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*CENTRE FOR AFRICAN JUSTICE, PEACE AND HUMAN RIGHTS*

# REPORT ON SEXUAL VIOLENCE AGAINST THE MALE GENDER: DEMOCRATIC REPUBLIC OF CONGO

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# INTRODUCTION

For a long period of time, sexual violence has been a dominant feature of the continuing conflict in the Democratic Republic of Congo (“DRC”). Sexual violence is widespread and utilised as weapon of war by multiple warring parties to the conflict. To date, tens of thousands of children, women and men have suffered heinous acts of sexual violence. Impunity for sexual violence is as common as its occurrence and punishment and redress for victims rare. In recent years, steps towards ending impunity for sexual crimes against girls and women have been taken. However, one main issue prevails; males (boys and men) remain forgotten victims of conflict-related sexual violence (“CRSV”).

Most of the research and policies focus on women and girls, while males are overlooked. Sexual violence against males is not only widely under-reported, but also widely under-researched, which leads to the fact that little to no data exists. In addition, empirical surveys on sexual violence carried out in conflict regions are often solely conducted amongst women and girls, thus carrying a gender-bias within the surveys’ designs.

This report addresses this gap by focusing on sexual violence committed against males in the war-torn eastern part of DRC.

Several reasons exist why it is important to focus on sexual violence against males. For male survivors, sexual violence remains shrouded in cultural taboos, with few, if any, support networks available.

Due to prevailing cultural and societal stigmas, many boys and men decide to remain silent for fear of ostracism or accusations of homosexuality. Raising awareness of this issue and providing a platform for the victims to share their stories is of utmost importance, because each male victim suffers different multifaceted long-lasting consequences.

The suffering does not end with the commission of the act. The injuries and profound traumas cut deeper. Due to the scarcity of support networks, male victims are often left to cope with the consequences on their own with no place to go to receive treatment for their physical and mental wounds. Most male survivors face insurmountable social, structural and security barriers, including stigma, the repercussions of which are potentially deadly, and such barriers prevent their cases from being counted, addressed or reflected in the historical record.

This report will firstly inform the reader about the current situation in DRC pertaining to CRSV against males. Secondly, it will focus on challenges encountered in combating CRSV against males in the DRC, including concrete challenges faced by the victims and legal developments. The final chapter of the report will address the current efforts taken by the International Criminal Court (“ICC”) in combating CRSV in the DRC and how these efforts contribute to ending impunity for sexual violence in the country. And finally, the report concludes by highlighting its most important takeaways for the reader.

# THE SITUATION IN THE DRC

The Democratic Republic of the Congo (“DRC”) has been plagued by decades of violence and conflict. The cycle of recurrent wars and violence in DRC has not effectively stopped since the 1870’s. It began with the brutal colonial rule of Belgian King Leopold II, continued with an over 30 year-long military dictatorship under Mobutu Sese Seko and the First Congo and the Second Congo war. The Second Congo War officially lasted from 1998 till 2003. Ultimately nine African countries and twenty-five armed groups participated in the war. By 2008, the war and its aftermath cost approximately 5.4 million lives making the Second Congo War the deadliest conflict worldwide since WWII.

Following the signing of the Lusaka Ceasefire Agreement in July 1999 by six of the involved States, the UN Security Council sent the UN Organization Mission in the DRC (MONUC) to monitor the peace. In 2010, MONUC’s mandate was extended by UNSC Resolution 1925 and to reflect a new phase renamed United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).

Since the official end of the war, the DRC has experienced a chronic conflict, concentrated in the East. Civilians have borne the brunt of the conflict, with thousands losing their lives in recent attacks. The UN Refugee Agency expressed its concern about the ongoing atrocities stating that the incidents “have become part of a systematic pattern to disrupt civilians’ lives, instil fear and create havoc.”

