children have to fend for themselves as their families and communities have abandoned them. It is critical to create security in this region so that these women can generate incomes to support their families.” [...]

- [Human Rights Watch, Soldiers Who Rape, Commanders Who Condone: Sexual Violence and Military Reform in the Democratic Republic of Congo, 16/07/2009](#)

[...] Victims are not only traumatized by sexual violence, but also by the negative attitude of their communities towards them. This affects girls—who are usually dependent on a caregiver— particularly. Families sometimes reject their own daughters after rape. When girls are rejected by their families and leave their home, they become vulnerable to further abuse.

Girls are also often rejected by their fiancés and have difficulties finding a husband. The situation is particularly difficult for girls who had babies after the rape, and whose story is often known to the community. These girls have the challenging task of raising a child born from rape while still being a child themselves. Many girls also drop out of school after rape, due to ill-health, trauma, displacement, or stigma. Psychosocial support for girls who have experienced sexual violence requires special expertise, of which there is little available in war-torn Congo. [...]

- [OECD, Democratic Republic of Congo, 2008](#)

[...] Social tensions grew in 2007. Many companies and government services were affected by strikes, and the labourmarket has become increasingly tight; access to drinking water and electricity remains problematic;

hunger is killing thousands of people; the number of people with HIV/AIDS continues to rise; and insecurity was still a factor in 2007, especially in the eastern part of the country. [...]

The national unemployment rate is estimated at 8.9 per cent and the underemployment rate at 81.7 per cent. In general, unemployment and underemployment affect men and women in equal numbers regardless of their level of education. With 28 per cent unemployment among the working population under 24 years of age, youth unemployment is a major concern.

The labour market is also characterised by an employment rate that is relatively low in comparison to the average rate in sub-Saharan Africa: 63.1 per cent (50.8 per cent in urban areas as against 68.1 per cent in rural areas). This situation mainly stems from a relatively late entry into the labour market due to more years of schooling. Women and men are equally involved in the labour market. [...]

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- [Immigration and Refugee Board of Canada, Democratic Republic of Congo: Government's attitude toward single mothers who have several children and who are returning to the Democratic Republic of Congo after a lengthy absence; risks of being exposed to poor socio-economic conditions, and the availability of public services \(October 2005\), 04/11/2005](#)

[...] According to the president of the Centre for Women's Development (Centre de développement pour la femme, CDF), a Congolese women's organization in Kinshasa, a woman who has several children and returns to the Democratic Republic of Congo (DRC) after a lengthy absence risks being unable to support her children's needs, to feed and educate them (CDF 4 Oct. 2005; *ibid.* 23 Sept. 2005). This risk is even higher if she has no foster home (CDF 23 Sept. 2005).

[...] The national coordinator for the National Committee for Women in Development (Comité national Femme et Développement, CONAFED), a non-governmental organization in Kinshasa, stated in correspondence sent to the Research Directorate on 3 October 2005 that such a woman has little chance of finding her place in today's Congolese society and of adequately providing for her children's upbringing. The coordinator said that she does not know of any non-governmental organization that helps individuals reintegrate into the country after they have been away for a long time (CONAFED 3 Oct. 2005).

In DRC, there are no government organizations that take care of people in need (CDF 4 Oct. 2005; *ibid.* 23 Sept. 2005). Religious communities that help people in need do not have sufficient resources (CDF 4 Oct. 2005). The communities' reception infrastructures are in extremely poor condition, and the services offered are insufficient (*ibid.*).

With respect to the risks of ill treatment by government authorities, the CDF president indicated that being a single mother with several children is not a reason for ill treatment because many Congolese women are in the same situation (CDF 4 Oct. 2005; *ibid.* 23 Sept. 2005). However, if the woman is considered to be a political opponent or is perceived as such by the authorities, there is a high risk that she will be arrested and imprisoned when she returns to the country (CDF 4 Oct. 2005). [...]

