

Gender-Based Violence and Discrimination against Women and Girls in the Democratic Republic of the Congo

**A Report for the UN Committee on the Elimination of All Forms of
Discrimination Against Women**

For the formulation of the List of Issues and Questions for the review of the Democratic Republic of the Congo's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women

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I. Introduction

This report addresses gender-based violence and discrimination against women and girls in the Democratic Republic of the Congo (DRC) and is submitted in advance of the Committee on the Elimination of Discrimination Against Women's (Committee) determination of the List of Issues and Questions for its review of the Democratic Republic of the Congo's compliance with the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). This report was coordinated by SOFEPADI, a national women's rights organization from the Democratic Republic of the Congo (DRC), and drafted by MADRE, an international women's human rights organization, in collaboration with 157 women's organizations from the DRC.⁴ It describes violations of women's and girls' rights human rights throughout DRC, and particularly in its eastern provinces,⁵ which have suffered from more than two decades of armed conflict.⁶

The international community has recognized the continuous violations of women's and girls' rights in the DRC and has condemned rape and other forms of systematic sexual and gender-based violence.⁷ Despite continuous international pressure, the Congolese government has not addressed gaps in its obligation to address gender-based violence and discrimination experienced by Congolese women and girls. The 8th periodic report submitted by the Government of the DRC to the Committee on the Elimination of Discrimination against Women (the Committee) states that legislation regarding gender equality and the enjoyment of rights has "developed significantly,"⁸ yet these laws are flagrantly insufficient in defending women's rights and are sporadically implemented.

The following sections provide brief background on different human rights violations under CEDAW impacting Congolese women and girls, followed by recommended questions for the Government of the DRC. This report focuses on the need for protection and justice for women and girls in the face of ongoing conflict-related sexual and gender-based violence. It also underscores the lack of meaningful implementation of both U.N. Security Council Resolution 1325, and the "Peace, Security and Cooperation Framework for the Democratic Republic of Congo (DRC) and the Region." This report also describes how women and girls are discriminated against in terms of land rights and the right to succession, thereby curtailing their social and economic security.

⁴ All further mentions in the text of "Congolese" refer to the country of the Democratic Republic of the Congo, differing from the Republic of the Congo.

⁵ The Report focuses especially on the eastern provinces of the DRC, in consultation and collaboration with Women organizations from or active in the provinces of Ituri, North Kivu, Maniema, South Kivu, and Tanganyika (north to south).

⁶ For a recapitulation of events, see Council on Foreign Relations, "The Eastern Congo – A CFR InfoGuide Presentation", October 2016, https://www.cfr.org/interactives/eastern-congo#!/?cid=soc-at-interactive-the_eastern_congo_infoguide-121015.

⁷ UN Security Council, Resolution 1820 (2008), UN Doc. S/RES/1820 (June 2008); see also the undated article "Rape: Weapon of war" by the UN Human Rights Office of the High Commissioner linking the Resolution 1820 to the DRC as "*arguably the epicentre of sexual violence against women today*", <https://www.ohchr.org/en/newsevents/pages/rapeweaponwar.aspx>.

⁸ Committee on the Elimination of Discrimination against Women, Eighth periodic report submitted by the Democratic Republic of the Congo under article 18 of the Convention, due in 2017, UN Doc. CEDAW/C/COD/8, May 2018, para. 1.

II. Sexual and gender-based violence and discrimination committed against women and girls (Articles 1-3, and 14)

A. Conflict-related sexual and gender-based violence and discrimination committed against women and girls

Conflict-related sexual and gender-based violence continues to plague the DRC.⁹ Ongoing instability, internal displacement, and continuing political tensions threaten to jeopardize the progress in addressing sexual violence as a weapon of war.¹⁰ Incidents of sexual violence in conflict-affected provinces are on the rise, both at the hands of armed groups and security officials.¹¹ Women and girls also face increasing rates of violence in social and home environments.¹²

Speaking about the situation for women and girls in conflict-affected areas, one civil society leader working in North Kivu said that “the safety situation of women and girls is threatened and uncertain because they get displaced every day because of constant insecurity and instability, which makes them vulnerable, weak, poor and traumatized ... their dignity is constantly degraded and they often lose hope for their life and those of their children.”¹³ She notes that “[b]ecause authority still hasn’t been reestablished in certain areas, the civilian population and especially women and girls are not being protected.”¹⁴ In such an environment, women and girls have faced an increase in sexual and gender-based violence within conflict-affected areas.

In 2017, the United Nations Population Fund (UNFPA) reported 5,783 cases of sexual violence in conflict-affected provinces—more than twice as many cases compared to 2016.¹⁵ Conflict-related sexual violence spread to the three Kasai provinces in the center of the DRC in 2017, however 72 per cent of the cases can be attributed to the eastern provinces of Tanganyika and Ituri.¹⁶ North and South Kivu are also severely affected by conflict-related sexual violence caused by armed groups,¹⁷ with the amount of armed groups increasing from around 70 in 2015¹⁸ to up to 120 groups in late 2017.¹⁹

This increase in incidents of SGBV in conflict-affected areas extends beyond armed groups and is additionally attributable to Congolese security forces. The number of sexual violence incidents attributed to both the Congolese army (FARDC) and the Congolese National Police (PNC) increased in 2017, rising 28 per cent and 109 per cent respectively in comparison to

⁹ UN Team of Experts – Rule of Law/Sexual Violence in Conflict, Annual Report 2017, p. 22.

¹⁰ Id.; Report of the Secretary-General on Conflict-Related Sexual Violence, UN Doc. S/2018/250 (16 April 2018), covering the period from January to December 2017, para. 36.

