



General Assembly

Distr.: General
24 August 2020
English
Original: French

Human Rights Council

Forty-fifth session

14 September–2 October 2020

Agenda items 2 and 10

Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Technical assistance and capacity-building

Human rights situation and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo

Report of the United Nations High Commissioner for Human Rights*

Summary

The present report contains an overview of the human rights situation and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo from 1 June 2019 to 31 May 2020. The report assesses the progress made by the Government in implementing recommendations previously made by the Office of the United Nations High Commissioner for Human Rights and other United Nations human rights mechanisms.

The High Commissioner commends the efforts of the authorities in the fight against impunity, in the area of economic, social and cultural rights, and in the fight against sexual violence. The continued opening up of democratic space requires sustained efforts, including legislative efforts, to remove persistent restrictions on fundamental freedoms.

The High Commissioner remains concerned about the deterioration of the human rights situation in the Democratic Republic of the Congo, particularly in the provinces affected by the armed conflict. She invites the Government to implement all the recommendations set out in the present report and reaffirms the commitment of the Office of the United Nations High Commissioner for Human Rights to supporting the authorities in their efforts to promote and protect human rights.

* The present document is submitted late due to an oversight in the submission process.



I. Introduction

1. In accordance with Human Rights Council resolution 42/32, the present report provides an overview of the human rights situation in the Democratic Republic of the Congo between 1 June 2019 and 31 May 2020, on the basis of information gathered and cases of violations and abuses documented by the United Nations Joint Human Rights Office, and of the activities conducted by the Office of the United Nations High Commissioner for Human Rights through the Joint Office. The report highlights key human rights developments, assesses the progress achieved in the implementation of the recommendations put forward in the previous reports of the High Commissioner and by various United Nations human rights mechanisms and submits recommendations to the Government.

2. The Government of the Democratic Republic of the Congo has taken encouraging measures designed to combat impunity, including in cases of sexual violence and corruption, to guarantee access to free primary education and to improve access to health care. Other promising developments include the establishment of a ministerial portfolio for persons with disabilities and other vulnerable groups, the signing of an addendum to the 2013 Joint Communiqué between the Government of the Democratic Republic of the Congo and the United Nations on the Fight Against Sexual Violence in Conflict and the adoption, by the Congolese national police, of an action plan on sexual violence.

II. Principal human rights developments

3. The human rights situation continued to deteriorate during the reporting period, especially in the provinces affected by armed conflict, namely the provinces of Bas-Uélé, Haut-Uélé, Ituri, North Kivu, South Kivu, Maniema, Kasai, Kasai Oriental, Kasai Central and Tanganyika. Overall, the number of human rights violations and abuses documented by the Joint Office – 7,359 cases – increased by 12 per cent compared to the previous reporting period. Countrywide, nearly 47 per cent of the violations were committed by State officials, primarily members of the Armed Forces of the Democratic Republic of the Congo and officers of the Congolese national police. Furthermore, in the provinces in conflict, human rights abuses at the time of attacks on civilians by armed groups increased sharply. However, violations related to the restriction of democratic space generally continued to fall.

4. The opening of democratic space observed as of early 2019, following the change of Head of State, continued during the reporting period, leading to a reduction in violations of civil and political rights. However, in addition to the lack of progress on the legislative front, the Joint Office continued to document attacks and threats against journalists and other civil society actors, as well as restrictions on the exercise of fundamental freedoms, such as arbitrary arrest and unjustified use of force by members of the defence and security forces in quelling peaceful demonstrations. The emergence of coronavirus disease (COVID-19) exacerbated human rights protection challenges, particularly in the context of the measures taken during the state of emergency declared on 24 March 2020. The Joint Office documented human rights violations, such as arbitrary arrests, unlawful detention and violations linked to unjustified or excessive use of force.

5. In the provinces affected by armed conflict, attacks by armed groups and the operations of the defence and security forces to counter these groups led to a rise in serious violations and abuses of human rights and international humanitarian law, including an alarming number of summary or extrajudicial executions, mostly attributable to armed groups. The highest concentration of violations and abuses was found in the Province of North Kivu, followed by South Kivu, Ituri, Maniema and Tanganyika Provinces. Intercommunal conflict and violence against civil society actors, journalists and human rights defenders, which had already been rising in the previous reporting period, rose further, sometimes kindled by hate speech and incitement to violence during public speeches or on social media.

A. Fundamental freedoms and democratic space

6. In its concluding observations on the fourth periodic report of the Democratic Republic of the Congo, the Human Rights Committee recommended the adoption of measures to ensure that any restrictions on the exercise of freedom of expression comply with the strict conditions set out in the International Covenant on Civil and Political Rights, to guarantee the right to freedom of peaceful assembly and to prevent and eliminate all forms of excessive use of force by police and security officers (CCPR/C/COD/CO/4, paras. 42 and 44).

