



DISMISSED!

VICTIMS OF 2015-2018 BRUTAL CRACKDOWNS IN THE
DEMOCRATIC REPUBLIC OF CONGO DENIED JUSTICE

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ABBREVIATIONS

ACHPR	AFRICAN COMMISSION FOR HUMAN AND PEOPLE'S RIGHTS
AFP	AGENCE FRANCAISE DE PRESSE (FRANCE MEDIA AGENCY)
ANR	AGENCE NATIONALE DES RENSEIGNEMENTS (NATIONAL INTELLIGENCE AGENCY)
AU	AFRICAN UNION
BBC	BRITISH BROADCASTING CORPORATION
CENI	INDEPENDENT NATIONAL ELECTORAL COMMISSION
CNDH	NATIONAL COMMISSION FOR HUMAN RIGHTS
DRC	THE DEMOCRATIC REPUBLIC OF THE CONGO
EU	EUROPEAN UNION
FARDC	FORCES ARMEES DE LA REPUBLIQUE DEMOCRATIQUE DU CONGO (DRC'S ARMED FORCES)
ICCPR	INTERNATIONAL CONVENTION ON CIVIL AND POLITICAL RIGHTS
LENI	LEGION NATIONALE D'INTERVENTION (NATIONAL INTERVENTION LEGION)
MONUSCO	UN STABILIZATION MISSION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
MP	MEMBER OF PARLIAMENT
OFAC	OFFICE OF FOREIGN ASSETS CONTROL
OHCHR	OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS
PNC	POLICE NATIONALE CONGOLAISE (CONGOLESE NATIONAL POLICE)
RFI	RADIO FRANCE INTERNATIONALE
RTBF	RADIO TELEVISION BELGE FRANCOPHONE
UN	UNITED NATIONS
UNJHRO	UNITED NATIONS' JOINT HUMAN RIGHTS OFFICE IN THE DEMOCRATIC REPUBLIC OF THE CONGO
US	THE UNITED STATES OF AMERICA
VOA	VOX OF AMERICA

GLOSSARY

CONGOLESE SECURITY FORCES

The army including the Republican Guard, the Military Police, the Congolese National Police (PNC), the security services such as the National Intelligence Agency (ANR) and the Military Intelligence Services.

OPPOSITION

Political parties, groupings and formal or informal political coalitions opposed to the government during the period, or part of the period, covered by this report.

REPUBLICAN GUARD

A Special Unit within the Armed Forces of the DRC (FARDC) responsible for the protection of the President, his family and distinguished guests; the security of presidential property and facilities; escorts and military honours at the Presidency of the Republic.¹

¹ Presidential Order No. 13-063 on the organization and functioning of the Republican Guard of 22 June 2013, https://www.droitcongolais.info/files/412.06.13.8-Ordonnance-du-17-juin-2013_garde-republicaine.pdf

1. EXECUTIVE SUMMARY

"... we are taking a lot of risks in demanding justice for Thérèse. But... what will happen if those who killed her realize there is no consequence?"

Father Joseph Musubao, a family member of a victim

Between January 2015 and December 2018, Congolese security forces brutally and systematically cracked down on protesters who opposed President Kabila's attempts to remain in power beyond his second constitutional term.² By the end of December 2018, at least 320 people were dead and 3,500 had been injured, mainly in the capital Kinshasa. More than 8,000 people were also arbitrarily arrested or detained in connection with the protests. The brutality against this popular uprising was particularly marked at demonstrations in January 2015, in September 2016 and December 2016, and during peaceful protests organized by the Catholic Lay Coordination Committee (CLC) between December 2017 and February 2018.

This report describes the systematic use of excessive and lethal force by security forces, often at the behest of the government; it also explores the Congolese authorities' failure to effectively investigate these crimes and other serious human rights violations, and to bring perpetrators to justice.

The authorities have refused to allow prosecutions or, otherwise, delayed efforts by victims, their families and their lawyers, to obtain justice, even in instances where they had acknowledged police violations and made commitments to investigate and ensure accountability. According to Amnesty International's information to date, all victims who lodged official complaints, did not get to see alleged perpetrators prosecuted. Many were even prevented from retrieving the bodies of their loved ones and burying them with dignity, and from obtaining justice and reparations. Many of those who lost family members, becoming widows, widowers or orphans, struggled to support themselves.

In their determination to eliminate any hint of dissent, Congolese authorities imposed unlawful blanket bans on assemblies for 26 months, repeatedly shutdown the internet and severely restricted the work of media and civil society organizations. Restrictions led to the violent repression of demonstrations in which the police and other security forces used excessive and lethal force.

In January 2015, security forces killed over 42 protesters, wounded 200 and arbitrarily arrested hundreds, mainly in Kinshasa. Gaby Mamba, a 16-year-old high school student, and Patrick Luviluka, 27 years old, were among those killed. At the time of writing, their families were still waiting for perpetrators to be charged and prosecuted for their deaths. The UN confirmed the killings, by security forces, of at least 53 people in September 2016³ and 40 others in December 2016⁴ during or connected with protests. They included

² Amnesty International began documenting human rights violations and abuses against those protesting President Kabila's attempts to remain in power beyond his second constitutional term from the beginning of the political crisis in January 2015. See Amnesty International, "Democratic Republic of the Congo: Treated like criminals – DRC's race to silence dissent", (Index: AFR 62/2917/2015)

³ OHCHR, "Preliminary investigation report on human rights violations and violence perpetrated during demonstrations in Kinshasa between 19 and 21 September 2016", October 2016, https://www.ohchr.org/Documents/Countries/CD/UNJHROSeptember2016_en.pdf

⁴ OHCHR, "Report on human rights violations in the Democratic Republic of the Congo in the context of the events of 19 December 2016", February 2017, https://www.ohchr.org/Documents/Countries/CD/UNJHRODecember2016_en.pdf

Bouquin Bukasa, a 54-year-old member of the opposition party, the Union for Democracy and Social Progress (UDPS). He was hacked to death on 20 September 2016 by unidentified men who attacked the UDPS headquarters in Kinshasa where he worked as a security guard. His attackers then set fire to the building, killing four other UDPS members. Their relatives told Amnesty International that they are yet to see evidence of any political will from the new authorities to address their demands for truth, justice and reparations. Indeed, no complaints submitted to authorities, against the security forces, by victims or their relatives have been investigated. In October 2016, the government released its “Livre Blanc” report on the September 2016 events which fell far short of the minimum standards of investigation, not least by failing to determine the cause, manner, place and time, and circumstances of the deaths in compliance with relevant UN guidelines.⁵ On 31 December 2017, 21 January 2018 and 25 February 2018, the security forces again killed a total of 17 people when they fired live bullets and tear gas at peaceful demonstrators. Over 160 protestors were injured, and 400 were arbitrarily arrested. Thérèse Kapangala, a 24-year old aspiring nun, and Rossy Mukendi Tshimanga, a 36-year old activist were among the dead. Their families have used all legal means to obtain justice, including by lodging complaints against the Police Commissioner for Kinshasa, Sylvano Kasongo. The authorities have yet to conduct credible investigations and prosecute those responsible. Once again, impunity remains the rule.

The victims’ families do not intend to give up. Father Joseph Musubao, Thérèse Kapangala’s uncle, told Amnesty International: “I know we are taking a lot of risks in demanding justice for Thérèse. But we owe it to her: her life and her dignity are not negotiable. And then what will happen if those who killed her realize that there is no consequence, as usual? Beyond Thérèse, our fight is a fight for justice in the Congo. Those who shed people’s blood must know that it comes at a high price.”