¹¹ Report of the Secretary-General on Conflict-Related Sexual Violence (SG-CRSV), UN Doc. S/2018/250 (16 April 2018), covering the period from January to December 2017, para. 37.

¹² United States Department of State, DRC 2017 Human Rights Report, p. 39.

¹³ Interview 4 conducted with civil society leader from the DRC, March 2018, on file with MADRE.

¹⁴ Id.

¹⁵ Report of the Secretary-General on Conflict-Related Sexual Violence (SG-CRSV), UN Doc. S/2018/250 (16 April 2018), covering the period from January to December 2017, para. 37.

¹⁶ SG-CRSV, UN Doc. S/2018/250 (16 April 2018), para. 36, 37.

¹⁷ UN Team of Experts – Rule of Law/Sexual Violence in Conflict, Annual Report 2017, p. 21.

¹⁸ Congo Research Group, J. K. Stearns, C. Vogel, The Landscape of Armed Groups in the Eastern Congo, December 2015, p.5.

¹⁹ Kivu Security Tracker, J. K. Stearns, C. Vogel, The Landscape of Armed Groups in the Eastern Congo - Fragmented, politicized networks, December 2017, p. 1.

2016.²⁰ Over one third of incidents occurred while the victim was in police custody.²¹ Disciplinary actions against high-ranking officers are still not the rule and are unevenly applied.²²

Women and girls are also threatened with sexual and gender-based violence and discrimination in their social environments. According to data from the 2013-2014 Demographic Health Survey, 27 percent of women in the DRC had experienced sexual violence at some point in their lives, increasing from 22 percent in 2007.²³ A study conducted in 2013 in North Kivu province found that around 65 percent of the male participants agreed with the statement: “women should accept partner violence to keep the family together.” The same study found that around 27 percent agreed to the statement: “a man can force a woman to have sex, and she may enjoy it”,²⁴ illustrating a high degree of discriminatory attitudes among men.²⁵

The 8th periodic report of the government to the Committee does not sufficiently demonstrate that incidents of conflict-related sexual violence have increased in recent years and instead emphasizes new legislation, training modules, and new police sectors that combat sexual and gender-based violence. The government’s report provides statistics on civilian and military rape cases from 2014-2015, but these numbers do not reflect the reality for women and girls living in conflict-affected areas in DRC. Incidents have increased at staggering rates.²⁶

B. Sexual and gender-based violence and discrimination committed against school girls

Girl students lag behind their boy counterparts in accessing education,²⁷ especially from the secondary school level onwards.²⁸ Girls’ lower secondary education enrolment rate is linked to long and unprotected walks to secondary schools,²⁹ early and forced marriage,³⁰ and early pregnancy.³¹ Families with little financial resources are more likely to send boys to school instead of girls, believing boys’ education to be a family investment and that girls will be “given away” through marriage, that educated girls are “less marriageable,”³² or that girls will drop out of school because of pregnancies.³³

²⁰ SG-CRSV, UN Doc. S/2018/250 (16 April 2018), para. 38.

²¹ *Id.*

²² *Id.*

²³ United States Department of State, DRC 2017 Human Rights Report, p. 39.

²⁴ Promundo et al., Gender relations, sexual and gender-based violence and the effects of conflict on women and men in North Kivu, eastern Democratic Republic of the Congo: Preliminary Results from the International Men and Gender Equality Survey (IMAGES), November 2013, Figure G on p. 9.

²⁵ *Id.* p. 9, 10.

²⁶ UN Team of Experts – Rule of Law/Sexual Violence in Conflict, Annual Report 2017, p. 21.

²⁷ United States Department of State, DRC 2017 Human Rights Report, p. 41.

²⁸ According to the country’s 2017 Gender Development Index (GDI), men and boys profited from 8.4 years of schooling on average, while women and girls were schooled for 5.3 years on average. The 2017 Gender Inequality Index (GII) points out that amongst the population with at least some secondary education, only 36.7 percent were constituted by women in contrast to 65.8 percent of male secondary school attendees.

²⁹ USAID, Gender Assessment for the Democratic Republic of the Congo, July 2012, p. 30.

³⁰ *Id.*; United States Department of State, DRC 2017 Human Rights Report, p. 41.

³¹ United States Department of State, DRC 2017 Human Rights Report, p. 41.

³² Commissioned by the Swedish Embassy, Laura Davis et al., DRC Gender Country Profile, 2014, p. 25.

³³ USAID, Gender Assessment for the Democratic Republic of the Congo, July 2012, p. 30.

Schools regularly expel pregnant girls,³⁴ despite the government's Education Sector Strategy (2016 – 2025) that recognizes early pregnancies as a source of discrimination against girls in schools and a barrier to equitable education.³⁵ Girls also face sexual violence and rape perpetrated by teachers, with up to one in five girls facing pressure from their teachers to engage in sexual acts in exchange for higher grades,³⁶ widely known as “sexually transmitted grades.”³⁷

In its 8th periodic report to the Committee, the government puts forth the measures it has taken to ensure gender equality in education, focusing on removing barriers to access, improving the enrolment and retention rate of women and girls in higher education, and removing barriers that impede the schooling of pregnant adolescents.³⁸ While the recognition of these items is positive, the government has not taken truly effective measures to address gender-based violence and discrimination in schools. The 8th periodic report only offers that “school administrators are asked to allow pregnant girls and mothers to continue their studies.”³⁹ While commendable, the government should take additional measures to remove barriers for girl students and provide more information on its work to eliminate all forms of discrimination against women in the field of education.⁴⁰ These measures should include more robust education campaigns, additional trainings for educators, and stronger mechanisms in schools to report sexual exploitation and make clear that such offenses are punishable under law.

