

CONFLICT-RELATED SEXUAL VIOLENCE MULTI-PARTNER TRUST FUND

**UN TEAM OF EXPERTS ON THE RULE OF LAW AND SEXUAL VIOLENCE IN
CONFLICT**

INTERIM NARRATIVE REPORTCOVER PAGE

Participating UN Organization(s): UNDP	Project¹ Title: Programme conjoint des Nations Unies d'appui à la réforme de la Justice 2020-2024 Project Number:
Focal Point of the Participating UN Organization(s): Name: Chloe Marnay-Baszanger Title: Team Leader – UN Team of Experts on the Rule of Law and Sexual Violence in Conflict Address: UN Team of Experts: Rule of Law/Sexual Violence in Conflict Office of the SRSG on Sexual Violence in Conflict United Nations Secretariat, Room 3107 New York, NY 10017, USA Telephone: +1 917-367-3981 (office) Email: marny-basanger@un.org Name: Marie Kindblom Tornell Title: Chief, Joint UN Justice Programme DRC, UNDP Address: UNDP Immeuble Losonia Boulevard du 30 juin Kinshasa, DRC Telephone: Cell: +243-999-58-9840	Report Number: Project Location(s): Democratic Republic of the Congo

¹ The term “project” is used for projects, programmes and joint programmes

<p>Email: marie.tornell@undp.org</p> <p>Name: Damien Mama</p> <p>Title: UNDP Resident Representative (DRC)</p> <p>Address: Immeuble Losonia Boulevard du 30 juin Kinshasa, RDC</p> <p>Telephone: +243-81-555-3305</p> <p>Email: damien.mama@undp.org</p>	
<p>UN Action pillar of activity:</p> <p><input type="checkbox"/> Advocacy</p> <p><input type="checkbox"/> Knowledge building</p> <p><input checked="" type="checkbox"/> Support to UN system at country level</p>	<p>Reporting Period: 1 August – 31 December 2023</p>
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² Team of Experts project contribution total and breakdown: \$976,294.97 (December 2020, UNDP – \$454,545; February 2022, UNDP – 387,577.54; May 2022, UNDP – \$134,172.43, August 2023, UNDP - \$139,100).

Interim Narrative Report

Support to Criminal Justice Authorities to Address Impunity for Conflict-Related Sexual Violence in the Democratic Republic of the Congo

I. Background

A. Normative Framework

For more than 20 years, the Democratic Republic of the Congo (DRC) has experienced armed conflicts, mainly in the eastern provinces of the country. In particular, the country has been shaken by two conflicts (1996-1997 and 1998-2003). These periods were characterized by the commission of massive human rights violations, resulting in the death of more than two million civilians and it is estimated that more than one million women were raped.³

On 30 March 2013, the Government of the DRC signed a Joint Communiqué with the UN on conflict-related sexual violence (CRSV), which included a request for technical assistance from the UN Team of Experts on the Rule of Law and Sexual Violence in Conflict (ToE) to support the Government's efforts to combat impunity for CRSV.⁴ This commitment was renewed in December 2019⁵, when the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG-SVC) and the Government of the DRC co-signed an addendum to the joint communiqué in which the Government specifically committed to several justice and accountability outcomes, including:

- Fighting against impunity by bringing the perpetrators of sexual violence to justice and ensuring access to justice for victims;
- Allocating sufficient resources to the military and civil judicial institutions, as well as the Special Police for the Protection of Children and the Prevention of Sexual Violence⁶;
- Ensuring that victims and their family members have effective access to justice, remedies and just redress;
- Excluding perpetrators of sexual violence from the recruitment and integration process into the army and the police, as well as from any possibility of continuity of service; and
- Accelerating the process of adopting a law creating a reparation fund for victims of CRSV.

In July 2022, the Prime Minister approved the creation of an interagency task force designed to work on the definition of the implementation plan for the Joint Communiqué, including through

³ UN Women Africa, Democratic Republic of Congo. Online: <https://africa.unwomen.org/en/where-we-are/west-and-central-africa/democratic-republic-of-congo>.

⁴ Joint Communiqué between the Government of the Democratic Republic of Congo and the United Nations on Combating Sexual Violence in Conflict, 30 March 2013, available at https://www.un.org/sexualviolenceinconflict/wp-content/uploads/joint-communique/with-the-government-of-the-democratic-republic-of-the-congo-30-march-2013/Joint_Communique_DRC_UN.pdf.

⁵ Addendum to the Joint Communiqué on Conflict-Related Sexual Violence between the Democratic Republic of Congo and the United Nations, available 3 December 2019, at <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/12/joint-communique/addendum-au-communique-conjoint-sur-les-violences-sexuelles-liees-au-conflict-entre-la-republique-democratique-du-congo-et-lorganisation-des-nations-unies/RDC.pdf>

⁶ Police spéciale de Protection de l'Enfant et de Prévention des Violences Sexuelles.

the adoption of legislation on the protection of victims and witnesses and the establishment of a reparations fund for victims. This law, No. 22/065 was promulgated on 26 December 2022⁷.