The government has responded to these events by establishing investigative commissions on two occasions. In February 2018, the Ministry of Human Rights established a joint commission of inquiry, which confirmed the death toll and the unnecessary use of lethal force by the security forces during the December 2017 – January 2018 events.⁶ In June 2018, the Ministry established a second joint commission of inquiry in a further attempt to investigate the September and December 2016 incidents, following its wholly inadequate Livre Blanc report.⁷ To date, this Commission’s findings remain unknown and no action has been taken to hold those responsible to account. The biased and incomplete nature of these investigative processes casts doubts on the government’s will to address serious crimes. Despite repeated commitments, and international pressure from UN mechanisms and through US and EU-imposed sanctions, perpetrators continue to enjoy impunity.

After long-delayed elections took place in December 2018, Félix Tshisekedi, of the UDPS, was declared the winner. The pledges he made during his inauguration in January 2019 to enforce the rule of law, fight impunity and uphold human rights have still not been realized. Amnesty International is calling on him to live up to his promises by publicly committing to take all necessary steps to ensure accountability and justice to victims.

The Congolese authorities must ensure transparent, independent, impartial and comprehensive investigations into all crimes and other serious human rights violations committed by security forces during the protests. Alleged perpetrators should be promptly brought before competent courts and prosecuted in accordance with international fair trial standards. Victims and their families’ demand for truth, justice and adequate reparations must be upheld. The Congolese authorities should ensure that the complaints lodged by the victims or their relatives are promptly dealt with in accordance with international human rights law and standards.

⁵ OHCHR, “The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, also known as the Minnesota Protocol”, May 2017, <https://www.ohchr.org/Documents/Publications/MinnesotaProtocol.pdf>

⁶ The Joint Commission of Inquiry (“CEM-3121”) was established by Ministerial Decree No. 001/CAB/MIN/DH/2018 on 1 February 2018. Its summary report was released by the Minister for Human Rights on 10 March 2018 in Kinshasa.

⁷ Ministerial Decree No. 003/CAB/MIN/DH/2018, 28 June 2018 from the Minister for Human Rights establishing the Joint Investigation Commission on the events of 19 September and 19 December 2016.

2. METHODOLOGY

Due to logistical and time constraints, the research for this report is primarily based on events in Kinshasa, where demonstrations were larger, more frequent and more dangerous. Investigations into and prosecutions for human rights violations carried out by security forces outside Kinshasa are not addressed.

Amnesty International conducted field research in Kinshasa in February and March 2018 and in August 2019. The organization's researchers carried out 115 face-to-face interviews in French and Lingala with survivors, family members of those killed and missing, as well as eyewitnesses. Follow-up phone interviews were also conducted with five victims' families whose cases were the subject of ongoing legal procedures, and their lawyers. Nineteen additional interviews were conducted with victims' lawyers, police officers, UN representatives, National Human Rights Commission (CNDH) members, and local and international human rights organizations. Researchers also met government officials including the Human Rights Minister, the Minister of Justice and the Police Commissioner for Kinshasa, and the then-Prosecutor General.

Additional information also was gathered remotely between September 2019 and January 2020, using information from the UN Joint Human Rights Office (UNJHRO) and other human rights NGOs, media reports, official records and statements, three CNDH reports, relevant legislation and international human rights instruments. Amnesty International researchers analysed the *Livre Blanc* (White Paper), published in October 2016, and the Joint Commission of Inquiry official report on the events of 31 December 2017 and 21 January 2018, released by the government in March 2018.

On 14 January 2020, Amnesty International shared the concerns detailed in this report, in writing with the DRC authorities including the Minister of Justice, the Minister for Human Rights, the Minister of Interior and Security, the Chief Military Prosecutor, the Attorney General at the Court of Cassation, the Governor of Kinshasa, the General Commissioner of the Police, the Inspector General of the Police and the Police Commissioner for Kinshasa, requesting official information and updates on legal proceedings in connection with the cases documented in the report. On 3 April 2020, Amnesty International wrote to them again with a summary of the report's findings and asked for their response. At the time of writing, the organization had not received responses to either correspondence.

3. BACKGROUND: POLITICAL CRISIS

3.1 ATTEMPTS TO AMEND THE CONSTITUTION

In December 2011, President Joseph Kabila was sworn in for a second five-year term of office, following disputed elections.⁸ According to the Constitution, the President is elected by direct universal suffrage for a term of five years which is renewable only once.⁹ Thus, President Kabila's second and final constitutional term was set to end in December 2016¹⁰ following the election of his successor which was due to take place in September 2016.¹¹

As early as 2013, some members of President Kabila's entourage began questioning the validity of the constitutional term limit and called for a review of the Constitution to allow Kabila to stay in power. In June 2013, Evariste Boshab, the former Speaker of the National Assembly and then General Secretary of President Kabila's People's Party for Reconstruction and Democracy, proposed the removal of termly presidential limits from the Constitution and the extension of the term of office from five to seven years.¹² This triggered an outcry from opposition and civil society members, many of whom saw it as a sign that Kabila's supporters were working to keep him in power.¹³ In July 2013, Forces Acquisées au Changement¹⁴ (FAC), an opposition platform, launched a campaign to oppose the constitutional revision and the threat of a lifetime president.¹⁵

On 7 September 2013, President Kabila launched a National Consultation Forum with a view to "pulling the DRC out of a political, social and security crisis."¹⁶ Shunned by prominent opposition and civil society

⁸ BBC, "DR Congo President Joseph Kabila begins second term", 20 December 2011, <https://www.bbc.com/news/world-africa-16261907>

⁹ Article 70 of the Constitution of the DRC, <https://www.wipo.int/edocs/lexdocs/laws/fr/cd/cd001fr.pdf> This Constitution was adopted by referendum in December 2005 as a result of the political transition that followed the Sun-City Global and Inclusive Agreement which marked the end of the Second Congo War (1998-2002). It entered into force on 18 February 2006 following its promulgation by President Kabila.

¹⁰ Having come to power in 2001 after the assassination of his father, President Joseph Kabila obtained his first constitutional term in November 2006, and a second term in December 2011 following controversial elections

¹¹ Article 73 of the Constitution of the DRC of 18 February 2006: "The ballot for the election of the President of the Republic is convened by the Independent National Electoral Commission ninety days before the expiration of the term of office of the current President."

¹² Article 220 of the Constitution of the DRC of 18 February 2006: "The republican form of the State, the principle of universal suffrage, the representative form of the Government, the number and duration of the mandates of the President of the Republic, the independence of the judiciary, political and trade union pluralism cannot be subjected to any constitutional revision."

¹³ Radio Okapi, "RDC : Le livre d'Evariste Boshab sur la révision de la Constitution fait polémique", 28 June 2013, <https://www.radiookapi.net/actualite/2013/06/28/rdc-le-livre-devariste-boshab-sur-la-revision-de-la-constitution-fait-polemique-2>

Radio Okapi, "DRC: University of Kinshasa's lecturers oppose constitutional revision", 6 July 2013, <https://www.radiookapi.net/actualite/2013/07/06/rdc-des-professeurs-de-luniversite-de-kinshasa-sopposent-la-revision-constitutionnelle/#.U5qiHXbWgVg>

¹⁴ An informal collection of key opposition parties at that time

¹⁵ Radio Okapi, "Les FAC lancent la campagne Ne Touche Pas à Mon Article 220 et Pas de Présidence à Vie en RDC", 24 July 2013, <https://www.radiookapi.net/actualite/2013/07/24/les-fac-lancent-la-campagne-touche-pas-mon-220-pas-de-presidence-vie-en-rdc/#.U5b9Dvl5MdQ>

¹⁶ President Kabila's speech at the launch of the "Concertations nationales", on 7 September 2013, http://ambardc.eu/index.php?option=com_content&view=article&id=581:concertations-nationales-le-president-kabila-appelle-a-la-mobilisation-generale&catid=50:actualites

leaders¹⁷, the three-week Forum failed to stem the crisis that arose following the 2011 contested elections, and Kabila's apparent intention to retain power beyond his last term.