C. Suggested questions on the issue of SGBV to the Government of the Democratic Republic of the Congo:

- What measures are the government taking to ensure gender-sensitive public security in conflict-affected areas, as well as the protection of women and girls, as a means to combat and eradicate conflict-related sexual violence and increase the accessibility of governmental and non-governmental service offices for women and girls, including victims of gender-based violence, that are out of reach due to armed conflicts?
- What steps have the government taken to address and eliminate incidents of sexual and gender-based violence committed by security forces, including the Congolese army, police forces and intelligence services, and hold accountable security forces who commit crimes of sexual or gender-based violence,⁴¹ including those who have command responsibility?⁴²

³⁴ USAID, Gender Assessment for the Democratic Republic of the Congo, July 2012, p. 30.

³⁵ Stratégie sectorielle de l'éducation et de la formation 2016-2-15, DRC, December 2015, p. 46.

³⁶ United States Department of State, DRC 2017 Human Rights Report, p. 42.

³⁷ Commissioned by the Swedish Embassy, Laura Davis et al., DRC Gender Country Profile, 2014, p. 26, 27; USAID, Gender Assessment for the Democratic Republic of the Congo, July 2012, p. 30.

³⁸ Committee on the Elimination of Discrimination against Women, Eighth periodic report submitted by the Democratic Republic of the Congo under article 18 of the Convention, due in 2017, UN Doc. CEDAW/C/COD/8, May 2018, para. 27.

³⁹ Id., para. 28.

⁴⁰ Id., para. 29.

⁴¹ See also Recommendation on accountability by the United States of America in UN General Assembly, Human Rights Council's Report of the Working Group on the Universal Periodic Review – Democratic Republic of the Congo, UN doc. A/HRC/27/5, 7 July 2014, para. 134.119.

⁴² CEDAW's 2013 Concluding Observations (CEDAW/C/COD/CO/6-7), para 10 b.

- What measures are the government taking to eradicate harmful and dangerous stereotypes about women and girls that perpetuate violence and discrimination in conflict and non-conflict settings, as well as social and educational environments?
- What specific steps does the government plan to implement to increase women's and girls' access to secondary and tertiary education, and to address discrimination regarding pregnancies and sexual and gender-based violence faced by girl students in educational environments?
- What measures are the government taking to train educators and implement mechanisms in schools to report sexual exploitation and make clear that such offenses are punishable under law and educate the broader public about girls rights in schools?

III. Access to justice for victims of sexual and gender-based violence (Articles 2-3, 5, and 15)

A. Access to justice barriers

The Congolese judicial system applies the criminal code and Law 06/018 relating to sexual violence.⁴³ This law outlaws rape in the DRC and stipulates punishments,⁴⁴ but it does not explicitly condemn marital rape. Consequently judicial officials apply an erroneous interpretation of the crime of rape that excludes marital rape. More generally, the penal code does not criminalize domestic violence.⁴⁵ Despite this Committee's previous Concluding Observations that call on the government to ensure that forms of domestic violence and marital rape are expressly prohibited and that perpetrators of these crimes are brought to justice,⁴⁶ the government's 8th periodic report acknowledges that specific legislation criminalizing domestic violence does not exist and the criminal code has yet to be updated.⁴⁷ Unfortunately, the Government does not recognize that this is an issue in its report to the Committee and does not offer plans to adopt such legislation.⁴⁸ In tandem with patriarchal cultural attitudes, this codified blindness to gender-based violence results in impunity. For example, while the statutory offense of assault could be applied, in 2017, police rarely intervened on behalf of victims of domestic violence and there was no report of judicial authorities initiating prosecutions in cases of domestic violence or spousal abuse.⁴⁹

Victims must often navigate a complex system of barriers to access justice, which include paying excessive fees or bribes and the criminal justice system's lack of resources and

⁴³ Committee on the Elimination of Discrimination against Women, Eighth periodic report submitted by the Democratic Republic of the Congo under article 18 of the Convention, due in 2017, UN Doc. CEDAW/C/COD/8, May 2018, para. 81.

⁴⁴ Law 06/018 (2006).

⁴⁵ United States Department of State, DRC 2017 Human Rights Report, p. 39-40; Human Rights Committee, Concluding observations on the fourth periodic report of the Democratic Republic of the Congo, UN doc. CCPR/C/COD/CO/4, 30 November 2017, para. 17, 18

⁴⁶ Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo, UN doc. CEDAW/C/COD/CO/6-7, 30 July 2013, para, 22 e

⁴⁷ Committee on the Elimination of Discrimination against Women, Eighth periodic report submitted by the Democratic Republic of the Congo under article 18 of the Convention, due in 2017, UN Doc. CEDAW/C/COD/8, May 2018, pg.18, para. 81.

⁴⁸ *Id.*

⁴⁹ United States Department of State, DRC 2017 Human Rights Report, p. 40.

inability to search for perpetrators or collect evidence.⁵⁰ A 2016 study found that many women lack sufficient financial resources or are prevented by ongoing security issues from travel to distant judicial actors.⁵¹ Victims are often unable to pay high costs of legal proceedings,⁵² and they are often unable to access or are unaware of local women's organizations and legal clinics that provide free legal assistance.⁵³ Furthermore, victims fear stigma, humiliation,⁵⁴ and reprisals for reporting SGBV.⁵⁵ There is also a general lack of understanding of victims' rights and justice processes.⁵⁶ Consequently, many victims of SGBV, particularly rape victims, are left discouraged and do not pursue formal legal action.⁵⁷ As such, current official statistics do not fully reflect the number of incidents that occur.