In addition, the Government of the DRC and UN partners⁸ have adopted a Joint Justice Programme (2020-2024), which aims to mobilize funds and expertise to further support the strengthening of the rule of law and the fight against impunity, including the judicial response to crimes of CRSV. It also aims to contribute to the implementation of the transition plan detailing the joint MONUSCO drawdown strategy. This plan, endorsed by the Government of the DRC following the adoption of Security Council resolution 2556 (2020) and welcomed in resolution 2612 (2021), contains specific indicators reflecting the minimum conditions in the fight against impunity for CRSV to enable MONUSCO's withdrawal.⁹

B. Political and security context

In 2023, political dynamics were driven by continued preparations for the 2023 general elections, heightened political tensions, including over the perceived lack of transparency and inclusivity of the electoral process, as expressed by parts of the opposition, and ongoing regional efforts to address insecurity in eastern DRC.¹⁰

The security situation in eastern DRC deteriorated significantly owing to the resurgence of the M23 since the beginning of 2021. On 3 May 2021, the President signed two ordinances instituting a state of siege in Ituri and North Kivu Provinces, effective from 6 May for an initial period of 30 days, with the possibility of extension for 15-day periods.¹¹ Since then, the state of siege has been renewed.

In this context, a significant increase in allegations of CRSV being perpetrated against civilians, including children, in particular affecting internally displaced persons (IDPs) fleeing conflict has been reported in 2023. More than 38,000 cases of gender-based violence (GBV) were reported by UNICEF for all of 2022 in North Kivu alone. Humanitarian actors report that they have assisted over 600 survivors of CRSV in six IDP camps over the course of two weeks in a volatile security environment. In most cases, survivors reported being attacked by armed men and displaced men in and around the camps.

On 25 May 2023, the SRSG-SVC expressed her deep concern over alleged acts of sexual violence against women and girls in IDP camps around Goma and called on all parties to respect their commitments to peace and security, and to formally condemn all forms of sexual violence, in line with the 2013 Joint Communiqué to address CRSV and its 2019 Addendum.

⁷ Loi n°22/065 du 26 décembre 2022 fixant les principes fondamentaux relatifs à la protection et à la réparation des victimes de violences sexuelles liées au conflit et des victimes des crimes contre la paix et la sécurité.

⁸ Implementing partners include: MONUSCO, UNJHRO, UNDP, the Expert Team, the Ministry of Justice, the Superior Council of the Magistracy, the Ministry of the Interior, the Ministry of Defense, and other public institutions.

⁹ Report of the Secretary-General, S/2021/807, September 21, 2021.

¹⁰ Report of the Secretary-General, United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, 21 September 2023, S/2023/691

¹¹ Report of the Secretary-General, 21 June 2021, United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, [N2115149.pdf \(un.org\)](#)

Inflammatory rhetoric targeting MONUSCO resulted in insecurity and narrowed the operating space for United Nations entities to monitor, report, and respond to cases of sexual violence. This context also represented an increased risk of reprisals against partners and CSO members collaborating or providing information to the UN Joint Human Rights Office (UNJHRO).

On 20 December 2023, presidential and legislative elections were conducted, leading to the declaration of Felix Tshisekedi as the winner. The electoral commission officially announced that Tshisekedi secured 73% of the votes. However, opposition candidates contested the results, alleging a fraud between the electoral commission and the outgoing president. They called for the cancellation of the elections, presenting themselves as victims of this alleged plot. On 10 January 2024, the Constitutional Court confirmed President Félix Tshisekedi's victory, upholding the election results.

C. Team of Experts' Engagement in DRC

Within the framework of the Joint Communiqué and as part of the successive Joint Justice Programme (2020-2024) in DRC, the ToE has identified and supported the implementation of activities aimed at strengthening the security and judicial response to CRSV in DRC since 2013.

In the last ten years, the ToE and UNDP supported the establishment and functioning of special police units focusing on sexual violence, as well as the training and general improvement of the military justice response to CRSV, notably through the implementation of provincial prosecution strategies. The ToE's engagement was the subject of evaluation by an independent consultant in 2022 who produced a report that provides specific recommendations to guide, improve, and optimize the provision and impact of the technical assistance offered by the ToE.¹²

II. Implementation of the ToE's contribution to the UN Joint Justice Programme

A. Context of the engagement

The current Joint Justice Programme (2020–2024) is jointly implemented by UNDP, MONUSCO, UNJHRO and the ToE, and includes the fight against impunity for CRSV crimes. It builds on the previous project that ended in December 2020 (*Support to Criminal Justice Authorities to Address Impunity for Conflict-Related Sexual Violence in the Democratic Republic of the Congo 2019-2020*).