Meanwhile, the President's supporters continued to push for constitutional revision.¹⁸ Following an extraordinary cabinet meeting in June 2014, the government announced that it had adopted a draft proposal for the constitutional amendment. It did not state which articles of the Constitution would be amended, further fuelling doubts about President Kabila's willingness to step down after his final term.¹⁹ In August, several opposition parties and civil society organizations held the first major demonstration rejecting the amendment and calling on President Kabila to step down immediately.²⁰ Despite rising tensions, however, the government's draft proposal was tabled in Parliament in September 2014.²¹ It was eventually abandoned in December 2014, amidst growing pressure from the opposition and divisions within the ruling coalition.²²

3.2 THE « GLISSEMENT »: THE LONG-DRAWN-OUT ELECTORAL PROCESS

Having failed to amend the Constitution, President Kabila's supporters set their sights on the electoral law. Most of the rules governing elections were, until then, determined by a June 2011 Election Law.²³

On 17 January 2015, the National Assembly voted in favour of amendments²⁴ to the Election Law which would allow for the delay of legislative and presidential elections until the completion of a national population census, a move which was interpreted by the opposition as yet another strategy to prolong Kabila's rule.²⁵ This triggered²⁶ widespread protests between 19 and 21 January which were met with brutality and left at least 43 people dead, most of whom, according to the UN,²⁷ were killed by the security forces. On 24 January, the provision was removed following which, tensions subsided.

After the protests, the Independent National Electoral Commission (CENI) published an electoral timetable, scheduling presidential and parliamentary elections for 27 November 2016 while warning that²⁸ important legal, financial challenges" could disrupt the timetable. Opposition and civil society members, including the Catholic Church, continued to express growing concerns of President Kabila's willingness to hold elections

¹⁷ Jeune Afrique, "RDC : L'ouverture des 'Concertations nationales' boudée par l'opposition", 7 September 2013,

<https://www.jeuneafrique.com/149470/archives-thematique/rdc-ouverture-des-concertations-nationales-boud-es-par-l-opposition/>

¹⁸ In March 2014, for example, ruling coalition leaders, gathering in Kinshasa, insisted that the Constitution be revised. They pressed for the President to be elected by the parliament (indirect suffrage); for the term to be extended from five to seven years; for the presidential elections to be held one year before the scheduled November 2016 deadline; and for the electoral process to start from scratch, with President Kabila allowed to run for a new term

Radio France International, "DRC election: Does Kabila want to circumvent the constitutional lock?", 17 March 2018, <http://www.rfi.fr/afrique/20140317-rdc-nouvelle-candidature-kabila-contournant-article-220-constitution-presidentielle>

¹⁹ Radio France Internationale, "RDC : le projet de révision constitutionnelle inquiète à Kinshasa", 10 June 2014, <http://www.rfi.fr/afrique/20140610-rdc-le-projet-revision-constitutionnelle-inquiete-kinshasa-kabila>

²⁰ Agence France Presse, "RDC : Manifestation contre la révision de la Constitution", 4 August 2014,

<https://www.lapresse.ca/international/afrique/201408/04/01-4789131-rdc-manifestation-contre-une-revision-de-la-constitution.php>

²¹ Agora, "RDC : le parlement va se pencher sur la révision de la Constitution", 15 September 2014, <https://agora-parl.org/node/14650> and

Radio France Internationale, "RDC : le projet de modification constitutionnelle divise le Parlement", 16 September 2014,

<http://www.rfi.fr/afrique/20140916-rdc-le-projet-modification-constitutionnel-divise-le-parlement>

²² Radio Okapi, "Parlement : Minaku écarte l'éventualité d'une révision constitutionnelle en session extraordinaire", 27 December 2014,

<https://www.radiookapi.net/actualite/2014/12/27/parlement-minaku-ecarte-leventualite-dune-revision-constitutionnelle-en-session-extraordinaire>

The International Crisis Group, "DRC Protests: The Government's Election Law Must be Revised – or Withdrawn", 23 January 2015,

<https://www.crisisgroup.org/africa/central-africa/democratic-republic-congo/drc-protests-government-s-election-law-must-be>

²³ Law No 11/003 of 25 June 2011 amending Law No 06/006 of 9 March 2006 on the organization of presidential, legislative, provincial, urban, municipal and local elections

²⁴ Amnesty International, "Democratic Republic of the Congo: Treated Like Criminals: DRC's Race To Silence Dissent" (Index: AFR 62/2917/2015), p.10

²⁵ Ibid.

²⁶ On 15 January 2015, opposition and civil society groups called on people to "occupy Parliament" and participate in nationwide demonstrations on 19 January to "resist Kabila's attempts to maintain power beyond his term limit." VOA, "RDC : l'opposition appelle la population à occuper le parlement", 15 January 2015, <https://www.voafrique.com/a/2600027.html>

²⁷ OHCHR, "UNJHRO report on human rights and fundamental freedoms during the pre-electoral period in the Democratic Republic of Congo between 1 January and 30 September 2015", December 2015,

https://www.ohchr.org/Documents/Countries/CD/UNJHRODecember2015_en.pdf

²⁸ France 24, "L'élection présidentielle en RD Congo fixée au 27 novembre", 12 February 2015, <https://www.france24.com/fr/20150212-election-presidentielle-rd-congo-novembre-mandat-joseph-kabila-commission-electorale-nationale-independante-ceni>

and step down.²⁹ In his December 2015 speech before Parliament, the President said he wanted a "truly Congolese" electoral process, and strongly rejected any international support for the process.³⁰

In May 2016, at the request of ruling party MPs, the Constitutional Court ruled that if the election was not held in November 2016, Kabila would remain in power until a newly elected president was sworn in.³¹ The court ruling raised controversy, with notably the Catholic bishops calling on the people to oppose any delays of the electoral process.³²

On 17 October 2016, the Constitutional Court made another controversial decision³³ by approving the indefinite postponement of the presidential election.³⁴ The ruling coincided with the closure of the National Dialogue convened by President Kabila and facilitated by the AU, which was boycotted, once again, by the main opposition parties and civil society organizations.³⁵

On 17 November 2016 President Kabila appointed Samy Badibanga from the UDPS party as the new Prime Minister.³⁶ Samy Badibanga formed a new government in which several opposition members who, like himself, had participated in the "National Dialogue", were given government positions.³⁷ However, the UDPS leadership and other key opponents continued to call for a more inclusive dialogue.³⁸ President Kabila conceded to fresh negotiations under the auspices of the Catholic bishops, this time with the participation or support of the main opposition parties and civil society groups.³⁹

On 31 December, the Catholic bishops brokered a new agreement between the ruling coalition and the opposition, known as the "Saint Sylvester Agreement".⁴⁰ The Saint Sylvester Agreement⁴¹ included a commitment from President Kabila and his government to hold elections by December 2017⁴² during which time Kabila would retain office,⁴³ appoint, based on proposals from the opposition, a new Prime Minister "with complete control over a government of national unity" which would be tasked with organizing the elections within the agreed timeline.⁴⁴ The Agreement prohibited President Kabila from seeking a third term or initiating or approving constitutional amendments.⁴⁵ The government pledged to release all those detained under politically-motivated charges, to allow political exiles to return to the DRC and to reopen the civic space and media.⁴⁶

The international community, Congolese bishops and many civil society organizations considered the Agreement to be the best way to achieve a peaceful transfer of power⁴⁷ and stressed the need for all

²⁹ Afrikarabia, "RDC : Kabila, le dialogue, le référendum et le glissement", 5 November 2015, <http://afrikarabia.com/wordpress/rdc-kabila-le-dialogue-le-referendum-et-le-glissement/>

³⁰ RFI, "RDC : Discours offensif du président Kabila devant le Congrès", 14 December 2015, <http://www.rfi.fr/afrique/20151214-rdc-discours-offensif-president-kabila-congres-dynamique-g7>