7. In its concluding observations on the second periodic report of the Democratic Republic of the Congo, the Committee against Torture urged the Government to close all unofficial places of detention and to revise its legislative framework and practice to ensure that all arrests and detentions are subject to oversight by the judicial authorities (CAT/C/COD/CO/2, para. 15). It also called for the release of all persons detained for having defended their opinions or demonstrated peacefully (para. 29).

1. Current situation and action taken by the Government

8. During the reporting period, the Joint Office documented 857 human rights violations and abuses related to the restriction of democratic space, chiefly in the provinces of North Kivu, South Kivu, Tanganyika, Maniema, Kasai and Kasai Central. They occurred in the context of political tensions, at both the national and provincial levels, and of the handling of the public health emergency declared to combat the COVID-19 pandemic. Notwithstanding a 16 per cent decrease over the previous reporting period (1,020 violations), the number of violations and abuses remains high. State actors – especially officers of the Congolese national police and members of the armed forces – were behind 84 per cent of the violations, the remaining 16 per cent having been committed by armed groups. The most frequently documented violations concerned the right to liberty and security of person, to freedom of opinion and expression and to physical integrity and life. The victims were primarily civilians with no particular affiliation and civil society actors.

9. Although democratic space continued to open up and several demonstrations took place without incident, some demonstrations were banned or suppressed by the authorities, and the Joint Office continued to document arrests and convictions in connection with the exercise of fundamental freedoms. It documented arbitrary arrests and other violations of the right to liberty and security of person involving at least 687 victims, including at least 28 women and 31 children, who were exercising their rights to freedom of expression or opinion, protest, and peaceful assembly or association, compared to 1,736 victims, including 95 women and 84 children, during the previous reporting period. The violations also took the form of threats towards civil society actors engaged in public monitoring of provincial-level governance. For example, the Joint Office documented threats against civil society coordinators in the provinces of Maniema and Tshopo, as well as the sentencing, on 27 March 2020, of a member of civil society to 13 months' imprisonment for defaming the Governor of the Province of Equateur.

10. The Joint Office also documented cases of unjustified or excessive use of force by State officials during demonstrations. While that number is lower than in the previous reporting period,¹ it remains significant and might be explained by abuses on the part of some local authorities and by the declaration of the public health emergency. From 30 March to 22 April 2020, the Joint Office documented human rights violations committed by police officers and members of the military police during law enforcement operations against militants of the political and religious movement Bundu Dia Kongo in Kinshasa and in the Province of Kongo Central. At least 66 people were killed and 74 injured during those incidents as a result of the unjustified or excessive use of force by police officers and military personnel.

¹ During the period covered in this report, the Joint Human Rights Office documented at least 442 victims, including 39 women and 41 children, compared with at least 545 victims, including 53 women and 27 children, in the previous reporting period.

11. Bills on the protection and promotion of the rights of persons with disabilities and on the fundamental principles of the protection and promotion of the rights of the indigenous pygmy peoples were considered at the parliamentary session of March 2020. The Joint Office provided technical and financial support for the process. However, the reading of bills on the protection and responsibilities of human rights defenders, laying down measures to implement the right to protest, and on access to information has not progressed significantly.

2. Action taken by the Joint Human Rights Office

12. The Joint Office continued its work of documenting and monitoring human rights violations in respect of democratic space and calling on the authorities to release victims of arbitrary arrest and unlawful detention. On 31 March 2020, the Joint Office wrote to the Ministry of the Interior, Security and Customary Affairs, the Ministry of Human Rights and the Commissioner General of the Congolese national police to inform them about human rights violations committed in the context of the measures introduced to prevent the spread of COVID-19. The Joint Office continued its work with the judicial authorities, including through the committee monitoring the COVID-19 situation in prisons. It also cooperated with the Ministries of Health and Gender to boost support for victims of sexual violence committed during the state of emergency. In collaboration with United Nations police, the Joint Office held training sessions for officers of the Congolese national police and upper management of the Directorate General for Migration on respecting human rights during the state of emergency.

13. Regarding individual protection, the Joint Office provided legal support and multifaceted assistance to at least 435 human rights defenders, 48 journalists and 32 other victims and witnesses of violations, including 48 women. It also supported the call issued by civil society organizations for the adoption of provincial edicts on the protection of human rights defenders in Kinshasa and Kasai Central.

B. Protection of civilians in conflict areas

14. In its concluding observations on the fourth periodic report of the Democratic Republic of the Congo, the Human Rights Committee urged the Government to take measures to protect civilians in areas of armed conflict and internally displaced persons (CCPR/C/COD/CO/4, para. 26). It also called on the Government to cooperate fully with all United Nations entities in dealing with allegations of violations and abuses of human rights and violations of international humanitarian law in the Kasai region (para. 28).