The Joint Justice Programme (2020-2024) continued to address and implement much needed activities in North and South Kivu, Ituri, and Tanganyika focusing on rehabilitating the rule of law and supporting an efficient criminal penal chain and access to justice, in particular for vulnerable and at-risk populations, to strengthen the capacity of the national authorities to investigate, prosecute and adjudicate CRSV cases. It is also engaged in preparations for the withdrawal of MONUSCO in several parts of the DRC to ensure a smooth transition to the national counterparts.

¹² Evaluation de l'impact des projets de l'équipe d'experts mis en œuvre conjointement avec le PNUD en RDC.

B. Progress and results of activities on CRSV

During the reporting period, the Team of Experts jointly with UNDP deployed a national expert to conduct a mapping of pending cases containing charges of international crimes, including of CRSV, in Ituri, North Kivu and South Kivu. The mapping gives an overview of the cases opened before the jurisdictions, including judicial acts that have been issued by military magistrates, such as arrest warrants. This mapping also serves as an advocacy tool to push forward priority cases, in particular those relating to CRSV. Upon finalization of the mapping report, technical and material support for cases considered emblematic will be provided. Cases will be considered emblematic based on their gravity, scale of crimes, alleged perpetrators, or legal and social impact.

Additionally, the national consultant and UNDP participated in a roundtable discussion organized by the International Criminal Court (ICC) and the Presidency of the Republic in Kinshasa from 14 to 16 November 2023.¹³ This roundtable brought together military justice actors, the ICC and technical and financial partners focusing on the processing of priority cases in North Kivu, South Kivu, Ituri and Ex Kasai. It provided an opportunity to assess the challenges involved in handling the 107 cases in the above-mentioned provinces and laid the foundation for a high-level body to monitor and advocate for progress in these proceedings. The discussions highlighted the imperative to update prioritization strategies, especially in Ituri, with a focus on crimes of CRSV, and to provide adequate technical support and expertise for the benefit of the Congolese justice system.

The Team of Experts conducted two technical missions, in February and in June, to discuss with the main stakeholders - UN partners, civil society and national political and judicial authorities – the priorities considering the current political context including the insecurity in the East and the absence of justice actors, the withdrawal of the MONUSCO, the ongoing efforts on transitional justice and the upcoming electoral period. Upon return, the Team of Experts advocated to Member State representatives for further support to the judicial actors investigating, prosecuting and adjudicating crimes of CRSV in the DRC.

The Team of Experts accompanied the SRSG-SVC on a high-level mission to the DRC from 9 to 17 June 2023. During her visit, the SRSG-SVC raised awareness about the significant rise in allegations of CRSV against civilians, including children, particularly impacting internally displaced persons (IDPs) fleeing conflict around Goma, engaged directly with Congolese authorities regarding their commitments to prevent and respond to conflict-related sexual violence, and met with civil society representatives and survivors of conflict-related sexual violence. During her visit, the SRSG-SVC engaged firsthand with the Congolese authorities on their commitments on the prevention and response to CRSV. The Team of Experts specifically focused on supporting her advocacy and awareness-raising efforts related to the promulgation of the so-called Self-Defense Reserve Force Law that would allow the integration into state security forces of Non-State Armed Groups (NSAG) members who have not been subject of a judicial conviction. The Team of Experts also gathered information on pending prioritized cases containing conflict-related sexual violence charges, the challenges faced by the jurisdictions and the support required to move forward cases forward through discussions with military judicial authorities in Goma and Bukavu.

¹³ The roundtable followed the signature of the Memorandum of Understanding between the DRC and the ICC Prosecutor's Office, on 1 June 2023 in Kinshasa.

III. CONCLUSION

During the reporting period, the Team of Experts, together with UNDP, identified pending cases containing charges of international crimes, including CRSV, before the courts in North Kivu, South Kivu and Ituri, through a mapping led by a national expert. This exercise aimed at creating a realistic baseline for engagement and to inform technical and programmatic support.

The next step in 2024 is to maintain support for the implementation of prosecution/prioritisation strategies for serious crimes, including CRSV crimes, to support cases that can be considered "emblematic", to monitor the implementation of the law on reparation, and to evaluate other CRSV interventions and budget allocations. These next steps are particularly important to build on what has already been achieved, including by military courts and police actors, and to strengthen existing capacities. In addition, the recently passed reparations law demonstrates the political will of the Government to continue to engage in the fight against impunity for crimes of CRSV and this should be supported.

Challenges persist in the implementation of portfolio activities, notably the security context in the eastern part of the DRC engendering a lack of visibility on ongoing judicial proceedings as well as on recent allegations of crimes of CRSV committed by all parties in these areas.

The strengthening of the criminal justice chain and the fight for accountability is a long-term endeavor that needs to be sustained to ensure the consolidation of the gains made and to guarantee that persistent challenges are addressed at the technical and strategic levels.