³¹ Jeune Afrique, "RD Congo : la Cour constitutionnelle estime que Kabila peut rester en fonction après la fin de son mandat", 11 May 2016, <https://www.jeuneafrique.com/324889/politique/rd-congo-cour-constitutionnelle-estime-kabila-rester-fonction-apres-fin-de-mandat/>

³² Le Phare, "Processus électoral bloqué : la CENCO demande au peuple de s'opposer à tout glissement", 28 June 2016, <https://www.lephareonline.net/processus-electoral-bloque-cenco-demande-peuple-de-sopposer-a-glissement/>

³³ The Court was presided over by five judges instead of the minimum seven required by law, hence breaching its own quorum rule as per Articles 2 and 90 of the Law governing the organization and functioning of the Constitutional Court (Law 13/026 of 15 October 2013), <https://leganet.cd/Legislation/Droit%20Judiciaire/LO.13.026.15.10.2013.CC.htm#TIII>

³⁴ BBC, "RDC : la Cour constitutionnelle reporte la présidentielle", 18 October 2016, <https://www.bbc.com/afrique/region-37692091>

³⁵ The "National Dialogue" was a political forum which was officially convened by Presidential Decree on 28 November 2015, with the stated objective of finding a compromise on controversial issues regarding the electoral process. It opened a year later, on 1 September 2016, under the facilitation of the AU's envoy, former Togolese Prime Minister, Edem Kodjo, and ended on 18 October 2016 with the signing of a Political Agreement between the ruling coalition and some members of the opposition.

³⁶ Al Jazeera, "DR Congo: Opposition figure Samy Badibanga named PM", 17 November 2016,

<https://www.aljazeera.com/news/2016/11/dr-congo-opposition-figure-samy-badibanga-named-pm-161117175108538.html>

³⁷ Radio Okapi, "Samy Badibanga publie son gouvernement", 20 December 2016,

<https://www.radiookapi.net/2016/12/20/actualite/politique/rdc-samy-badibanga-publie-son-gouvernement>

³⁸ Le Monde, "Au Congo-Kinshasa, la nomination d'un nouveau premier ministre n'apaise pas les tensions", 19 November 2016,

https://www.lemonde.fr/afrique/article/2016/11/19/au-congo-kinshasa-la-nomination-d-un-nouveau-premier-ministre-n-apaise-pas-les-tensions_5034066_3212.html

³⁹ National Catholic Reporter, "Kabila accepts Congolese bishops' offer to mediate crisis", 7 December 2016,

<https://www.ncronline.org/news/world/kabila-accepts-congolese-bishops-offer-mediate-crisis>

⁴⁰ DRC parties reach deal denying third term for President Kabila", The Guardian 31 December 2016,

<https://www.theguardian.com/world/2016/dec/31/drc-close-to-deal-for-president-joseph-kabila-to-step-down-after-2017-elections>

⁴¹ CENCO, « Accord politique global et inclusif du Centre interdiocésain de Kinshasa », 31 December 2016, available on

<https://www.ambardcparis.com/cenco.pdf>

⁴² Saint Sylvester Agreement, para. IV.2, page 7. The provision adds: "However the *Conseil National de Suivi de l'Accord* and the CENI can unanimously appreciate the time necessary for the completion of said elections."

⁴³ Idem, para. III.2.1., p. 5

⁴⁴ Idem, para. III.3., p. 6

⁴⁵ Idem, para. II.1. (p. 3), para. II.2. (p. 4) and para. III.2.1. (p. 5)

⁴⁶ Idem, Chapter V. (p. 14)

⁴⁷ In the message of the plenary assembly of the CENCO of February 22, 2017, the Catholic bishops declared: "The Saint Sylvester Agreement is a consensual and inclusive political compromise, and the only realistic roadmap that will allow country to get out of the socio-political crisis." (La Croix, "Non au blocage, disent les évêques Congolais", 28 February 2017, <https://www.la-croix.com/Urbi-et->

stakeholders to fully and swiftly fulfil their commitments.⁴⁸ Soon afterwards the Agreement's implementation stumbled amidst new disagreements between the signatories, particularly in relation to procedures for nominating the Prime Minister.⁴⁹ Subsequent discussions between the signatories, under the aegis of the Catholic bishops, to determine how to implement the Agreement reached a stalemate.⁵⁰

On 1 February 2017, Etienne Tshisekedi, the opposition's most prominent figure, died in Brussels while having medical treatment.⁵¹ He had been a key player in the Agreement and had headed the oversight committee in charge of monitoring its implementation. Subsequently, the divisions among the opposition intensified.⁵² On 28 March 2017, the Catholic bishops withdrew as mediators after failing to get agreement for the appendixes from Kabila's coalition and the opposition, to implement the Agreement.⁵³ On 7 April 2017, President Kabila unilaterally appointed Bruno Tshibala – also from the UDPS – as the new Prime Minister⁵⁴ replacing Samy Badibanga. The UDPS strongly rejected the appointment and accused President Kabila of violating the Agreement.⁵⁵ Ultimately, the main opposition coalition – the *Rassemblement*⁵⁶ – withdrew from talks and refused to sign the appendixes to the Saint Sylvester Agreement, while some individuals from the opposition agreed to join Tshibala's government and the Kabila coalition.⁵⁷

On 7 July 2017, amidst continuing mistrust and tension, the CENI President announced that it was impossible to hold the elections before the end of 2017, citing technical, security and financial obstacles.⁵⁸ On 5 November 2017, following growing domestic⁵⁹ and international pressure particularly from the EU and the US government,⁶⁰ the CENI published another electoral calendar in which the presidential, parliamentary

[Orbi/Documentation-catholique/Eglise-dans-le-Monde/Non-blocage-disent- eveques-RDC-2017-02-28-1200828255](#)). See also: UN Security Council, Resolution S/RES/2348 (2017), 31 March 2017, <https://undocs.org/S/RES/2348/2017>

⁴⁸ See for example: "The Security Council is encouraged by the spirit of flexibility and compromise demonstrated by Congolese political leaders in reaching this agreement, for the stability, peace, development and consolidation of constitutional democracy in the DRC [...]. The Security Council stresses the importance for the Government of the DRC and its national partners to take all necessary steps to accelerate preparations for the elections without further delays, within the agreed timeframe." (UN News, "Welcoming DR Congo political accord, UN Security Council urges efforts to resolve remaining issues", 4 January 2017, <https://news.un.org/en/story/2017/01/548882-welcoming-dr-congo-political-accord-un-security-council-urges-efforts-resolve>). "The EU welcomes the agreement of 31 December 2016 which is the only way to establish the necessary legitimacy for the institutions which should manage the transition, including the Presidency." (European Council, "Council conclusions on the Democratic Republic of the Congo", 6 March 2017, https://www.consilium.europa.eu/en/press/press-releases/2017/03/06/conclusions-co_ngo/)

⁴⁹ Vox of America, "RDC : désaccord sur la désignation du premier ministre", 28 January 2017, <https://www.voaafrrique.com/a/rdc-desaccord-sur-la-deisgnation-du-premier-ministre/3696839.html>

⁵⁰ The discussions over the "particular arrangement" were aimed, inter alia, at determining the modalities and quotas for the appointment of the government, the composition of the transitional oversight body known as the "Conseil national de Suivi de l'Accord" (CNSA), the list of people considered as political prisoners or exiles, etc.