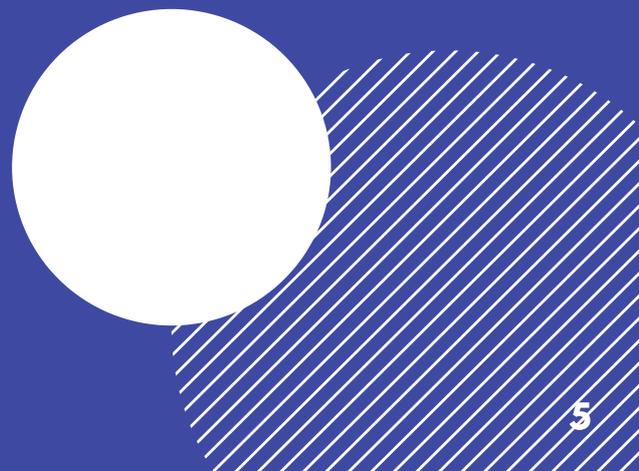
According to the UN, the security situation in recent years has further deteriorated, particularly in the provinces of North Kivu, South Kivu and Ituri. The situation has been described by the Secretary-General as highly volatile as armed groups continue to target civilian communities in their fight over control of territory and natural resources. The UN reports that instability increased in the Eastern provinces as from 30th December 2018, during the post-electoral period in North Kivu, South Kivu, Maniema and Ituri. In 2019, ethnically motivated violence spiked in South Kivu and Ituri Provinces. Other regions affected by armed violence were Kasai and Tanganyika. Human Rights Watch estimates that currently more than 130 armed groups are active in the Eastern provinces. Their report mentions: “Ethnic Lendu Association of Militia Cooperative for the Development of Congo (CODECO); the largely Ugandan Allied Democratic Forces (ADF); the Nduma Defense of Congo-Renové (NDC-R); the largely Rwandan Democratic Forces for the Liberation of Rwanda (FDLR) and allied Congolese Nyatura groups; the Mazembe and Yakutumba Mai Mai groups; and several Burundian armed groups.

# THE SITUATION IN THE DRC

The Congolese Security Forces continue to launch attacks against armed groups and militia in Eastern DRC. According to the United Nations High Commissioner for Human Rights, non-state armed groups and government forces killed at least 1,300 civilians in separate conflicts between October 2019 and June 2020. Overall, more than 2,000 civilians have been killed by mostly armed groups in the three eastern provinces (1,240 in Ituri, 590 in North Kivu and 261 in South Kivu) in 2020. The Kivu Security Tracker, which is a tool used to document violence in Eastern Congo provides details about armed violence in the Eastern DRC.

Due to the ongoing conflict, 5.5 million people are internally displaced and approximately 930,000 have refugee status in 2020.

The illicit exploitation of natural resources has been identified as a consistent driver and root cause of the conflict. Several UN sources have found that the warring parties have deliberately prolonged the conflict in the past to loot and plunder the country of its mineral wealth. Many of the armed groups only survive by looting and robbing the local communities of their resources. According to the Secretary General's report, Twa militia have targeted villages in mineral-rich locations in Tanganyika, South Kivu and Maniema. The Forces Démocratiques de Libération du Rwanda launched attacks on civilians in Nyiragongo, North Kivu, due to the region's lucrative charcoal trade. During a 2019 operation against the Allied Democratic Forces (ADF) in Beni, members of the Congolese Security Forces looted, pillaged and raped the local civilian population.



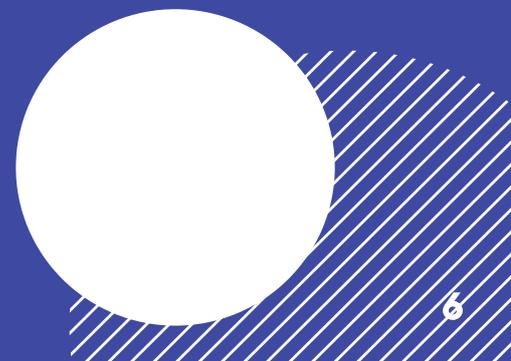
# CONFLICT-RELATED SEXUAL VIOLENCE AGAINST MALES IN THE DRC

In the DRC, Sexual violence is widespread and frequently committed by both state actors and non-state actors. It has been found that perpetrators of sexual violence are members of most of the armed forces and armed groups involved in the conflict. Sexual violence and specifically rape has frequently and systematically been utilised as weapon of war by numerous different armed groups and government forces. Nobel Peace Prize Winner 2018 Dr Denis Mukwege states, "Rape is used as a weapon of war because it has the power to tear apart families and destroy the social fabric of entire communities". Tatiana Mukanire, a survivor herself, blames the battle for control over resources for the "normalization" of rape as a means of war and terror.