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## APPENDIX

### Useful sources to consult on the security situation in the DRC

Source	Type of source	Website's search function
<a href="#">AlertNet Democratic Republic of Congo page</a>	Humanitarian news site from Thomson Reuters providing information on natural disasters, conflicts, refugees, hunger, diseases and climate change.  Country page includes sections on: <ul style="list-style-type: none"> <li>○ Breaking stories</li> <li>○ News</li> </ul>	<ul style="list-style-type: none"> <li>● Country page</li> <li>● Advanced search function which allows for: <ul style="list-style-type: none"> <li>○ Keyword search</li> <li>○ Searches limited by source; content partner; aid agency; country; topic; sub-topic; crisis and by time frame</li> <li>○ Search results can be organised by date</li> </ul> </li> </ul>
<a href="#">allAfrica.com Congo-Kinshasa page</a>	AllAfrica aggregate, produce and distribute daily news and information items from over 130 African news organizations and their own reporters.  The country page includes: <ul style="list-style-type: none"> <li>○ InFocus</li> <li>○ Top Headlines</li> </ul>	<ul style="list-style-type: none"> <li>● Country page</li> <li>● Limited search function allowing searches by keywords</li> </ul>
<a href="#">Relief Web Democratic Republic of the Congo page</a>	Relief Web is a database of reports from international and non-governmental organizations, governments, research institutions and the media for news, reports, press releases, appeals, policy documents, analysis and maps related to humanitarian emergencies worldwide. Provides: <ul style="list-style-type: none"> <li>○ In-depth profiles, updates and reports on countries and disasters</li> <li>○ Maps</li> <li>○ Database of who's reporting</li> </ul>	<ul style="list-style-type: none"> <li>● Country and thematic pages</li> <li>● Advanced search function which allows for: <ul style="list-style-type: none"> <li>○ BOOLEAN searches (AND, OR, NOT)</li> <li>○ Searches for phrases (“...”)</li> <li>➤ Limits searches by: Country; source; theme; content format; feature; disaster type; vulnerable groups; published date (by month); language</li> </ul> </li> </ul>
<a href="#">United Nations Organization Stabilization Mission in the DR Congo (MONUSCO)</a>	The country page includes: <ul style="list-style-type: none"> <li>○ Facts and Figures</li> <li>○ Reports of the Secretary-General</li> <li>○ Press Releases</li> <li>○ Press Briefings</li> <li>○ Information Note</li> </ul>	<ul style="list-style-type: none"> <li>● Country page</li> <li>● Advanced search function which allows for: <ul style="list-style-type: none"> <li>○ Keyword search or searches for phrases</li> <li>○ Searches limited by time frame</li> </ul> </li> </ul>
<a href="#">UN News Centre News Focus: DR of Congo page</a>	The country page includes: <ul style="list-style-type: none"> <li>○ Latest Developments</li> <li>○ Key resources</li> <li>○ Related press releases and press briefings</li> </ul>	<ul style="list-style-type: none"> <li>● Country page</li> <li>● Advanced search function which allows for: <ul style="list-style-type: none"> <li>○ Keyword search or searches for phrases</li> <li>● Limits searches by: subject; time frame</li> </ul> </li> </ul>

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### Useful sources to consult on the humanitarian situation in the DRC