⁵¹ Etienne Tshisekedi wa-Mulumba (father of current DRC President Félix Tshisekedi) was co-founder and leader of the oldest and largest Congolese opposition party, the Union for Democracy and Social Progress. He died of illness in Brussels, Belgium, on 1 February 2017, at age 84. See Reuters, "Congo's main opposition leader, Etienne Tshisekedi, dies at 84", 1 February 2017, <https://www.reuters.com/article/us-congo-tshisekedi/congos-main-opposition-leader-etienne-tshisekedi-dies-at-84-idUSKBN15G5D1>

⁵² See Hans Hoebek and Richard Moncrieff, "What Does Opposition Leader Tshisekedi's Death Mean for DR Congo's Road to Elections?", in African Arguments, 3 February 2017, <https://africanarguments.org/2017/02/03/what-does-opposition-leader-tshisekedis-death-mean-for-dr-congos-road-to-elections/>; Karen Attiah, "With the death of Etienne Tshisekedi, a light goes out in Congo" in The Washington Post, 4 February 2017, <https://www.washingtonpost.com/news/global-opinions/wp/2017/02/03/with-the-death-of-etienne-tshisekedi-a-light-goes-out-in-congo/>

⁵³ "Congo tense as Catholic bishops withdraw from talks", Reuters, 28 March 2017, <https://af.reuters.com/article/africaTech/idAFKBN16Z15S-OZATP>

⁵⁴ Al Jazeera, "Kabila names Bruno Tshibala new DRC Prime Minister", 7 April 2017, <https://www.aljazeera.com/news/2017/04/kabila-names-bruno-tshibala-drc-prime-minister-170407201215507.html>

⁵⁵ Vox of Africa "DRC: the UDPS denounces the appointment of the Prime Minister", 8 April 2017, <https://www.voaafrrique.com/a/l-udps-denonce-la-nomination-du-1er-ministre/3801934.html>. Bruno Tshibala published his government on 9 May 2017. (RFI, "RDC : un nouveau gouvernement déjà contesté", 9 May 2017, <http://www.rfi.fr/afrique/20170509-rdc-nouveau-gouvernement-mais-pas-grand-changement>)

⁵⁶ The *Rassemblement* was a coalition of opposition and civil society organisations created in June 2016 under Etienne Tshisekedi's leadership with an aim of unifying their forces in the struggle for the respect of the Constitution and the peaceful transfer of power. See Le Monde, "DRC, the Opposition launches its anti-Kabila 'Rassemblement' around Etienne Tshisekedi", 10 June 2016, https://www.lemonde.fr/afrique/article/2016/06/10/rdc-l-opposition-lance-son-rassemblement-anti-kabila-derriere-etienne-tshisekedi_4947508_3212.html

⁵⁷ The "Arrangement particulier" was signed on 27 April 2017, in the absence of the main opposition leaders. (RFI, "RDC : signature de l'arrangement particulier sans les ténors de l'opposition", 27 April 2017, <http://www.rfi.fr/fr/afrique/20170427-rdc-signature-arrangement-particulier-une-partie-opposition>)

⁵⁸ Associated Press via News 24, "DRC election commission: Vote can't be held by end of year", 9 July 2017, <https://www.news24.com/Africa/News/drc-election-commission-vote-cant-be-held-by-end-of-year-20170709>

⁵⁹ Several demonstrations took place between July and October 2017, notably led by a collective of civil society groups to demand the publication of an electoral timeline and the enforcement of the 2016 New Year's Eve Agreement, or otherwise the establishment of what they called a "transition without Kabila."

⁶⁰ Notably the EU, the US and the UN Security Council through statements, resolutions, targeted sanctions and multiple other diplomatic actions. It was against this backdrop that the US ambassador to the UN, Nikki Haley, visited the DRC in late October 2017 and urged President Kabila to hold long-delayed elections not later than 2018 or face consequences. See for example: The Washington Post, "Haley urges Congo leader to hold elections soon or risk international backlash", 27 October 2017, https://www.washingtonpost.com/politics/haley-urges-congo-leader-to-hold-elections-soon-or-risk-international-backlash/2017/10/27/29177cea-bb4a-11e7-a908-a3470754bbb9_story.html

and provincial elections were scheduled for 23 December 2018.⁶¹ The following month, President Kabila promulgated another controversial electoral law⁶² which elicited mixed responses. For some, this was, at last, a clear roadmap to the elections, while for others its publication only a month ahead of the deadline established by the Saint Sylvester Agreement was just part of meaningless Kabila's "sliding strategy."⁶³ Consequently, on 22 December 2017, the CLC called for a series of peaceful marches to demand the implementation of the trust-building measures⁶⁴ under the Saint Sylvester Agreement and for elections to be held "without Kabila" and no later than 2018 in accordance with the electoral calendar.⁶⁵

In August 2018, President Kabila chose former Interior Minister Emmanuel Shadary as the Front Commun pour le Congo (FCC)⁶⁶ presidential candidate.⁶⁷ Two prominent opposition contenders were prevented from running on legal or administrative grounds. In August 2018, the authorities had blocked candidate Moïse Katumbi from entering the country when he tried to return from exile.⁶⁸ The authorities gave no reason for the measures against Moïse Katumbi, which had no legal basis and violated his right to freedom of movement.⁶⁹ Later that month, the CENI rejected the candidacy of the Congo Liberation Movement's Jean-Pierre Bemba on grounds that he was convicted by the ICC for witness tampering.⁷⁰ CENI's decision to exclude Jean-Pierre Bemba as a candidate was confirmed by the Constitutional Court on 3 September 2018.⁷¹ The CENI and the Constitutional Court also rejected the candidacy of five other candidates: Antoine Gizenga on the grounds his application was not signed, Samy Badibanga and Marie-Josée Ifoku on grounds they were not of Congolese origin, Adolphe Muzito on the basis of "unsolved conflict with his political party", and Jean-Paul Moka-Ngolo over the "lack of proof of payment of the deposit."⁷²

3.3 ELECTIONS AT LAST

After years of uncertainty and delays, as well as an electoral campaign marred by violence⁷³, the presidential, parliamentary and provincial elections finally went ahead on 30 December 2018⁷⁴, with 21 candidates officially vying for the presidential election. Four days earlier, however, the CENI announced that 1.25 million voters (over 3% of the DRC's 40 million voters) from the regions of Beni, Beni-ville, Butembo and Yumbi

⁶¹ CENI, Decision No. 065/CENI/BUR/17 of 5 November 2017 publishing the calendar of elections in the DRC, available at <https://www.ceni.cd/articles/calendrier-electoral-decision-n065-ceni-bur-17-du-05-novembre-2017-portant-publication-du-calendrier-des-elections-en-rdc>

⁶² RFI, "RDC : Kabila promulgue la loi électorale", 26 December 2017, <http://www.rfi.fr/afrique/20171226-rdc-promulgation-loi-electorale-representativite>

⁶³ Radio Okapi, "Calendrier électoral en RDC : avalanche de réactions sur Twitter", 6 November 2017, <https://www.radiookapi.net/2017/11/06/actualite/politique/calendrier-electoral-en-rdc-avalanche-de-reactions-sur-twitter>

⁶⁴ Under Chapter V of the Saint Sylvester Agreement, the trust-building measures consisted in steps deemed necessary to ease the political tensions, including the release of prisoners of conscience, an amnesty or the cessation of criminal proceedings against a certain number of political and civil society leaders and, more generally, the opening of civic space. See the Agreement: <https://www.ambarcdparis.com/cenco.pdf>

⁶⁵ For more detailed political background, see International Crisis' report "Electoral Poker in DR Congo", April 2018, <https://www.crisisgroup.org/africa/central-africa/democratic-republic-congo/259-electoral-poker-dr-congo>

⁶⁶ BBC, "DRC : Emmanuel Shadary, Kabila's choice for DR Congo president", 8 August 2018, <https://www.bbc.com/news/world-africa-46447089> (Accessed on 19 June 2019) The coalition was (and is still) called the Front Commun pour le Congo (FCC), composed of former Kabila's coalition Majorité Présidentielle (MP) and a number of political parties and individuals from the opposition and civil society groups who had joined the government in early 2017

⁶⁷ The Electoral Commission published the final list of presidential candidates on 19 September 2018: <https://www.ceni.cd/articles/liste-definitive-des-candidats-president-elections-du-23-decembre-2018>

⁶⁸ Al Jazeera, "Opposition leader Moïse Katumbi blocked from entering DRC", 3 August 2018, <https://www.aljazeera.com/news/2018/08/opposition-candidate-moise-katumbi-blocked-entering-drc-180803133022644.html>