15. In its concluding observations on the combined third to fifth periodic reports of the Democratic Republic of the Congo, the Committee on the Rights of the Child urged the Government to take measures to protect children from falling victim to armed conflict or participating in armed hostilities and to punish those involved in killing, maiming and recruiting children (CRC/C/COD/CO/3-5, para. 18).

1. Current situation and action taken by the Government

16. Most of the human rights violations and abuses documented in the country (94.5 per cent) were committed in conflict areas. Overall, their number considerably increased compared with the previous reporting period, from 5,258 cases to 7,359, with armed groups being the main perpetrators. As at 30 May 2020, at least 5.1 million people were internally displaced and at least 880,000 had fled to other African countries.

17. Half of the human rights violations and abuses documented during the reporting period were committed in the Province of North Kivu. Of those, 73 per cent were committed by armed groups, including the Forces démocratiques de libération du Rwanda, Nyatura and Nduma défense du Congo-Rénové, while the Armed Forces of the Democratic Republic of the Congo committed over 15 per cent. At least 1,037 civilians, including 259 women and 78 children, were the victims of extrajudicial or arbitrary executions. The most affected territory was Nyiragongo, where the Forces démocratiques de libération du Rwanda committed 68 per cent of the human rights abuses, or 30 per cent more than in the previous reporting period. In

Masisi and Beni territories, ongoing clashes between armed groups since the beginning of 2019 have led to a significant deterioration in the human rights situation.

18. The tenth Ebola virus disease epidemic that struck North Kivu between August 2018 and June 2020 was characterized by the stigmatization and threatening of ill persons and survivors. Moreover, before the World Health Organization declared the end of the epidemic, pressure groups organized demonstrations against what they perceived to be the artificial extension of the epidemic period for financial purposes. On 16 and 17 April 2020, demonstrations organized by the *Véranda Mutsanga* group in various neighbourhoods of the city of Beni led to arson attacks on health facilities.

19. The province of South Kivu is just as affected by human rights violations and abuses, with nearly 13 per cent of the cases recorded in embattled provinces. Between June 2019 and May 2020, the Joint Office documented 871 cases in that province, with 206 people killed, 660 victims of violations of the right to physical integrity, including 272 victims of sexual violence, and 770 victims of violations and abuses of the right to liberty and security of person. Mwenga, Fizi and Uvira territories, which are affected by intercommunal conflict, have seen most of the human rights abuses. In that area of South Kivu, the conflict has intensified since February 2020. Numerous attacks on camps for displaced persons and on villages in several communities, as well as the theft of livestock and crops, have led to population displacement. The *Raia Mutomboki* armed groups were particularly active in *Shabunda* territory.

20. The situation remains critical in the province of Ituri, where a rise in particularly cruel violence now affects more ethnic communities and a larger geographical area. Between 1 June 2019 and 31 May 2020, the Joint Office documented 643 human rights abuses committed by armed assailants in *Djugu*, *Mahagi* and *Irumu* territories, with at least 724 persons killed, 319 persons injured, 107 victims of sexual violence and 240 persons abducted.

21. In those same territories, members of the armed forces were responsible for 105 violations, involving at least 35 victims of extrajudicial execution, 20 injured persons, 65 victims of sexual violence and 31 victims of arbitrary arrest and/or unlawful detention. Officers of the Congolese national police, for their part, committed 17 violations involving at least 3 victims of extrajudicial execution, 18 injured persons, 4 victims of sexual violence and 1 abducted person.

22. The Province of Tanganyika saw a resurgence of inter-ethnic violence between the *Twa* and *Bantu* communities, with 431 human rights violations and abuses documented (compared with 341 in the previous reporting period). While State officials were responsible for nearly 62 per cent of those acts, *Twa* armed groups committed 20.4 per cent of them and various *Mai-Mai* groups 17.6 per cent. *Kalemie* and *Nyunzu* territories were the worst affected, with 55 and 42 per cent, respectively, of the human rights abuses attributable to *Twa* and *Mai-Mai* armed groups. The escape on 28 March 2020 of *Gédéon Kyungu Mutanga*, chief of the *Kata Katanga Mai-Mai*, who had been under house arrest in *Lubumbashi*, raises concerns over the stability of the provinces of Tanganyika and *Haut-Katanga*.

23. In the *Kasai* region, despite a decrease in armed clashes, the number of documented violations and abuses remains high, with State agents being the main perpetrators (94 per cent of the total). The *Kamuina Nsapu* and *Bana Mura* militias remained active in *Tshikapa* and the territories of *Kamonia*, *Luebo* and *Mweka*, *Kasai Province*, and the city of *Kananga* and the territories of *Demba* and *Kazunba*, *Kasai Central Province*. The situation remains particularly critical in *Kasai Province*, where most violations documented by the Joint Office were concentrated.