Source	Type of source	Website's search function
<a href="#">The ICRC DR Congo country page</a>	The International Committee of the Red Cross in DR Congo country page includes sections on: <ul style="list-style-type: none"> <li>○ Latest News</li> <li>○ Facts and Figures</li> <li>○ Highlights</li> <li>○ Reference Documents</li> </ul>	<ul style="list-style-type: none"> <li>● Country page</li> <li>● Advanced search function which allows for: <ul style="list-style-type: none"> <li>○ Keyword searches (Exact Wording; All the Words; Any Words)</li> </ul> </li> </ul>
<a href="#">Internal Displacement Monitoring Centre (IDMC) Democratic Republic of the Congo page</a>	The IDMC is an international body which monitors conflict-induced internal displacement worldwide. Its country pages include: <ul style="list-style-type: none"> <li>○ Statistics</li> <li>○ Maps</li> <li>○ Internal Displacement Profile</li> <li>○ IDP News alert</li> <li>○ Key documents; news and reports from other organisations on the situation and treatment of IDPs and returnees.</li> </ul>	<ul style="list-style-type: none"> <li>● Country and thematic pages</li> <li>● Advanced search function which allows for: <ul style="list-style-type: none"> <li>○ BOOLEAN searches (AND, OR, NOT)</li> <li>○ Searches for phrases (“...”)</li> <li>○ It is not possible to search within particular time frames</li> </ul> </li> </ul>
<a href="#">IRIN News DRC page</a>	A service of the UN Office for the Coordination of Humanitarian Affairs. It provides: <ul style="list-style-type: none"> <li>➤ Humanitarian news and analysis by country and theme.</li> </ul>	<ul style="list-style-type: none"> <li>● Country and thematic pages</li> <li>● Advanced search function which allows for <ul style="list-style-type: none"> <li>○ Keyword searches (Exact Wording; All the Words; Any Words)</li> <li>○ Limits searches by Services; Country; Theme; Report Type</li> <li>○ Searches within time frames (From: To)</li> </ul> </li> </ul>
<a href="#">Relief Web Democratic Republic of the Congo page</a>	Relief Web is a database of reports from international and non-governmental organizations, governments, research institutions and the media for news, reports, press releases, appeals, policy documents, analysis and maps related to humanitarian emergencies worldwide. It provides: <ul style="list-style-type: none"> <li>○ In-depth profiles, updates and reports on countries and disasters</li> <li>○ Maps</li> <li>○ Database of who's reporting</li> </ul>	<ul style="list-style-type: none"> <li>● Country and thematic pages</li> <li>● Advanced search function which allows for: <ul style="list-style-type: none"> <li>○ BOOLEAN searches (AND, OR, NOT)</li> <li>○ Searches for phrases (“...”)</li> <li>➤ Limits searches by: Country; source; theme; content format; feature; disaster type; vulnerable groups; published date (by month); language</li> </ul> </li> </ul>
<a href="#">UNHCR Democratic Republic of the Congo page</a>	UNHCR country pages provide: <ul style="list-style-type: none"> <li>○ Statistical snapshot</li> <li>○ Latest news</li> <li>○ UNHCR fundraising reports</li> <li>○ Background, analysis and policy</li> <li>○ Statistics</li> <li>○ Maps</li> <li>○ UNHCR Partner Directory</li> <li>○ UNHCR DR Congo Fact Sheet</li> </ul>	<ul style="list-style-type: none"> <li>● Country page does not have a search function</li> <li>● UNHCR home page has an advanced search function which allows for : <ul style="list-style-type: none"> <li>○ BOOLEAN searches (AND, OR, NOT, ALL)</li> <li>○ Keyword by title</li> <li>○ Limits searches by category,</li> </ul> </li> </ul>

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		<p>country of origin, country of asylum</p> <ul style="list-style-type: none"> <li>○ Searches within time frames</li> </ul>
<p><a href="#">UN Office for the Coordination of Humanitarian Affairs Democratic Republic of the Congo page</a></p>	<p>The website contains:</p> <ul style="list-style-type: none"> <li>• <a href="#">Weekly Bulletins</a> (mainly in French, but some also available in English) <ul style="list-style-type: none"> <li>• Divided by Eastern region (e.g. South Kivu, Oriental Province, Katanga etc.)</li> </ul> </li> <li>• <a href="#">Monthly Reports</a> (only available in French) <ul style="list-style-type: none"> <li>• Divided by Eastern region (e.g. South Kivu, Oriental Province, Katanga etc.)</li> </ul> </li> <li>• <a href="#">Maps</a> (only available in French)</li> </ul>	<p>Basic search function which allows for: BOOLEAN searches (AND, OR, NOT)</p>
<p><a href="#">UN News Centre News Focus: DR of Congo page</a></p>	<p>The country page includes:</p> <ul style="list-style-type: none"> <li>○ Latest Developments</li> <li>○ Key resources</li> <li>○ Related press releases and press briefings</li> </ul>	<ul style="list-style-type: none"> <li>• Country page</li> <li>• Advanced search function which allows for: <ul style="list-style-type: none"> <li>○ Keyword search or searches for phrases</li> </ul> </li> <li>• Limits searches by: subject; time frame</li> </ul>