⁶⁹ For example, Article 12 (4) of the International Covenant on Civil and Political Rights (ratified by the DRC on 1 November 1976) provides: "No one shall be arbitrarily deprived of the right to enter his own country." See: <https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

⁷⁰ BBC, "Jean-Pierre Bemba cannot run for DRC president", 25 August 2018, <https://www.bbc.com/news/world-africa-45305644>

⁷¹ Deutsche Welle, "DR Congo court bans Jean-Pierre Bemba from elections", 3 September 2018, <https://www.dw.com/en/dr-congo-court-bans-jean-pierre-bemba-from-elections/a-45339950>

⁷² RFI, "RDC : 6 candidats exclus de la présidentielle, don't Jean-Pierre Bemba", 25 August 2018, <http://www.rfi.fr/afrique/20180825-rdc-6-candidats-exclus-presidentielle-dont-jean-pierre-bemba>

⁷³ Between August and November 2018, Amnesty International documented more than 150 arbitrary arrests and detentions countrywide, including of those who questioned the credibility of the electoral process. See Amnesty International, "DRC: Human rights concerns persist as electoral campaigns kick-off", 21 November 2018, <https://www.amnesty.org/en/latest/news/2018/11/drc-human-rights-concerns-persist-as-electoral-campaigns-kick-off/>. During the official election campaign that ran from 22 November to 21 December 2018, the UN Joint Human Rights Office documented 147 elections-related human rights violations largely committed by the DRC security forces, including the killing of at least 15 people: UNJHRO, "Report on the situation of human rights in the Democratic Republic of the Congo before, during and after the elections of December 2018", 6 March 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_40_47.pdf

⁷⁴ The Electoral Commission announced the new postponement on 20 December 2018, citing logistic problems caused by the loss of thousands of tons of electoral materials in a fire a week before in Kinshasa. See The Guardian, "Tensions rise as arsonists burn 7,000 voting machines ahead of DRC election", 13 December 2018, <https://www.theguardian.com/world/2018/dec/13/fire-destroys-new-voting-machines-ahead-of-drc-election-kabila>; CENI, Decision n° 50/CENI/BUR/18 of 20 December 2018 on the postponement of elections to 30 December 2018, <https://www.ceni.cd/articles/decision-n50-ceni-rdc-2018-relative-au-report-des-scrutins-au-30-decembre-2018>

would not be allowed to vote⁷⁵ on security grounds as well as for health reasons⁷⁶ connected to the Ebola epidemic.

On 10 January 2019, the CENI declared Felix Tshisekedi, an opposition leader, the provisional winner of the presidential election having received 38.5% of the vote.⁷⁷ Leaked data from CENI's central database, and another which came from the Catholic church's tally, suggested that another opposition candidate, Martin Fayulu,⁷⁸ was the winner. The AU responded to the leaks on 17 January, urging the DRC authorities to delay the announcement of the final results or hold a recount because there were "serious doubts about the provisional results."⁷⁹ The government dismissed the calls⁸⁰ and on 19 January, the Constitutional Court confirmed Felix Tshisekedi as the winner.⁸¹ He was sworn-in on 24 January 2019.⁸²

3.3.1 TIMELINE

⁷⁵ They would be *de facto* excluded from the presidential election, while parliamentary and provincial elections were postponed to March 2019.

⁷⁶ Reuters, "Three Congo opposition areas excluded from presidential election", 26 December 2018, <https://www.reuters.com/article/us-congo-election/three-congo-opposition-areas-excluded-from-presidential-election-idUSKCN1OPQJ9>

⁷⁷ *Opposition leader declared winner in Congo election*, The Financial Times, 10 January 2019, <https://www.ft.com/content/23b34038-147f-11e9-a581-4ff78404524e>

⁷⁸ The Financial Times, "Congo voting data reveal huge fraud in poll to replace Kabila", 15 January 2019, <https://www.ft.com/content/2b97f6e6-189d-11e9-b93e-f4351a53f1c3> The leaked data is accessible on the Congo Research Group website at <http://congoresearchgroup.org/congoese-election-leaks/>

⁷⁹ Al Jazeera, "Citing 'serious doubts', AU urges delay to final DRC vote results", 18 January 2019, <https://www.aljazeera.com/news/2019/01/citing-doubts-au-urges-delay-final-drc-vote-results-190118014312827.html>

⁸⁰ Bloomberg, "Congo Rejects African Union Call to Suspend Election Results", 18 January 2019, <https://www.bloomberg.com/news/articles/2019-01-18/congo-dismisses-african-union-call-to-suspend-election-results>

⁸¹ The Guardian, "DRC court confirms Felix Tshisekedi winner of presidential election", 20 January 2019, <https://www.theguardian.com/world/2019/jan/20/drc-court-confirms-felix-tshisekedi-winner-of-presidential-election>

⁸² The Guardian, "DRC court confirms Felix Tshisekedi winner of presidential election", 20 January 2019, <https://www.theguardian.com/world/2019/jan/20/drc-court-confirms-felix-tshisekedi-winner-of-presidential-election> (Accessed on 17 June 2019)