24. Public consultations on the need for justice, reparation and the prevention of new conflicts in *Kasai Central Province* were held from 15 to 23 August 2019, at the instigation of the provincial government, with the technical and financial support of the Office of the United Nations High Commissioner for Human Rights under the Peace, Justice, Reconciliation and Reconstruction Project. The local population's views on criminal justice, the quest for truth, reparations, guarantees of non-recurrence, memorialization and community reconciliation were thus gathered. The legislative process to adopt an edict on transitional justice mechanisms is under way. It should receive technical and financial support, as should the mechanisms to be established subsequently.

2. Action taken by the Joint Human Rights Office

25. The Joint Office has continued its monitoring and investigation work in conflict-affected areas. For example, it conducted 37 investigation and monitoring missions in the provinces concerned. It published three reports on the human rights violations and abuses committed in the provinces of Ituri and North Kivu.²

26. Between June and December 2019, the Joint Office conducted five protection missions in preparation for joint investigation missions with the judicial authorities or for mobile court hearings. During the visits, the Joint Office identified and provided information to 229 victims, including 139 men, 59 women, 18 girls and 8 boys, as well as 5 victims of sexual violence (including 2 minors). It provided multifaceted assistance to victims and witnesses of human rights violations in the course of nine joint investigation missions. Thus, 547 victims and witnesses – 300 men, 167 women, 4 boys, 4 girls and 72 victims of sexual violence – received assistance from the Joint Office and protection measures with a view to ensuring their safe participation in trials.

27. The Joint Office continued to provide technical support to human rights organizations through capacity-building workshops on individual protection. For instance, it provided training to 121 people, including 49 women, belonging to protection networks for human rights defenders in the provinces of Ituri, Kasai and Tanganyika. It also held 15 training sessions for 544 people, including 156 women, belonging to civil society organizations, the security and defence forces and the administrative or traditional authorities.

28. During the reporting period, the secretariat responsible for human rights due diligence policy on United Nations support to non-United Nations security forces, placed under the authority of the Joint Office, carried out at least 453 risk assessments. These led to authorization being given for United Nations support – often with measures to mitigate the risk of human rights violations – to 928 State officials, including members of the defence and security forces, especially the armed forces, the police and the prison authorities.

29. As a result of risk mitigation measures, the roll-out of the policy led to significant progress in the fight against impunity, for instance through the establishment of joint committees to monitor cases of human rights violations by the members of the Armed Forces of the Democratic Republic of the Congo and officers of the Congolese national police and follow-up of remedial measures taken by the authorities in such cases.

C. Sexual violence

30. In its concluding observations on the fourth periodic report of the Democratic Republic of the Congo, the Human Rights Committee urged the Government to take all necessary measures to ensure that all cases of sexual violence are investigated and that the perpetrators are prosecuted and, if found guilty, punished. The Committee also recommended that physical and psychological support should be provided to victims and that their access to legal services should be facilitated (CCPR/C/COD/CO/4, para. 20).

31. In its concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo, the Committee on the Elimination of Discrimination against Women called on the State to prosecute all acts of violence against women, to punish the perpetrators and to set up a comprehensive care system for victims (CEDAW/C/COD/CO/6-7, para. 22).

32. In its concluding observations on the second periodic report of the Democratic Republic of the Congo, the Committee against Torture recommended strengthening the

² On 10 January 2020, the Joint Office published a report on human rights violations and abuses committed between December 2017 and September 2019 in a context of inter-ethnic conflict that resulted in several hundred victims and population displacement in Djugu territory, Ituri Province. The Joint Office published an update on the human rights situation in Ituri Province during the period from October 2019 to April 2020 and a report on human rights violations and abuses committed by combatants of the Allied Democratic Forces and members of the security and defence forces between January 2019 and January 2020.

capacity of judges to combat sexual violence and implementing measures to facilitate access to justice for victims (CAT/C/COD/CO/2, para. 33). At the universal periodic review of the Democratic Republic of the Congo, on 5 July 2019, it was recommended that the Government strengthen its efforts in the fight against sexual violence, improve the provision of support and services to survivors, ensure the protection of survivors and witnesses, and ensure that those responsible are brought to justice and that reparation is granted (A/HRC/42/5, para. 119.195).

1. Current situation and action taken by the Government

33. Conflict-related sexual violence remains widespread, with 1,376 victims and 31 per cent of cases attributable to State officials. Women accounted for 80 per cent of victims and children 19 per cent. The Armed Forces of the Democratic Republic of the Congo and the Congolese national police continue to be listed in the annex to the report of the Secretary-General on conflict-related sexual violence (S/2020/487).

34. The Province of North Kivu was the worst affected, with 40 per cent of the cases documented by the Joint Office during the reporting period, owing in large part to confrontations between rival armed groups in Masisi, Nyiragongo, Rutshuru and Walikale territories and in the areas bordering Virunga National Park. The Armed Forces of the Democratic Republic of the Congo were the primary perpetrators of conflict-related sexual violence in Beni territory in the course of ongoing operations against the Allied Democratic Forces.