In 2019, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) registered 1.409 cases of CRSV, which constitutes an increase of 34% since 2018. Non-State actors bore the responsibility for 955 of the 1.409 cases. A number as large as 383 cases were attributed to the Armed Forces of the DRC, which represents a 76% increase since 2018. The Congolese National Police were found to be responsible for 62 cases, as well as other nine acts of sexual violence were committed by other State actors. It must be noted that the numbers in the report do not specify the gender of the victims.

In the Eastern part of the DRC, high numbers of boys and men are subjected to sexual violence every year. The exact number can only be estimated, because the issue is commonly underreported. In most cases, male survivors of CRSV keep silent, because they perceive the risks associated with telling their story as too high. Legal frameworks and social services that do not recognise men as victims, the fear of being labelled homosexual and "female", internalised feelings of shame and the widespread fear of stigmatization, the majority of male victims from reporting to the authorities. This leads to a lack of comprehensive data about male victims of sexual violence in the DRC, which reflects a common trend around the world.

According to a study conducted by Johns Hopkins and the Refugee Law Project (RLP), 38.5% of male refugees originating from the DRC have experienced sexual violence in their life span. An earlier population-based study conducted in March 2010 in Eastern DRC showed that 23.6% of males have experienced some form of sexual violence.



Another 2010 survey published in the Journal of the American Medical Association (“JAMA”) found that 22% of men in Eastern Congo had suffered from conflict-related sexual violence. Further, another 2010 Study by Kirsten Johnson found that nearly one in four men in eastern DRC had been raped.

Salome Atim, a RLP employee, speculates that the actual numbers are way higher. In an interview she states “our staff is overwhelmed by the cases we’ve got, but in terms of actual numbers? This is the tip of the iceberg.” Generally speaking, where surveys have been conducted in post-conflict settings, they suggest that levels of sexual violence against males during conflict are much higher than is generally assumed or publicly admitted.[11] Thus, it is impossible to confirm or reject most numbers with certainty. The sad truth is that, most probably the current numbers available to us are far from the actual truth.

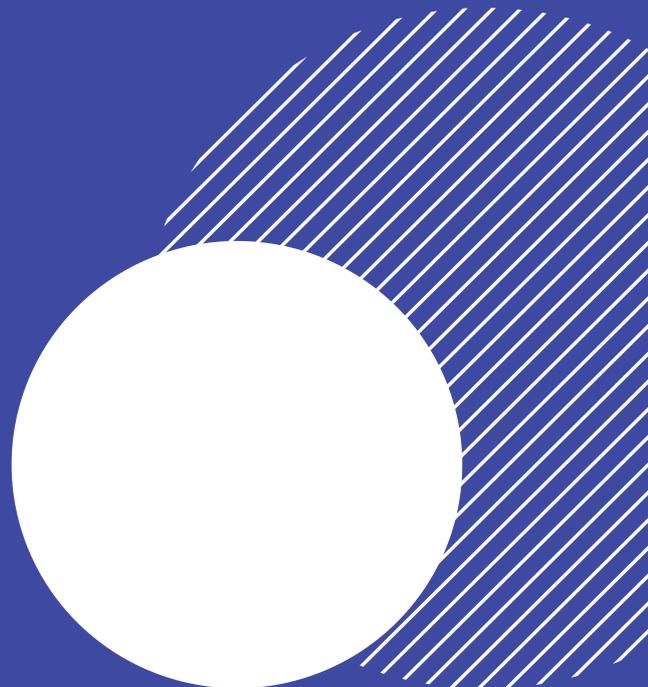
The forms of sexual violence against men can take a variety of forms. Broad categories include, anal and oral rape, gang rape, genital torture, castration and forced sterilisation, sexual slavery and being compelled or forced to rape others. In the DRC, reported forms of sexual violence include, gang rapes, rape with screwdrivers and sticks and daily repetitive rapes. Some men were made to hold their genitals over a fire or drag rocks tied to their penis, others were forced to penetrate “holes in banana trees that run with acidic sap,” or “give oral sex to lines of soldiers.” In addition, it is important to mention the mental and psychological trauma and wounds caused by the acts of sexual violence.