Due to a general sense that the justice system is ineffective and corrupt⁵⁸ or even at the encouragement of judicial authorities,⁵⁹ victims and their families frequently resort to out-of-court settlements with the perpetrator or the perpetrator's family,⁶⁰ which are not victim-centered.⁶¹ In these instances, the family of the perpetrator may pay the family of the victim. In some cases, victims may be stigmatized and consider unmarried, and the perpetrator may extend an offer to marriage to the victim as a form of compensation.⁶² Victims often

⁵⁰ Submission to the Secretariat of the International Conference on the Great Lakes Region (ICGLR) on the Implementation of the Kampala Declaration in Member States, 25 November 2015, para 31, 32; Fondation Hirondelle, Justice Info, November 2017, <https://www.justiceinfo.net/fr/justice-reconciliation/351111-dans-l-est-de-la-rdc,-le-difficile-combat-contre-les-violences-sexuelles.html>.

⁵¹ The University of Sydney, University of Technology, Sydney, ActionAid, and Australian Aid, Making Justice Work for Women: Democratic Republic of the Congo Country Report, August 2016, p. 103; American Bar Association, ABA Representatives and Observers to the United Nations Report to the House of Delegates – Resolution, undated, p. 12; Monusco/OHCHR, Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo, April 2014, p. 21, para 52, 53.

⁵² Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo, UN doc. CEDAW/C/COD/CO/6-7, 30 July 2013, para 11b; Monusco/OHCHR, Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo, April 2014, p. 21, para 52.

⁵³ Monusco/OHCHR, Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo, April 2014, p. 21, para 53.

⁵⁴ *Id.*, p. 22, para 55.

⁵⁵ United States Department of State, DRC 2017 Human Rights Report, p. 40.

⁵⁶ The University of Sydney, University of Technology, Sydney, ActionAid, and Australian Aid, Making Justice Work for Women: Democratic Republic of the Congo Country Report, August 2016, p. 96, 97; Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo, UN doc. CEDAW/C/COD/CO/6-7, 30 July 2013, para 11 b.

⁵⁷ United States Department of State, DRC 2017 Human Rights Report, p. 40; Commissioned by the Swedish Embassy, Laura Davis et al., DRC Gender Country Profile, 2014, p. 18.

⁵⁸ Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo, UN doc. CEDAW/C/COD/CO/6-7, 30 July 2013, para 11 b.

⁵⁹ Monusco/OHCHR, Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo, April 2014, p. 20, para 51.

⁶⁰ Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo, UN doc. CEDAW/C/COD/CO/6-7, 30 July 2013, para 11 b.

⁶¹ Commissioned by the Swedish Embassy, Laura Davis et al., DRC Gender Country Profile, 2014, p. 18: *“These arrangements à l’amiable usually result in a lower settlement than what the victim would have obtained if a normal judicial procedure were held, and in many cases will be paid to the victim’s male relative rather than to her.”*

⁶² Monusco/OHCHR, Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo, April 2014, p. 20, para 51.

accept these out-of-court settlements of compensation or marriage due to pressure from their families or economic burdens.⁶³

The 8th periodic report of the government to the Committee acknowledges that providing compensation for victims remains a challenge.⁶⁴ However the government offers no plan for addressing the challenges.

B. Lack of access to reparations for rape victims

According to the 2006 Sexual Violence Law, the minimum penalty for rape is a prison sentence of five years, accompanied by a minimum sum of monetary compensation.⁶⁵ Though official reports note that courts regularly impose the five-year sentence in rape convictions,⁶⁶ for the few cases actually brought forward by victims, the minimum sentence is not consistently upheld by civil jurisdiction courts.⁶⁷

The Congolese criminal justice system does allow for monetary compensation as a form of reparation,⁶⁸ but activists note that perpetrators are often too poor to pay reparations themselves and the Congolese government has yet to offer to pay for the reparations.⁶⁹ In this way, the government has failed to implement Law 15/013,⁷⁰ which guarantees compensation for victims of gender-based violence and which outlines rules to implement women's rights and gender parity as prescribed by the Constitution.⁷¹ In September 2017, there were more than 150 judgments relating to sexual violence rendered by courts in the cities of Bunia (Ituri province) and Beni (North Kivu province) within the period of a year.⁷² Unfortunately, no victims received reparation payments from these 150 judgments.

While the 8th periodic report of the government to the Committee acknowledges that “combating this phenomenon is a priority,” it does not offer specific plans for addressing the challenges of addressing impunity.⁷³ When discussing the fight against impunity for sexual violence in conflict-affected areas, the government states that, “cases of sexual violence brought to the attention of the judicial authorities are investigated” and 12 commanding

⁶³ Id.

⁶⁴ Committee on the Elimination of Discrimination against Women, Eighth periodic report submitted by the Democratic Republic of the Congo under article 18 of the Convention, due in 2017, UN Doc. CEDAW/C/COD/8, May 2018, para. 78.

⁶⁵ Law 06/018, Art. 170.2 (2006).

⁶⁶ United States Department of State, DRC 2017 Human Rights Report, p. 34.

⁶⁷ Fondation Hironnelle, Justice Info, November 2017, <https://www.justiceinfo.net/fr/justice-reconciliation/35111-dans-l-est-de-la-rdc,-le-difficile-combat-contre-les-violences-sexuelles.html>: a female lawyer from North Kivu province explains that courts pronounce for example a suspended sentence of one year; USAID, Gender Assessment for the Democratic Republic of the Congo, July 2012, p. 29.