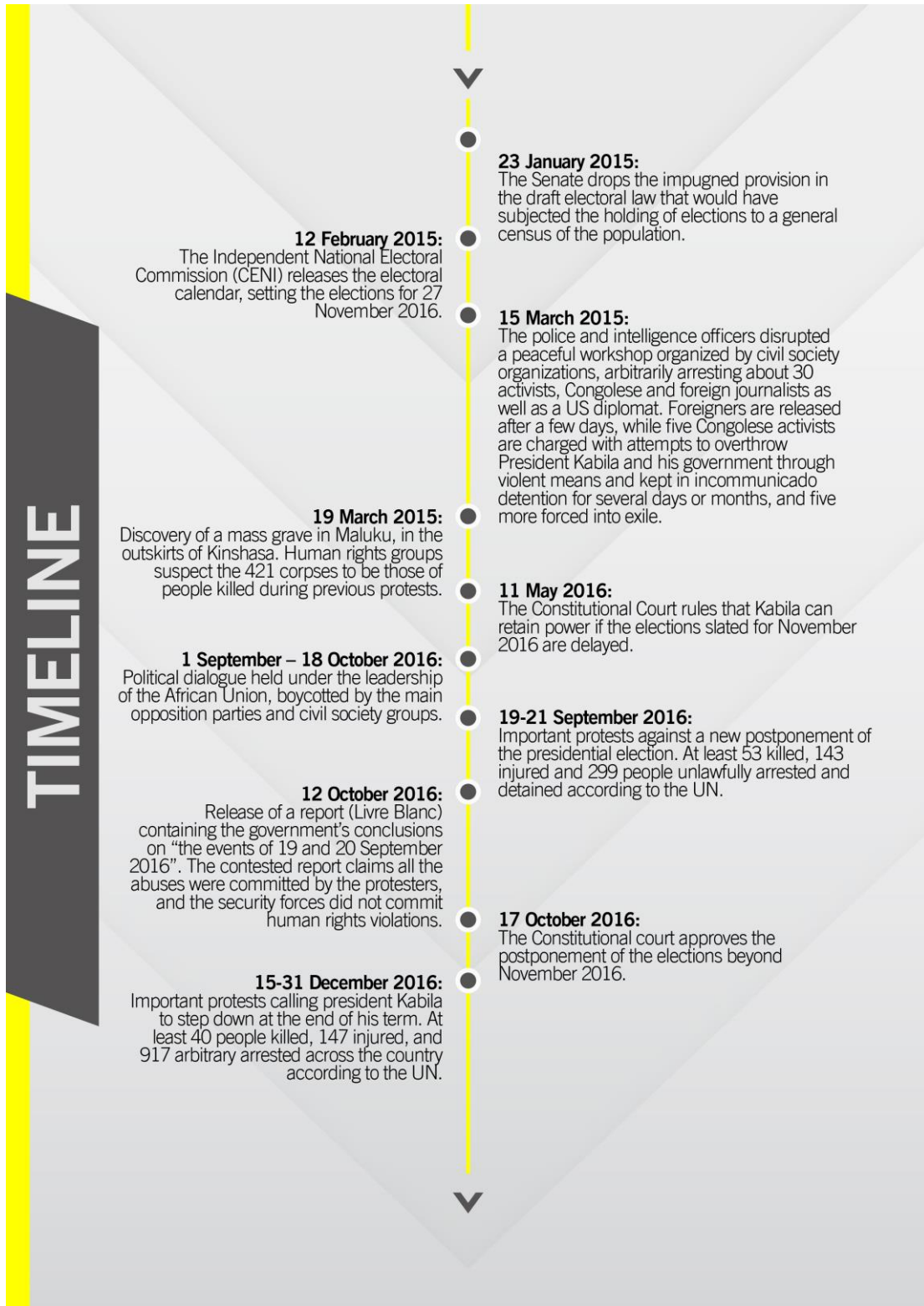


HUMAN RIGHTS CRISIS LINKED TO THE ELECTORAL PROCESS

TIMELINE

- 26 January 2001:**
Joseph Kabila takes oath following the assassination 10 days earlier of his father and president, Laurent-Désiré Kabila.
- 18 & 19 December 2005:**
holding of the referendum for the adoption of the current Constitution (enacted on 18 February 2006).
- 16 December 2006:**
Joseph Kabila takes oath as president for a five-year term renewable one time according to the 18 February 2006 Constitution.
- 20 December 2011:**
President Kabila takes oath as president of the republic for a second (and constitutionally last) five-year term in office.
- 7 September 2013:**
President Kabila launches the “national consultations” aimed at “pulling the DRC out of a political, social and security crises”.
- 9 June 2014:**
The DRC government adopts a draft law amending the Constitution. The project is eventually abandoned in December the same year.
- 5 January 2015:**
Evariste Boshab introduces a bill before the National Assembly to amend the electoral law, with a provision subjecting the elections to the holding of the general census of the population.
- 15 January 2015:**
opposition and civil society groups call on the population to demonstrate against the draft bill amending the electoral law and against Kabila remaining in his post beyond the end of his term.
- 17 January 2015:**
the national assembly adopts the new electoral bill with the controversial provision subjecting the holding of elections to prior organization of a general population census.
- 19-24 January 2015:**
First wave of large demonstrations across the country against President Kabila, accused of using the census as a tactic to delay the elections and cling on to power. At least 43 protesters and bystanders are killed, including 37 in Kinshasa alone, 110 injured and at least 160 arbitrary arrested, according to the UNJHRO.

↑ Graphic 1: Human Rights Crisis Timeline One



↑ Graphic 2: Human Rights Crisis Timeline Two



 ↑ Graphic 3: Human Rights Crisis Timeline Three

4. VOICES OF DISSENT MUZZLED

Between January 2015 and December 2018, anyone who dared to criticize President Kabila or his government – be they [opposition members], civil society activists, students, trade unionists, journalists, artists, or foreign researchers and diplomats – was considered an enemy of the DRC and subjected to harassment by state bodies.

The authorities partially or completely shut down the internet seven times for at least 59 days cumulatively.⁸³ They unlawfully arrested and detained at least 46 journalists in connection with the ongoing protests, expelled or cancelled the visas of 11 foreign reporters, a Human Rights Watch researcher and the Director of the Congo Research Group. They closed at least seven local media outlets (some of them repeatedly and for prolonged periods); and cut-off or otherwise interfered with RFI and Radio Okapi's transmitters on three occasions. On one occasion, in November 2016, the signal of RFI in Kinshasa was cut-off for nine-months. The authorities imposed a blanket ban on protests between September 2016 and November 2018. The ban was de facto lifted at the beginning of the electoral campaign.⁸⁴ Officially, the general ban remained in place at the time of writing.

4.1 ARBITRARY ARRESTS, DETENTIONS AND SYSTEMATIC BANS ON ASSEMBLIES

Following the unprecedented January 2015 protests,⁸⁵ the authorities considered all critical voices and opposition gatherings as a threat to national security. They increased the use of blanket bans on meetings and peaceful demonstrations organized by groups opposed to Kabila's presidency.

⁸³ In addition to infringing on human rights, in particular the right to information, Internet shut downs have had an important economic and social blow. In 2018, the President of the Federation of Enterprises of Congo (FEC), Albert Yuma, estimated that DRC companies lost up to 10% of their turnover per day of Internet shut down, and that the overall losses for companies could reach USD 20 million a day. RFI, "RDC: lourdes conséquences économiques après la coupure internet", 24 janvier 2018, <http://www.rfi.fr/fr/afrique/20180124-rdc-lourdes-consequences-economiques-apres-coupure-Internet>

⁸⁴ Amnesty International, "Democratic Republic of Congo – Treated Like Criminals: DRC's Race To Silence Dissent" (Index: AFR 62/2917/2015);

Amnesty International, "Democratic Republic of the Congo – Dismantling Dissent: Repression of Expression Amidst Electoral Delays" (Index: AFR 62/4761/2016)

UNJHRO, "Report on the situation of human rights in the Democratic Republic of the Congo before, during and after the elections of December 2018", 6 March 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_40_47.pdf

⁸⁵ See Section 5.1

4.1.1 HARASSMENT AND ARBITRARY ARRESTS OF PRO-DEMOCRACY ACTIVISTS AND OPPONENTS

On 15 March 2015, police and officers of the ANR disrupted a meeting in Kinshasa. They arbitrarily arrested around 30 people including prominent Congolese activist Fred Bauma, journalists and a US diplomat.⁸⁶ The meeting which was held to discuss youth civic engagement had been organized by Congolese pro-democracy activists and members of the Senegalese citizens' movement, Y En a Marre, and Burkina Faso's Le Balai Citizen. It had planned to end with the launch of a new collective of Congolese pro-democracy youths called FILIMBI. During the meeting, the participants had criticized President Kabila's tactics to retain power. The government accused the organizers and participants of "promoting violence", harming state security, and plotting to remove the "democratically elected government."⁸⁷ It also said the meeting was "illegal and subversive", and accused western diplomatic embassies including US representatives, of urging Congolese youth to lead a violent revolution akin to the 2014 popular revolt in Burkina Faso.⁸⁸

The US diplomat and the foreign journalists were released the next day while the activists from Burkina Faso and Senegal were expelled on 19 March after being held incommunicado and interrogated in an ANR cell.⁸⁹ Ten Congolese activists and bystanders were charged with various offenses, including "plotting a conspiracy against the head of state."⁹⁰ Five were held incommunicado for up to 17 months while five others went into exile.⁹¹

On 18 March, alluding to the civic and non-violent group LUCHA⁹², the Minister of Communication accused "a Congolese movement recruited in the east... whose leaders were transported to Kinshasa to do their job..." of being used by "imperialist powers" to destabilize the institutions of the DRC, including through violent means... announced that "the firm reaction of the security services ... made it possible to defeat these reckless people and... the Congolese government will defend its sovereignty at any cost."⁹³ According to the Minister, the stated objective of the Senegalese and Burkinabe contractors and their Congolese allies was to disrupt the democratic and electoral process in the DRC:⁹⁴ "They were inspired by the Arab Spring which did all the good that we know to our Libyan brothers, and the 'revolution' of 2014 in Burkina Faso which, for some reason, they would like to repeat in the DRC."⁹⁵

EXTRACTS OF THE OPINION ADOPTED BY THE UN WORKING GROUP ON CONGOLESE ACTIVIST FRED BAUMA'S PROLONGED DETENTION:

"On 23 March 2015, Maître Sylvain Lumu, lawyer for Mr. Bauma and other young people arrested, filed a criminal complaint against unknown persons for "abduction, arbitrary arrest, unlawful detention, and for violations of the rights guaranteed to individuals." Despite several efforts by Me Lumu to get in touch with his client, Mr. Bauma, he was denied access by the Congolese authorities. [...]