In the traditionally patriarchal society of the DRC, gender roles are clearly defined. Men are viewed as breadwinners and protectors of their family and communities. They are considered as strong and powerful. It has been argued that their role as protector is emphasised in times of conflict, which makes male rape a powerful tool to instil fear and shatter family and community relationships. Therefore, during conflict, the rape of men and boys has often been utilised to attack their socially constructed identity as “protectors” and to humiliate and to destroy the prevailing stereotypes about masculine invulnerability.

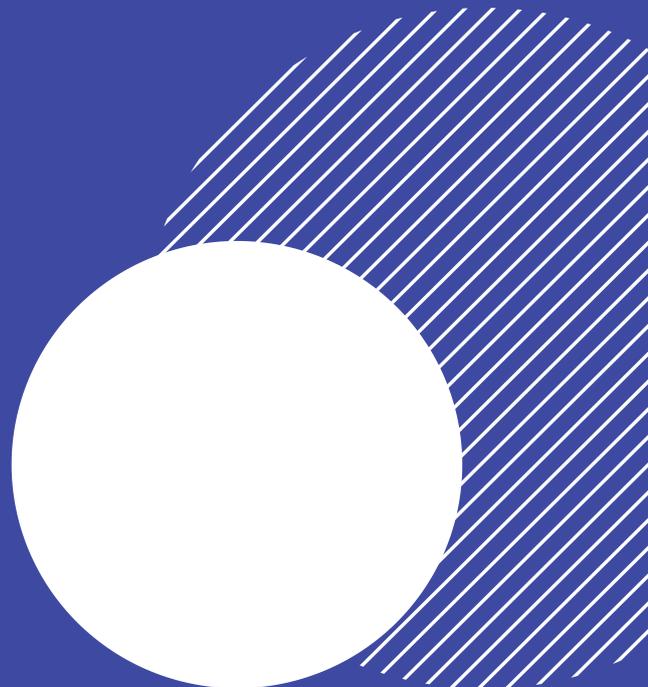
It is widely believed that the “manliness of the man is lost and the family and the community are made to feel vulnerable”. Owiny, a male survivor of sexual violence expresses his first felt disbelief after being raped. “There are certain things you just don’t believe can happen to a man, you get me? But I know now that sexual violence against men is a huge problem.”

The UN Secretary General mentions one particular grave incident in his report. During an attack of Twa militia in the Tanganyika Province in the DRC, “a young man was stripped naked, raped and forced to rape his own mother. It took him many months to overcome the profound sense of shame and the fear of stigmatization and reprisals, in order to seek support.” The described incident demonstrates how sexual violence is utilised by members of the Twa militia to fracture family bonds and to inflict severe traumas upon families and communities.



The story of Jean Paul told by Will Storr is more common than imaginable and exemplifies the widespread impunity for CRSV in the DRC. Jean Paul was abducted by rebels and marched to a forest in the Virunga National Park. There, he was raped by eleven rebels who waited in a queue for their turn. Storr writes: "He bled freely:" "Many, many, many bleeding," he says, "I could feel it like water." Each of the male prisoners was raped 11 times that night and every night that followed."

Men and boys continue to suffer sexual violence in detention settings across the DRC. In their report, Freedom from Torture 'A tool to silence – DRC report' A UK-based NGO called 'Freedom for Torture' interviewed 49 women and 25 men who were detained, because they had exercised their constitutional rights in the DRC. The report disclosed that sexual torture and rape is carried out openly and with impunity by multiple perpetrators during arrest and in detention settings at both official and unofficial detention sites. The perpetrators were different state actors, employed in separated branches of state security – police, military and intelligence agencies. The report states, that 68% of the men disclosed sexual abuse. The report includes a medico-legal excerpt where a male survivor gave his testimony: "Then one of them held his neck and others held his hands "[...] and the other one raped me. They all did it by turns. [...] It hurts me. I can go three days without sleeping. It makes me feel I don't want to live anymore....(...)". According to the report, seventeen out of the 25 men were raped anally, and a smaller number was raped orally or penetrated with an instrument. Almost half of these men were raped multiple times and the same percentage described being gang raped.