⁶⁸ Law number 06/018, modifying and completing the Congolese penal code, July 20, 2006; Law number 06/019 modifying and completing the Congolese criminal procedure code, July 20, 2006.

⁶⁹ Mobile court in Eastern Congo awards reparations to sexual violence victims, » Mukwege Foundation, February 2018, accessible at : <http://www.mukwegefoundation.org/2018/02/28/mobile-court-in-eastern-congo-awards-reparations-to-sexual-violence-victims/>

⁷⁰ Law 15/013, Art. 25 (2015)

⁷¹ Constitution of the Democratic Republic of the Congo, Articles 14 and 15.

⁷² Radio Okapi/Monusco, RDC : des victimes de violences sexuelles non indemnisées en Ituri et au Nord-Kivu, 27 September 2017, <https://www.radiookapi.net/2017/09/27/actualite/justice/rdc-des-victimes-de-violences-sexuelles-non-indemniees-en-ituri-et-au>.

⁷³ Committee on the Elimination of Discrimination against Women, Eighth periodic report submitted by the Democratic Republic of the Congo under article 18 of the Convention, due in 2017, UN Doc. CEDAW/C/COD/8, May 2018, para. 62.

officers have been tried and convicted under jurisdiction of mobile courts.⁷⁴ However, the government does not acknowledge that victims face significant barriers in bringing cases and the legitimate fear of reprisals or stigmatization that many victims of SGBV in the DRC face.

C. Suggested questions barriers to accessing justice to the Government of the Democratic Republic of the Congo:

- What technical and financial measures have the government taken to, in compliance with CEDAW's 2013 Concluding Observations, "ensure the effective implementation, including through the provision of sufficient resources, of the 2006 law on sexual violence, the 2009 National Strategy against gender-based violence and the zero-tolerance policy,"⁷⁵ as well as the 2015 law on gender equality and the reviewed provisions of the family code?
- What long-term strategies does the government plan to enact to address domestic violence against women and impunity for perpetrators, including the adoption of specific legislation that expressly criminalizes domestic violence and acknowledges the crime of marital rape separately to ensure proper implementation of redress and compensation efforts?
- What measures has the government taken to train police, prosecutors, and judges on the proper application of the rape law including marital rape as a crime and minimum sentences for rape, and establish a consistent and singular interpretation of the law as requiring the minimum sentence of five years for perpetrators found guilty of rape?
- What steps does the government plan to take to ensure that victims of sexual and gender-based violence have full access to justice mechanisms, redress, and compensation, including victim and witness protection, financial support for legal proceedings, legal knowledge of rights for victims, and physical proximity to courts and prosecutor offices?

IV. Barriers to women's participation in civic and peace building processes and negotiations (Articles 1-3, 7-8)

A. Barriers to women's civic participation

Women's participation rates in high-level decision-making processes remains low in the DRC. In 2017, four of 108 senators were women (3.7 percent), women held 10 percent or 50 of 500 seats in the National Assembly (a slight increase from 8.2 percent in 2015⁷⁶) and 6 percent or 43 of 690 seats in the country's provincial assemblies.⁷⁷ In 2014, the percentage of women's representation in constitutional and legislative reviews in the DRC was below 10 percent.⁷⁸

⁷⁴ Id., para. 63.

⁷⁵ CEDAW's 2013 Concluding Observations CEDAW/C/COD/CO/6-7, para. 22a.

⁷⁶ UNDP, Gender Inequality Index, available at <http://hdr.undp.org/en/composite/GII>

⁷⁷ United States Department of State, DRC 2017 Human Rights Report, p. 34.

⁷⁸ Only 9.54 percent of representatives present in 2014 reviews of the DRC's Constitutional, Legislative, and Security Sector Reform amendments were women. The Global Network of Women Peacebuilders, Security Council Resolution 1325: Civil Society Monitoring Report 2014, October 2014, p. 32.

Women are also underrepresented in the justice and security sectors. For instance, women accounted for only about 20 percent of judges in South Kivu province in provincial courts in 2015, and eight of the 13 courts did not have any women judges.⁷⁹ Strikingly, only one out of a total of 94 civil prosecutors was a woman in South Kivu province.⁸⁰ In 2015, women constituted only around six percent of South Kivu’s police forces.⁸¹

Discriminatory provisions in the 2015 revised election review law, Law 15/001,⁸² further disadvantage women. Law 15/001 was enacted in February 2015 to set in motion the organization of 11 elections at national, provincial, and local levels and to update general election laws in the DRC.⁸³ All political positions—from the presidency to the deputy borough mayors—require a higher education diploma or at least five years of related experience,⁸⁴ despite the massive gap in access to higher education between women and men.⁸⁵ Consequently, most women continue to be limited to the positions of head of quarters or head of neighborhoods with less representation in higher positions.⁸⁶ Law 15/001 did not enhance the conditions for women’s representation and gender parity on the election lists of political parties: party lists only have “to take into account” the equal representation of men and women.⁸⁷ Furthermore, the final text of the law did not include a drafted provision that would have required at least one-third of candidates presented by political parties to be women.⁸⁸

In its 8th periodic review to the Committee, the government cites relevant articles from Law 15/013, the law on gender equality, that require political parties to “take account of gender parity”⁸⁹ at the risk of losing public funding if they do not do so,⁹⁰ but there are no descriptions in the 8th periodic report of how this has been implemented.