35. Approximately 20 per cent of the cases documented by the Joint Office during the reporting period occurred in South Kivu, where Fizi territory was the most affected. The main perpetrators of sexual violence in that province were combatants of Twa-majority armed groups, the Raia Mutomboki armed group and various Mai-Mai groups.

36. The intercommunal violence in Ituri Province also saw an alarming rise in conflict-related sexual violence. The Joint Office documented cases of rape, gang rape and sexual slavery perpetrated by armed assailants from the Lendu community on women and girls, mostly from the Hema and Alur communities. Members of the Armed Forces of the Democratic Republic of the Congo deployed in the area also committed conflict-related sexual violence.

37. Although the trials of Ntabo Ntaberi Sheka,³ in Goma, and Justin Banaloki,⁴ also known as Cobra Matata, in Kinshasa, were considerably delayed, the Congolese courts have pursued their efforts to combat impunity. For example, on 19 November 2019, following hearings in Kitutu (Mwenga territory) and Kigulube (Shabunda territory), in South Kivu, the military tribunal of the garrison of Bukavu, with the support of the Joint Office, sentenced the chief of the Mai-Mai Raia Mutomboki group, Frédéric Masudi Alimasi, also known as Kokodikoko, to life imprisonment for crimes against humanity, including rape, executions and plunder. The courts also sentenced three combatants of the Force de résistance patriotique de l'Ituri to 20 years' imprisonment for war crimes, including rape.

38. On 19 June 2019, the Senior Military Prosecutor's Office of the Operational Military Court of North Kivu issued an arrest warrant for the chief of the armed group Nduma défense du Congo-Rénové, Guidon Shimiray Mwissa, for crimes against humanity, including for having ordered the systematic rape of women and girls in Walikale, Lubero and Masisi territories since 2014. However, the warrant has yet to be executed.

39. In November and December 2019, the Special Representative of the Secretary-General on Sexual Violence in Conflict visited the Democratic Republic of the Congo to support the Government in its efforts to eradicate such violence. During her visit, an addendum to the 2013 Joint Communiqué between the Government of the Democratic Republic of the Congo and the United Nations on the Fight Against Sexual Violence in

³ The former chief of the group Nduma défense du Congo, Ntabo Ntaberi Sheka, surrendered to the authorities in 2017.

⁴ The former chief of the Force de résistance patriotique de l'Ituri, Justin Banaloki, was arrested in Bunia in January 2015, then transferred to Kinshasa.

Conflict was signed.⁵ At the time of writing, the Joint Office and United Nations agencies were taking part in the formulation of a road map for the implementation of the addendum. The adoption of an action plan on sexual violence by the Congolese national police in November 2019 also constitutes noteworthy progress.

2. Action taken by the Joint Human Rights Office

40. In addition to its monitoring, information-gathering and reporting work, the Joint Office continued its technical cooperation with the Office of the Special Presidential Adviser on young people and reducing violence against women. In that connection, the second joint consultative forum on conflict-related sexual violence was held in Kinshasa on 12 November 2019. It brought together governmental authorities, the defence and security forces, United Nations agencies and civil society actors from the provinces of North Kivu, South Kivu, Maniema, Ituri and Tanganyika and the Kasai region. The event led to the establishment of a platform for information-sharing and making recommendations on the prevention of and response to conflict-related sexual violence.

41. The Joint Office continues to coordinate monthly meetings of the mechanism for monitoring, analysis and reporting arrangements on conflict-related sexual violence, thus mobilizing humanitarian actors as part of response and prevention activities. It also continued to provide support to the justice system in setting up measures to protect victims and witnesses of sexual violence during judicial proceedings.

42. Furthermore, the Joint Office held training activities for officers of the Congolese national police and members of the Armed Forces of the Democratic Republic of the Congo. Certain training courses resulted in 17 commanding officers undertaking in writing to end conflict-related sexual violence. The Joint Office continued to build the capacity of the Blue Helmets of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo in terms of preventing and responding to conflict-related sexual violence, through training, the development of awareness-raising materials and information-gathering.

43. Since the emergence of COVID-19, the Joint Office has stepped up its support to civil society with a view to improving information gathering and the provision of assistance to victims of sexual violence. By collaborating with representatives of other agencies in the United Nations country team, the Joint Office supported the re-establishment of a helpline introduced by the Ministry of Gender, Family and Children's Affairs and the Office of the Special Presidential Adviser on young people and reducing violence against women in order to receive victims' calls and refer them to the appropriate services.

44. As part of efforts to prevent the spread of COVID-19 in health-care facilities, the Joint Office called on officials responsible for social and gender affairs for the release of women and their newborns who were being detained in Kinshasa hospitals following childbirth for failure to pay their hospital fees.

D. Efforts to combat impunity

45. In its concluding observations on the fourth periodic report of the Democratic Republic of the Congo, the Human Rights Committee requested the Government to take all necessary measures to end impunity for perpetrators of human rights violations, in particular the most serious violations, and to ensure that the families of the victims have access to effective remedies and to full reparation (CCPR/C/COD/CO/4, para. 12).