# COMBATING CRSV IN DRC

## SV Against Detainees and IDPs:

As stated, sexual violence is greatly carried out against men and boys, especially in contexts of detention in the DRC. Furthermore, it is widely used as a means of torture by multiple perpetrators protected by impunity. Such attacks show to be violent, repeated and sustained on victims, thereby causing lasting and severe physical and psychological damaging effects.

However, the deeply rooted social and institutional obstacles to denouncing and reporting incidents of sexual violence make it extremely difficult for male survivors to speak up and obtain justice.

Moreover, according to the 2019 Report from Freedom from Torture, torture including sexual violence is predominantly used as a means of punishment and deterrence for political and human rights activism in the DRC, to which civilians are especially subject to upon arbitrary detention. Such crimes are conducted against detainees without any charges or legal basis to do so, as they are held in unofficial detention facilities, thereby operating in a lawless context. For this reason, torture including rape is a “normalised” means in such detention sites, regardless of the involved detaining authority, including state security such as police, military and intelligence agencies. This, in turn, allows for a grave lack of accountability and justice for survivors, as perpetrators are protected by impunity.

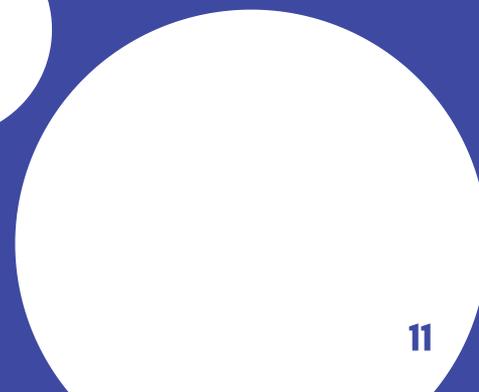
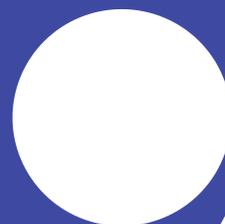
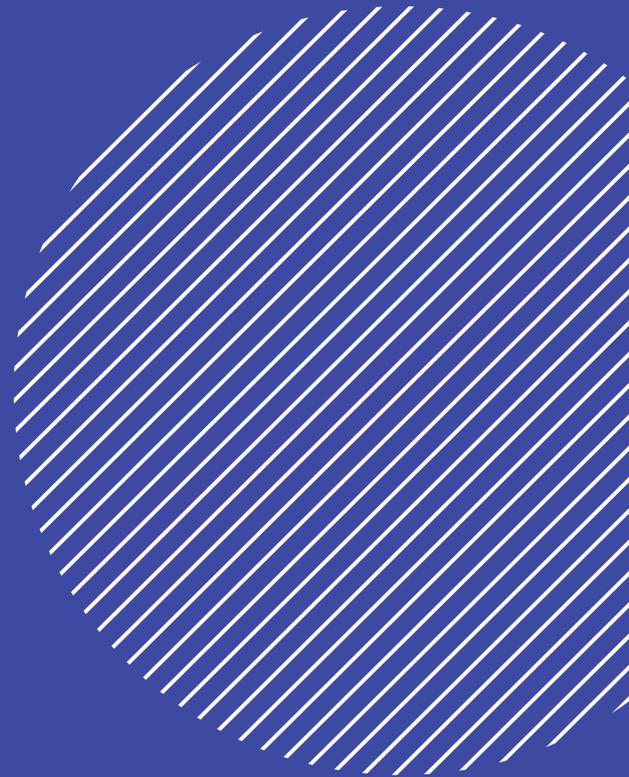


# COMBATING CRSV IN DRC

## SV Against Detainees and IDPs:

Furthermore, the just stated conditions of detention show clear violations of the DRC's obligations under such instruments as the African Commission's Fair Trial Principles, and the UN Standard Minimum Rules for the Treatment of Prisoners. This is so, as there is a great lack of due process, allowing for a great number of cases of torture not being subject to any kind of sanctions.