Despite these legal mechanisms that aim to include women in political processes, women face barriers within their local communities. One DRC women’s rights activist stated: “Women do not feel supported by their communities and husbands to run for elections. They are not literate enough. They do not have financial means or any kind of educational training. We need more efforts at the financial, material and media level to make sure women can run

⁷⁹ International Alert/ Observatoire de la Parité, *État des Lieux de la Parité dans la Province du Sud-Kivu en République Démocratique du Congo*, 2016, p. 19.

⁸⁰ *Id.*, p. 20.

⁸¹ *Id.*, p. 22.

⁸² Law n° 15/001 of 12 February 2015 modifying and completing law n° 06/006 of 09 Mars 2006 on the organisation of presidential, legislative, provincial, urban, municipal and local elections, previously modified by law n° 11/003 of 25 June 2011.

⁸³ Monusco/OHCHR, 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 the Congo Between 1 January and 30 September 2015. December 2015, p. 4, para. 2

⁸⁴ Law n° 15/001 of 12 February 2015, Art. 103, para. 4, Art. 120, para. 5, Art. 131, para. 5, Art. 148, para. 5.

⁸⁵ International Alert/ Observatoire de la Parité, *État des Lieux de la Parité dans la Province du Sud-Kivu en République Démocratique du Congo*, 2016, p. 11, 12.

⁸⁶ *Id.*, p. 9.

⁸⁷ Law n° 15/001 of 12 February 2015, Art. 13.

⁸⁸ Monusco/OHCHR, 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 the Congo Between 1 January and 30 September 2015. December 2015, p. 15, para. 45.

⁸⁹ Committee on the Elimination of Discrimination against Women, Eighth periodic report submitted by the Democratic Republic of the Congo under article 18 of the Convention, due in 2017, UN Doc.

CEDAW/C/COD/8, May 2018, para. 15, art. 5.

⁹⁰ *Id.*

for office without negative pressure from their own communities.”⁹¹ According to another activist, “Female candidates find it difficult to find funding to run their campaigns, especially because of the limitations provided by law. This is a way to keep women out of politics.”⁹²

The 8th periodic report of the government to the Committee fails to adequately address the lack of women’s representation in provincial security committees, consisting of governors, heads of courts and public prosecutors’ offices, police chiefs and heads of security services.⁹³ While the government’s report does recognize that including women in these roles continues to be a “major challenge,” it does not offer any proactive measures to address the problem.⁹⁴ While the government provides an overview of the ministerial orders put in place to implement Resolution 1325, it does not explain how the implementation has been carried out or what the impact has been.⁹⁵ Furthermore, the government does not provide details on women have been included in peace and security efforts, other than citing that additional provinces have secretariats and that civil society organizations have been pivotal in implementation efforts.⁹⁶

B. Barriers to women’s participation in peace-building processes

Meaningful inclusion of women in peace-building, constitution-making, and national dialogues increases chances of agreements being reached and increases the durability of peace, including where women’s leadership pushes for commencement, resumption, or finalization of negotiations when such processes stall.⁹⁷ However, in 2014, civil society organizations’ participation in task forces and committees relating to implementation of UNSC Resolutions 1325 and 1820 had deteriorated compared to previous levels.⁹⁸ Between 2013 and 2017, some government-organized dialogues had a rate as low as four percent by women participants.⁹⁹

In light of these challenges, the government has adopted a second-generation national action plan for the implementation of Resolution 1325 for the years 2018 to 2022.¹⁰⁰ The new action plan aims to address the challenges faced during the implementation of the first 1325 national action plan, including the lack of women’s inclusion in official peace building and decision-making processes and their scant representation in institutions and mechanisms for the

⁹¹ Interview 1 conducted with civil society leader from the DRC, March 2018, on file with MADRE.

⁹² Interview 2 conducted with civil society leader from the DRC, March 2018, on file with MADRE.

⁹³ Committee on the Elimination of Discrimination against Women, Eighth periodic report submitted by the Democratic Republic of the Congo under article 18 of the Convention, due in 2017, UN Doc. CEDAW/C/COD/8, May 2018, pg. 17, para. 73.

⁹⁴ *Id.*

⁹⁵ *Id.*, para. 68.

⁹⁶ *Id.*, para. 68.

⁹⁷ UN Security Council, Report of the Secretary-General on women and peace and security, UN doc. S/2015/716, 16 September 2015, para. 11, 12.

⁹⁸ The Global Network of Women Peacebuilders, Security Council Resolution 1325: Civil Society Monitoring Report 2014, October 2014, p. 10.

⁹⁹ Ministry of Gender, Children and Family (DRC), Draft Report on the second-Generation national Action Plan for the implementation of Resolution 1325 for the years 2018 to 2022, as shared on 05 September 2018 before its planned validation on 06 September 2018, p.13.

¹⁰⁰ UN Women, “Investing in women for peace and security,” 14 September 2018:

<http://africa.unwomen.org/en/news-and-events/stories/2018/09/investing-in-women-for-peace-and-security>

prevention, management and resolution of conflicts.¹⁰¹ However it is unclear how this action plan will be implemented.