46. In its concluding observations on the second periodic report of the Democratic Republic of the Congo, the Committee against Torture recommended that the Government commute all death sentences handed down to prison sentences, initiate a process to formally

⁵ www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/12/joint-communique/addendum-au-communique-conjoint-sur-les-violences-sexuelles-liees-au-conflit-entre-la-republique-democratique-du-congo-et-lorganisation-des-nations-unies/RDC.pdf.

abolish the death penalty, and improve physical conditions in all places of deprivation of liberty (CAT/C/COD/CO/2, paras. 21 and 37).

47. During the universal periodic review of the Democratic Republic of the Congo, on 5 July 2019, it was recommended that the Government ensure that human rights violations, including those committed by the security forces, are investigated and punished, and initiate an inclusive process of transitional justice to establish the truth, provide reparation to victims and promote reconciliation (A/HRC/42/5, paras. 119.141, 119.142 and 119.144).

1. Current situation and action taken by the Government

48. During the reporting period, the Congolese courts sentenced at least 148 members of the armed forces of the Democratic Republic of the Congo, 37 Congolese national police officers and 48 members of armed groups for acts constituting human rights violations, including acts categorized as crimes against humanity and war crimes.

49. In Ituri Province, the Judicial Commission of Inquiry established by the provincial authorities in July 2019 is continuing its investigations into the violence committed since June 2019 in Djugu and Mahagi territories. More than 1,500 victims and witnesses were heard, 187 suspects detained and 128 defendants referred to the military tribunal of the garrison of Ituri, including 3 soldiers, 2 police officers and 123 combatants prosecuted for crimes against humanity involving murder, looting and deportation, war crimes involving murder and looting, and participation in a rebel movement. In addition, on 14 February 2020, in Bunia, the garrison military tribunal sentenced three combatants of the Force de résistance patriotique de l'Ituri to 20 years' imprisonment for war crimes involving rape and looting and for participating in a rebel movement in Irumu territory in 2017.

50. In the Kasai region, there has been no significant progress in the investigation of cases relating to human rights violations and abuses committed since 2016. Since the launch of the joint investigation missions by the Joint Office and the judicial authorities in May 2018, none of the investigations have resulted in bringing the cases before a competent court. This is also the case for investigations into serious violations and abuses of human rights and international humanitarian law committed in Yumbi territory, Mai-Ndombe Province, in December 2018. The persons arrested in the course of these investigations are still being held without trial even though the investigations have not progressed. Of the 75 persons detained at the military prison in Kinshasa, 5 have been released on parole and 4 have died.

51. In addition, the functioning of civilian and military courts continues to be hampered by the lack of human and financial resources, the weak presence of courts and tribunals throughout the country and the interference of certain authorities in judicial processes. As a result, some serious criminal cases continue to go unpunished. However, some encouraging developments were noted in the fight against misappropriation of public funds, including the opening of legal proceedings concerning the implementation of the President's emergency projects.

52. There was little progress on legislation, particularly on implementing the reforms called for during the national consultations on justice concerning the abolition of the death penalty or on bringing procedures before the Operational Military Court into line with the Constitution. Kasai Central Province has launched provincial consultations, and an edict on a provincial truth and reconciliation commission is under consideration by the Provincial Assembly.

53. Prison conditions have not improved. As of 27 March 2020, Makala prison in Kinshasa had an overcrowding rate of 461 per cent and Goma prison 653 per cent. This situation increases the many difficulties associated with the care of prisoners, including the lack of medical care and adequate nutrition, which caused at least 138 deaths during the period under review. The tenuous security situation in the majority of places of detention has allowed at least 322 prisoners to escape during this period. The establishment by the Government in January 2020 of a committee to monitor the situation in prisons is a first step towards resolving the difficulties encountered by the prison system. The establishment in April 2020, by the Minister of Justice, of a monitoring committee for the prevention of COVID-19 in prisons is also a positive development.

2. Action taken by the Joint Human Rights Office

54. The Joint Office has continued to support the civilian and military justice systems in their endeavours to end impunity by providing assistance for the investigation and prosecution of human rights violations and abuses. Between June 2019 and May 2020, the Joint Office supported 10 joint investigation missions and 11 mobile court sessions throughout the country. The Office also organized 24 protection missions to provide protection and legal assistance to 1,044 victims and witnesses.

55. In conjunction with the Joint Office, the technical assistance team, whose mandate was renewed by the Human Rights Council, continued to support the judicial authorities in the conduct of investigations into human rights violations and abuses in Kasai Central Province. During the reporting period, three joint missions were conducted: one to Tshisuku in June 2019, which resulted in the exhumation of victims' bodies, and two to Kananga, in February and March 2020, to support the judicial authorities in their investigations into the summary and extrajudicial executions of civilians that took place in the commune of Nganza between March and April 2017, during which 13 alleged mass grave sites were identified. Technical assistance missions to Mai-Ndombe Province have been suspended owing to COVID-19 restrictions.