This adds to the attacks against IDP camps taking place in the country, especially in the Ituri region. According to the ICC Prosecutor, Fatou Bensouda, 2017 showed an escalation in serious violence in the region of Ituti (DRC), especially against IDPs and camps. Such attacks included many cases of sexual violence against civilians, including men, which could be considered to constitute crimes within the ICC's jurisdiction.



# COMBATING CRSV IN DRC

## Challenges to Combating CRSV IN DRC:

As before-stated, the conflict in the DRC is greatly driven by illicit exploitation of natural resources, especially in eastern regions such as Tanganyika, South Kivu and Maniema. The Twa militia targeted villages and made use of sexual violence against rival ethnic groups.

This adds to the fact that former combatants were integrated in the national military forces, without prior assessment and the proper training to give response and provide prevention to sexual violence. Instead, this practice negatively impacted the situation in DRC, as it increased cases of sexual violence without providing for accountability and adequate punishment or deterrence.

Therefore, we find that the constant spread of sexual violence and the fact that it is linked with impunity for the crimes committed, further adds to the existing social and cultural obstacles to reporting sexual violence against males. Despite the increasing cases and the grave physical and psychological effects, these attacks are not punished, as the perpetrators include national forces, thereby greatly obstaculising the combating of CRSV in the DRC.



# COMBATING CRSV IN DRC

## Legal Developments

Despite the stated lack of accountability and increase of cases of CRSV against males, there are certain cases in the DRC regarding prosecution for sexual violence. This includes the trial of Ntabo Ntaberi and Serafin Lionso for mass rape; the trial of Lieutenant Colonel Mabilia Ngoma Alma of the national armed forces for crimes against humanity including rape, who received a life sentence; and the trial of Mai-Mai Raia Mutomboki faction leader for crimes against humanity including rape and sexual slavery, who was sentenced to life imprisonment.

In addition, the United Nations and the DRC Government joined forces in working towards peace negotiations with the Force de Résistance Patriotique de l'Ituri in 2018. This resulted in a significant decrease of sexual violence by the group. Furthermore, the MONUSCO implemented the Shabunda action plan for the prevention and addressing of CRSV by Mai-Mai Raia factions in 2018, which led to around a 72% decrease of reported incidents of CRSV in the region. Nevertheless, and despite the trial of Mai-Mai Raia Mutomboki faction leader, other such groups continued to commit sexual violence against civilians in local villages rich in natural resources, especially in South Kivu.

Moreover, the President of the DRC promulgated a law for the implementation of the Rome Statute within the domestic legal system on 31 December 2015, which it had ratified on 30 March 2002. This included Article 4 of the law, which modified the Penal Code thereby including a definition of the crime of genocide, crimes against humanity and war crimes under Articles 221, 222 and 223 of Title IX respectively. Article 1 of the law provided for a modification of the Military Penal Code, thereby allowing Title IX to be applied to Military courts, and emphasizing superior responsibility in the commission of the crimes concerned. In addition, the mentioned domestic law provides for DRC cooperation with the ICC to address cases concerning the mentioned crimes.

# COMBATING CRSV IN DRC

## Legal Developments

Article 168 of the DRC Penal Code includes attacks against “one or the other sex” within the definition and prohibition of acts of rape. This addresses sexual violence including against the male gender, albeit not specifically referred to, within domestic law. We further find that Article 15 of the DRC Constitution provides for public powers to strive towards the elimination of sexual violence. This includes “any sexual violence made against any person” aimed at destabilizing, dislocating families, and making people disappear as a crime against humanity punishable under national law. This shows that some progress has been achieved at the national level towards the criminalisation of sexual violence, including against men. However, this continues to be subject to the impunity of armed forces which continue to commit many cases of CRSV, as prior stated.