Furthermore, while the government in its 8th periodic report cites civil society's contributions to the implementation of UNSC Resolution 1325, particularly in annual reports for provinces,¹⁰² women's civil society groups continue to face dangerous challenges, as described by one civil society leader:

Women representatives of civil society are fighting for the promotion of women's rights, their participation in peace negotiations and their representativeness in decision-making bodies at all levels. They face many challenges and do not have sufficient support from the authorities, their voices are not heard and they are threatened, arbitrarily arrested, raped to silence their voices. This situation causes them to become discouraged and most are forced to remain silent.¹⁰³

In its Concluding Observations in 2013, this Committee was extremely concerned about reprisals and violence against women human rights defenders, particularly women defenders in rural communities working on cases of sexual violence.¹⁰⁴ However, the government's 8th periodic report does not address the protection of women human rights defenders.¹⁰⁵

The Peace, Security and Cooperation Framework for the Democratic Republic of Congo (DRC) and the Region¹⁰⁶ was signed in February 2013 by eleven African states¹⁰⁷ in the context of the M23 crisis. The crisis stemmed from violence and fighting between government forces and the Mouvement du 23 mars (M23) armed group in the eastern regions of DRC, resulting in severe human rights violations, including rapes of women and children, and forced displacements.¹⁰⁸ The Framework, enriched with monitoring and oversight processes and provided clear benchmarks aimed at promoting sustainable peace in the region by calling for national,¹⁰⁹ regional, and international actions to help end the conflict and violence.¹¹⁰ Unfortunately, the negotiation process for the Framework lacked women's

¹⁰¹ Ministry of Gender, Children and Family (DRC), Draft Report on the second-Generation national Action Plan for the implementation of Resolution 1325 for the years 2018 to 2022, as shared on 05 September 2018 before its planned validation on 06 September 2018, p.14, 16.

¹⁰² Committee on the Elimination of Discrimination against Women, Eighth periodic report submitted by the Democratic Republic of the Congo under article 18 of the Convention, due in 2017, UN Doc. CEDAW/C/COD/8, May 2018, para. 68.

¹⁰³ Interview 3 conducted with civil society leader from the DRC, March 2018, on file with MADRE.

¹⁰⁴ CEDAW's 2013 Concluding Observations (CEDAW/C/COD/CO/6-7), para 9 d.

¹⁰⁵ Committee on the Elimination of Discrimination against Women, Eighth periodic report submitted by the Democratic Republic of the Congo under article 18 of the Convention, due in 2017, UN Doc. CEDAW/C/COD/8, May 2018.

¹⁰⁶ Henceforth referred to as the Framework.

¹⁰⁷ As signing parties: Angola, Burundi, the Central African Republic, the DRC, the Republic of Congo, Rwanda, South Africa, South Sudan, Tanzania, Uganda and Zambia; with representatives of the African Union, the International Conference on the Great Lakes Region, the South African Development Community and the UN Secretary-General as signing witnesses.

¹⁰⁸ Security Council Committee established pursuant to Resolution 1533 (2004) concerning the Democratic Republic of the Congo, Narrative Summaries of Reasons for Listing, 29 October 2014, accessible at <https://www.un.org/sc/suborg/en/sanctions/1533/materials/summaries/entity/m23>

¹⁰⁹ The Framework requires the DRC in its Article 5 capacity to carry out key governance reforms, such as in the fields of security, governmental structural reforms and decentralisation, to consolidate State authority especially in eastern DRC, to further economic development and the agenda of reconciliation, tolerance and democratization.[Citation to Framework]

¹¹⁰ Peace, Security and Cooperation Framework for the Democratic Republic of Congo (DRC) and the Region, February 2013.

formal representation, with only a few women from civil society receiving observer status but still lacking decision-making power.¹¹¹ This resulted in the lack of a gender perspective in the Frameworks' text, which led to the failure to apply a gendered analysis—one that recognizes the impact of the conflict on women and girls. Civil society more generally also had extremely limited participation in the first round of national implementation benchmark development for the Framework. The benchmarks contain only a few indicators (ten out of 247 proposed in 2014) that are gender-related, but they do not require sex and age disaggregation of data.¹¹²

C. Suggested questions on barriers to women's participation in civic and peace building processes to the Government of the Democratic Republic of the Congo:

- What measures will the government undertake to ensure that women are better included in the 2015 election law and its implementation, to better connect the election law with the objectives of the 2015 law on gender equality and to ensure greater participation from women candidates in elections?
- What steps are the government taking to implement the second-generation national action plan for implementing Resolution 1325 for the years 2018 to 2022 that allocates sufficient resources through gender-sensitive budgeting for its implementation, emphasizes women's inclusion in official peace building and decision-making processes, as well as increased representation in institutions and mechanisms, full and active participation of women's organizations in the formulation of the plan?
- How will the government support women, peace, and security programs for both civil society and governmental activities that include capacity strengthening of women and women's organizations to ensure women's full and equal participation in peace negotiations as well as in the implementation and monitoring of peace agreements?¹¹³
- What measures does the government plan to take to increase women's participation in local and national peace building activities and high-level advocacy efforts?
- What measures are the government taking to ensure inclusion of women's organizations in implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of Congo and the Region, and what plans does it have to comply with the regionally endorsed demands of the Women's Platform's 2016 Goma Declaration regarding the Framework?

V. Barriers to women's economic security (Articles 1-3, 11, 15-16)

¹¹¹ International Alert / Kvinna till Kvinna, Gender Audit of the Peace, Security and Cooperation Framework for the Democratic Republic of Congo and the Region, October 2015, p. 26.

¹¹² Id., p. 31.

¹¹³ See also: The Global Network of Women Peacebuilders, Security Council Resolution 1325: Civil Society Monitoring Report 2014, October 2014, p. 61.