56. In August 2019, as part of a transitional justice project implemented since March 2019 in the Kasai Central region in collaboration with other partners, the Joint Office conducted public consultations on justice needs, reparations and the prevention of new conflicts. The Joint Office is supporting the provincial authorities in the establishment of a truth and reconciliation commission in accordance with the recommendations resulting from these consultations. In addition, in collaboration with other partners, since November 2019, the Joint Office has been implementing a project to deal with the surrender of ex-combatants and to promote social cohesion among conflict-affected communities in the Kasai, Kasai Central and Tanganyika Provinces.

57. The Joint Office continues to support the Government in prison reform. In this regard, since January 2020, it has been involved in developing projects relating to the mapping of prisons, the rehabilitation and construction of prison infrastructure and the updating of laws concerning the reform of the prison system.

58. Since the emergence of COVID-19, the Joint Office has been providing technical assistance to the monitoring committee for the prevention of the pandemic in prisons, established by the Minister of Justice in April 2020. The Joint Office worked with judicial and prison authorities to draw up lists of prisoners eligible for parole. It also called on the judicial authorities to take measures to relieve the congestion in prisons in order to reduce the risks of spreading the virus. As at 30 May 2020, at least 2,723 detainees, including 60 women and 127 children, had been released. The Joint Office carried out other awareness-raising activities on human rights, access to health and the prevention of sexual violence in the context of the implementation of the state of emergency and the application of preventive measures.

59. In monitoring conditions in prisons and other places of detention, the Joint Office called for the release of illegally detained persons. Furthermore, it supported the establishment of a minimum level of service within the judicial system to ensure that it continued to function during the health crisis, with due regard for the necessary precautionary measures.

III. Cooperation with the United Nations human rights mechanisms and national mechanisms to promote and protect human rights

A. Action to implement the recommendations of the universal periodic review and other United Nations mechanisms

60. The Joint Office continued to provide technical and financial support to the Interministerial Committee on Human Rights as part of cooperation between the Democratic Republic of the Congo and the treaty bodies. From 4 to 8 November 2019, the Joint Office contributed to the organization of a series of workshops on the implementation of the recommendations made during the third cycle of the universal periodic review, in which Committee members participated. The Committee also received technical and financial support, which made it possible to hold a workshop to validate the addendum to the fourth periodic report of the Democratic Republic of the Congo on the implementation of the International Covenant on Civil and Political Rights,⁶ on 11 December 2019. Because of the COVID-19 pandemic, other technical support activities have been cut back or postponed.

B. Update on national mechanisms for the protection and promotion of human rights

1. National Human Rights Commission

61. In accordance with its mandate, the National Human Rights Commission engaged in advocacy for the development and adoption of laws relating to civil liberties, in line with international instruments, with the financial or technical support of the Joint Office. In addition, the Joint Office has initiated several activities to strengthen the Commission's technical and operational capacity. For example, from 2 to 5 October 2019, 60 members and managerial staff of the Commission received training in the Code of Ethics and Conduct for Investigators, and 26 coordinators of the provincial branches were trained in general notions of human rights and monitoring and preparing reports on human rights.

62. The Commission has raised its public profile. With the support of the Joint Office, it organized an open house from 2 to 9 September 2019 in Kinshasa. It now has a five-year strategic plan and an institutional communications strategy in the country's 26 provinces. These developments have enabled it to carry out various activities for the promotion and protection of human rights, including the following: observation of the general human rights situation; 208 visits to places of detention; publication of four reports and views on the alignment of national legislation with international standards and instruments; processing of 4,194 complaints, including 1,400 decisions to refer victims to the competent courts; and submission of further reports to the universal periodic review mechanism, the Committee against Torture and the Committee on the Elimination of Discrimination against Women.

63. However, the Commission still faces a lack of financial resources and qualified staff and challenges in forming an association and creating synergies with civil society organizations, despite the existence of a framework for monthly exchanges of information.

2. Other national mechanisms

64. A permanent human rights commission was established within the National Assembly in March 2019 following joint appeals from the Joint Office, the National Human Rights Commission and civil society organizations. A capacity-building programme for this commission was adopted in conjunction with the Joint Office. On 8 November 2019, the Joint Office provided support for raising awareness among members of this commission

⁶ Democratic Republic of the Congo, Ministry of Human Rights, "Information provided by the Democratic Republic of the Congo on the recommendations of the Human Rights Committee contained in the concluding observations (CCPR/C/COD/CO/4) made in paras. 20 (sexual violence), 28 (situation in Kasai), and 48 (participation in public affairs and elections)", December 2019.

about the universal periodic review recommendations. Further capacity-building activities in aid of the commission took place in November 2019 and in February and May 2020. For example, in May 2020, the Joint Office made available to the Commission documents and a discussion paper on the proposed bill on the protection of persons with disabilities and the proposed bill on the protection of pygmy indigenous peoples currently before Parliament.