According to the United Nations, the conviction of Ntabo Ntaberi Sheka by the ‘Cour Militaire Opérationnelle’ of North Kivu for crimes including war crimes of rape, and sexual slavery was a key development of national prosecution in 2020. The Special Representative of the Secretary-General on Sexual Violence in Conflict, Pramila Patten stated that the conviction to life imprisonment of Sheka clearly showed that impunity for sexual violence in the DRC is not to be tolerated. Instead, this can serve as an important landmark case stirring the country towards ending impunity for CRSV.

However, the procedures to be followed for claiming reparations for sexual violence in the DRC is arduous and requires significant resources. This makes the assistance provided by legal clinics and the remedies to which civilians can resort fairly difficult to access, thereby posing additional obstacles to combating CRSV.

# THE ICC IN COMBATING CRSV IN DRC

## Jurisdiction of the ICC

As stated, the acts of sexual violence against civilians and IDPs constitute crimes within the jurisdiction of the ICC. As stated by the ICC Prosecutor in June 2020, there have been many reports of escalation of violence in the DRC, including attacks against civilians and IDP camps, involving sexual violence.

The prosecution of Bosco Ntaganda by the ICC in 2019, charged with war crimes and crimes against humanity including rape and sexual slavery, was a significant development in addressing the situation in DRC under international criminal law.

The ICC continues its investigation in the DRC since 2004, thereby monitoring the situation and putting special attention on the Ituri region upon recent escalations. For this, the Prosecutor called on all involved parties to immediately cease attacks and urged compliance with the Rome Statute. She further urged the national government to take on the prosecution of the concerned crimes at the national level, and increase investigation efforts for that purpose.

Furthermore, in order to advance the prevention of violence, including CRSV, Fatou Bensouda called on national authorities to prevent violence and protect civilians against such attacks. The ICC is to deploy a mission to the DRC as soon as possible under the COVID-19 crisis situation.



# CONCLUDING REMARKS

Men and boys are currently included in the definition of “survivor” used by UN measures directed to combating CRSV, and we find that the DRC Penal Code and Constitution criminalises sexual violence including CRSV providing a definition that can encompass crimes against the male gender.

However, in practice, the implementation of measures by international organisations directed to prevent CRSV are centered around women and girls, thereby neglecting men and boys as victims of such cases. This is clearly shown by the fact that UNSC Res 21016 (2013) was the first time in which CSRV included men and boys as potential victims, as stated by the Refugee Law Project.

Furthermore, combating CRSV against males is subject to the invisibility of its effects regarding physical and psychological wounds. This adds to the fact that there is a lack of accurate reporting due to the risks linked to doing so, as well as cultural and social stigmatisation embedded in gender norms.

Despite some cases being reported, the information is not translated into statistics and patterns that can be transformed into adequate service and assistance measures aimed at combating and preventing cases of CRSV against males.

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# ABOUT THE SV TEAM

Sexual Violence against the Male Gender (SVMG) was the first established team of CAJPHR. We believe in the establishment of just, peaceful and inclusive societies.

The project squarely falls under the **United Nation's Sustainable Development Goal 16** which clearly states that "people everywhere need to be free of fear from all forms of violence and feel safe as they go about their lives whatever their ethnicity, faith or sexual orientation". Furthermore, the Sexual Violence Team also propagates, in its objectives, the establishment of multi stakeholder's partnership in line with **SDG 17**.

Goal 17 that calls for a "global partnership for sustainable development" includes as multi-tasked holders the national governments, civil society, scientists, academia and the private sector — to strive together to achieve the sustainable development goals. The Sexual Violence Team indirectly supports **SDG 5** that seeks to "achieve gender equality and empower all women and girls". A safe society for men will mean a safer society for women, too, which will, in turn, result in greater equality between men and women.

We strongly believe that the discourse and interactive sessions shared among the participants can provide and develop recommendations and action plans concerning how to address the stigma surrounding sexual violence against male child soldiers in situations of armed conflict.

Our mission is to break the silence and create awareness concerning the stigma surrounding sexual violence against the male gender by conducting research, publishing articles, as well as engaging stakeholders and policymakers in conversations on the subject and advocate for legislator change in domestic jurisdictions where sexual violence against men and boys is not recognised.

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