According to the United Nations Development Program (UNDP) Gender Development Index, women's development in the DRC was about 85 percent that of men in 2017,¹¹⁴ slightly lower than the average score of 89 percent for the region of Sub-Saharan Africa.¹¹⁵ The DRC ranks 176 out of 189 countries with a score of 0.652.¹¹⁶ The Gender Development Index measures gender gaps by accounting for discrepancies between men and women in the dimensions of health, knowledge, and living standards.¹¹⁷

Despite the importance of land rights and ownership for women's economic survival,¹¹⁸ women in the DRC rarely own land. The use and distribution of land is regulated and organized by both national and customary law,¹¹⁹ enacted by local chiefs. The local chiefs' power to decide on land issues is deeply anchored in the DRC's law concerning the statutes of customary chiefs,¹²⁰ and these inherited leadership positions are exclusively reserved for men. Up to 97 % of land is distributed through these customary power structures at the community level.¹²¹

Consequently, while women are the primary land cultivators in eastern Congo within a "feminised" agriculture sector,¹²² they can neither afford to buy land in most cases,¹²³ nor inherit land within a highly patrilineal system that passes all assets and values through the lineage of male family members.¹²⁴ Widowed women face difficulty in accessing assets that belonged to their late husbands, as these assets could also be claimed by the late husband's siblings.¹²⁵ DRC law upholds the exclusion of widows from accessing inheritance, stating that "in event of a death in which there is no will, the husband's children, including those born out of wedlock (provided that they were officially recognized by the father), rather than the widow, have precedence with regard to inheritance."¹²⁶

This gender inequality in accessing land severely affects the "expansion of the economy as a whole, and the eradication of poverty in particular,"¹²⁷ but the inequality also weakens women's efforts to reach and consolidate socioeconomic stability. With little access to ownership of land or other valuable assets, most women cannot provide required credit guarantees within the formal financial system and therefore remain confronted with barriers

¹¹⁴ UNDP, Gender Development Index, available at <http://hdr.undp.org/en/composite/GDI>.

¹¹⁵ UNDP, Africa Human Development Report 2016 – Accelerating Gender Equality and Women's Empowerment in Africa, 2016, p. 149.

¹¹⁶ UNDP, Gender Inequality Index, available at <http://hdr.undp.org/en/composite/GII>

¹¹⁷ UNDP, Gender Development Index overview, available at <http://hdr.undp.org/en/content/gender-development-index-gdi>

¹¹⁸ UNDP, Africa Human Development Report 2016: Accelerating Gender Equality and Women's Empowerment in Africa, 2016, p. 58.

¹¹⁹ Commissioned by the Swedish Embassy, Laura Davis et al., DRC Gender Country Profile, 2014, p. 31.

¹²⁰ Law n° 15/015 of 25 August 2015 on the statutes of customary chiefs, Art. 10 n° 3.

¹²¹ FAO, Gender and Land Rights Database – Congo – Discrepancies/gaps between statutory and customary laws, http://www.fao.org/gender-landrights-database/country-profiles/countries-list/customary-law/discrepanciesgaps-between-statutory-and-customary-laws/en/?country_iso3=COG.

¹²² Heal Africa, D. Lwambo, "Before the War, I was a Man": Men and Masculinities in Eastern DR Congo, 2011, p. 14.

¹²³ Commissioned by the Swedish Embassy, Laura Davis et al., DRC Gender Country Profile, 2014, p. 31.

¹²⁴ FAO, Gender and Land Rights Database – Congo – Inheritance/succession de facto practices, http://www.fao.org/gender-landrights-database/country-profiles/countries-list/customary-law/inheritancesuccession-de-facto-practices/en/?country_iso3=COG.

¹²⁵ Id.

¹²⁶ United States Department of State, DRC 2017 Human Rights Report, p. 41.

¹²⁷ UNDP, Africa Human Development Report 2016: Accelerating Gender Equality and Women's Empowerment in Africa, 2016, p. 59.

to financial investments in their agricultural or other businesses. In addition, women still require their husband's authorization and signature when incurring an asset liability, despite changes to the family code.¹²⁸

In its 8th periodic report to the Committee, the Government of the DRC acknowledges that women "continue to have limited access to national economic resources and factors of production," saying that the "situation has deteriorated in recent years."¹²⁹ The government also recognizes that the "inferior status of women severely hinders the enjoyment of their rights" and that women "do not own productive assets, such as land and agricultural inputs."¹³⁰ The government focuses only on increasing access to bank loans as a solution to these issues,¹³¹ in relation to Article 13 of the Convention. While initiatives to improve access for women to bank loans is important, the government fails to consider other elements of economic empowerment and neglects to mention any efforts to change the patriarchal legal rights of ownership and gender inequality in land distribution decisions that also significantly effect women..¹³²

A. Suggested questions on economic barriers to the Government of the Democratic Republic of the Congo:

- What measures are the government taking to comply with the Committee's 2013 Concluding Observations (CEDAW/C/COD/CO/6-7, para. 38 (c)) and "raise the awareness of traditional leaders on the importance of eliminating discriminatory practices [...] and the customary practice that discriminates against women with regard to land inheritance?"
- What steps has the government taken to allocate sufficient funds for initiatives to support women's access to land and inheritance, as well as to assure the overall legal protection of women's economic rights, including steps taken to reform inheritance laws and train local chiefs and land distributors on the importance of land rights for women.
- What actions have the government taken to allocate sufficient support for the economic empowerment of women, such as through financial literacy campaigns with a particular accent on rural areas, for both civil society and governmental activities?

¹²⁸ Law n° 16/008 of 15 July 2016 (family code), introduction of main changes.

¹²⁹ Committee on the Elimination of Discrimination against Women, Eighth periodic report submitted by the Democratic Republic of the Congo under article 18 of the Convention, due in 2017, UN Doc. CEDAW/C/COD/8, May 2018, para. 39.

¹³⁰ Id.

¹³¹ Id., pg. 11, para. 41-42.

¹³² Id., pg. 11, para. 39-43.