65. A national committee for the prevention of torture was established on 7 November 2019 by ministerial order, which is a positive development. However, this committee will have to comply with the guidelines on national preventive mechanisms of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with respect to the committee's functioning and guarantees of independence.

66. On 20 August 2019, the Government established a ministry attached to the Ministry of Social Affairs with responsibility for persons with disabilities and other vulnerable persons. The Joint Office has undertaken to support this ministry in drafting a five-year national strategic plan and a bill on the protection of persons with disabilities and developing relations with United Nations treaty bodies and special procedures mandate holders. The Joint Office's support also included funding for some outreach activities, such as White Cane Day and the International Day of Persons with Disabilities.

IV. Conclusions and recommendations

A. Conclusions

67. **During the reporting period, the human rights situation in the Democratic Republic of the Congo deteriorated, in particular as a result of increased attacks by armed groups in the conflict-affected provinces, which led to a high number of human rights violations and abuses, including sexual violence. The opening of democratic space has led to a decrease in violations of civil and political rights, but restrictions on the exercise of fundamental freedoms persist, including the unjustified and disproportionate use of force to suppress demonstrations, as well as arbitrary arrests and detentions and threats and attacks against journalists and members of civil society.**

68. **In order to put an end to the cycles of violence, do justice to the victims of violations and ensure greater protection of human rights, it is crucial to support efforts to combat impunity, strengthen national mechanisms for the protection and promotion of human rights, and develop transitional justice initiatives and actions aimed at improving economic, social and cultural rights, which the COVID-19 pandemic has further highlighted.**

B. Recommendations

69. **The High Commissioner recommends that the Government of the Democratic Republic of the Congo:**

(a) **Continue the opening up of democratic space, and guarantee the protection of the rights and freedoms of all, including political opponents, journalists, human rights defenders and other civil society actors;**

(b) **Prosecute the perpetrators of serious human rights violations committed during the violent repression of the demonstrations related to the electoral context in 2016, 2017 and 2018 and events involving members of the Bundu Dia Kongo movement in Kinshasa and Kongo Central from 30 March to 22 April 2020;**

(c) **Enact the law establishing measures to uphold freedom of demonstration in accordance with the Constitution and the international obligations of the Democratic Republic of the Congo;**

(d) **Ensure that the bill on the protection and accountability of human rights defenders and the bill on the general provisions applicable to non-profit associations and public service institutions fully guarantee the rights of all persons to the protection**

and promotion of human rights and do not infringe the rights to freedom of expression, peaceful assembly and association;

(e) Ensure that the use of force by State agents, including in the context of law enforcement operations, strictly complies with the rules of international human rights law;

(f) Ensure that the military operations of the Armed Forces of the Democratic Republic of the Congo against armed groups are conducted in strict compliance with human rights and international humanitarian law and that any offenders are prosecuted in the competent courts;

(g) Ensure that all detainees enjoy all fundamental legal safeguards, and take the necessary measures to ensure that conditions of detention in all places of deprivation of liberty for men, women and juveniles are in conformity with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), and end the practice of detention of insolvent patients in hospitals and health centres;

(h) Adopt a programmatic law to ensure effective implementation of the goals of the national policy for judicial reform and its accompanying priority action plan for the period 2018–2022, including by guaranteeing the independence of the judiciary, the abolition of the death penalty and recognition of the right of appeal to the Operational Military Court;

(i) Institute a process of disarmament, demobilization and reintegration in accordance with human rights principles and standards, and ensure that any persons who may reasonably be thought to have committed serious violations of international humanitarian law and international human rights law are not incorporated into the defence and security forces until allegations against them have been independently and impartially investigated;

(j) Conduct investigations aimed at removing from the defence and security forces high-ranking officers implicated in the commission of serious violations of international humanitarian law and international human rights law, and take the necessary measures to enforce sentences for such acts when they are imposed;

(k) Continue efforts to conduct prompt investigations into allegations of human rights violations and abuses, including those committed in the Kasai region and Yumbi territory, and ensure that these efforts lead to the prosecution of the perpetrators of such violations;

(l) Take all necessary measures to prevent sexual violence and, when it occurs, bring the perpetrators to justice, provide victims with comprehensive care and facilitate their access to remedies to obtain justice, truth and reparation;

(m) Take the necessary measures to mitigate the effects of restrictions relating to the fight against COVID-19, including the effects on economic, social and cultural rights;

(n) Ensure that the National Human Rights Commission becomes fully operational, including by allocating to it the necessary financial and material resources, while guaranteeing its independence;

(o) Strengthen national human rights institutions and mechanisms and institutions and mechanisms for following up on the implementation of the recommendations of United Nations mechanisms.