"In the light of the above, the Working Group is of the opinion that the continuing deprivation of liberty of Mr. Bauma Winga is arbitrary in that it lacks a legal basis, that it occurred while he was exercising his freedom of expression and opinion, and that his right to be assisted by a lawyer was violated [...]"

⁸⁶ Reuters, "U.S. diplomat arrested with pro-democracy activists in Congo", 15 March 2015, <https://www.reuters.com/article/us-congodemocratic-arrests/u-s-diplomat-arrested-with-pro-democracy-activists-in-congo-idUSKBNOMB10120150315>

⁸⁷ Amnesty International, "Democratic Republic of the Congo – Treated like criminals: DRC's race to silence dissent" (Index: AFR 62/2917/2015)

Amnesty International, "DRC: Free human rights activists", (News story, 19 March 2015), <https://www.amnesty.org/en/latest/news/2015/03/free-human-rights-activists/>

⁸⁸ An allusion to the popular revolt which ousted President Blaise Compaore of Burkina Faso from power in October 2014, notably with the mobilization of the Balai Citizen citizens' movement

⁸⁹ Ibid

⁹⁰ Amnesty International, "DRC: Release of pro-democracy activists cause for celebration", News story, 30 August 2016, <https://www.amnesty.org/en/latest/news/2016/08/drc-release-of-pro-democracy-activists-cause-for-celebration/>

⁹¹ Ibid

⁹² The Fight for Change (LUCHA, for *Lutte pour le Changement* in French) is the main citizens' movement in the DRC, campaigning for accountability, justice and respect for human rights through peaceful means, including non-violent direct action. Formed in 2012 by a group of young people in the eastern town of Goma, LUCHA first campaigned for social and economic rights such as access to drinking water and decent employment before taking up the issue of respect for the Constitution and the right to vote. LUCHA and similar citizens' movements which appeared in its wake across the DRC became popular, especially among young people, and were particularly targeted by the authorities, in the context of the popular revolts which resulted in the overthrow of governments in several African countries between 2011 and 2014

⁹³ Ibid

⁹⁴ Government statement, 18 March 2015, op. cit.

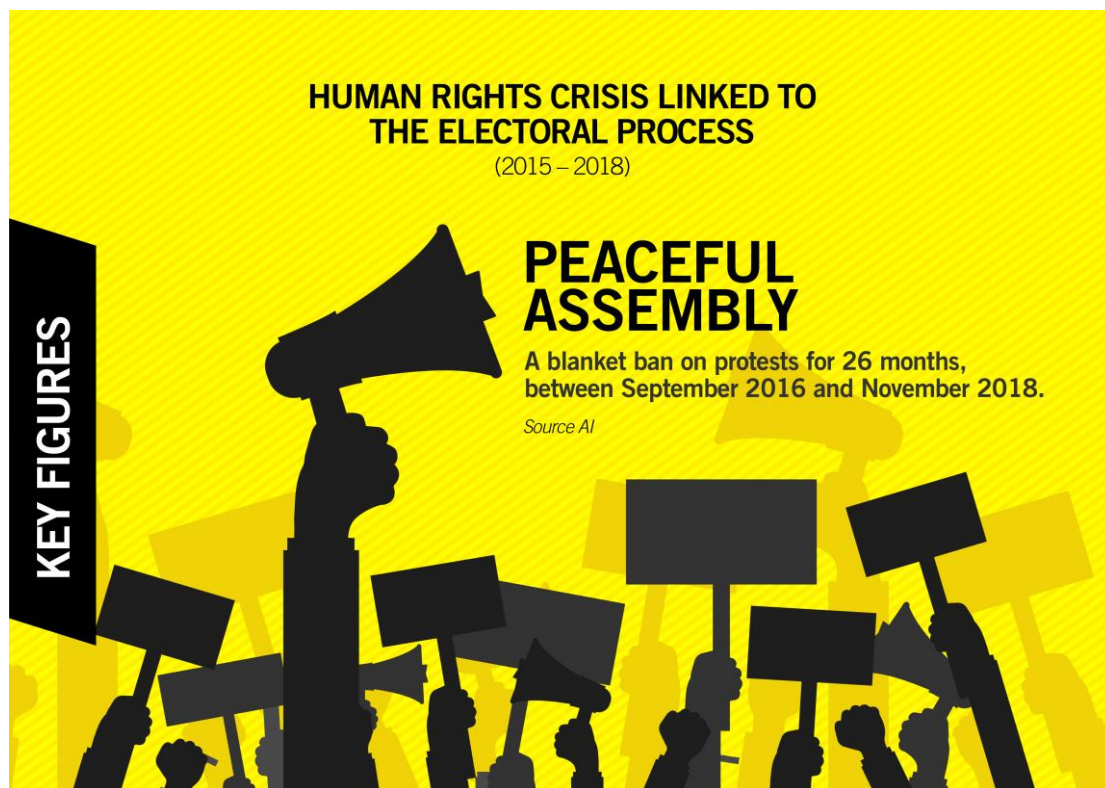
⁹⁵ Ibid

“The Working Group therefore requests the Government of the Democratic Republic of the Congo to release him immediately and to take all necessary measures to remedy the serious material and moral prejudice he has suffered, by providing for full reparation in accordance with Article 9 (5) of the ICCPR, while ensuring that an investigation is carried out into the circumstances of this abuse to determine responsibilities so that any fault is punished.”⁹⁶

Fred Bauma was eventually released on bail on 23 August 2016, along with another Congolese activist Yves Makwambala, who had been arrested at the same meeting.⁹⁷ Charges against each of the Congolese activists had not been dropped at the time of writing.⁹⁸

4.1.2 SYSTEMATIC AND UNLAWFUL BANS ON ASSEMBLY

In the aftermath of the January and March 2015 events, the government increased control over NGOs’ activities and banned the activities of the citizens’ movements LUCHA and FILIMBI, deeming them to be “anarchical, subversive or even terrorist groups.”⁹⁹



 ↑ *Graphic 4. Key Figures Graphic on Ban of Assemblies*

On 26 May 2016, opposition political parties called for nationwide protests against the Constitutional Court judgment allowing President Kabila to stay in power until his successor was elected.¹⁰⁰ At least 12 planned

⁹⁶ UN Working Group on Arbitrary Detention, Opinion No 31/2015 adopted during its 73rd session on 3 September 2015, https://www.ohchr.org/Documents/Issues/Detention/Opinions2015AUJ/Opinion%202015%2031_RDC_Winga_AUV.pdf

⁹⁷ Amnesty International, op. cit.

⁹⁸ The three other activists were released on various dates during 2015

⁹⁹ See, inter alia, Interior Minister Evariste Boshab’s instructions in his letter No 25/CAB/VP/MININTERSEC/EB/2600/2016, 3 November 2016, to the governors of the 26 provinces and heads of security agencies, seen by Amnesty International. For more details, see Protection International, “La criminalisation des mouvements sociaux en Afrique, le cas de la LUCHA en République démocratique du Congo”, 2018, <https://www.protectioninternational.org/sites/default/files/2018-criminalisation-series-DRC-La-Lucha-web.pdf>

¹⁰⁰ Jeune Afrique, “Présidentielle en RDC : Appel à des marches de protestation le 26 Mai”, 15 May 2016, www.jeuneafrique.com/325960/politique/presidentielle-rdc-appel-a-marches-de-protestation-26-mai

protests were banned by local authorities.¹⁰¹ The Mayor of Lubumbashi prevented one protest from going ahead on grounds that “the march was not opportune, especially given that the judgment of the Constitutional Court is irrevocable and binding”.¹⁰² The Governor of North Kivu Province extended the ban on protests already imposed by the mayors of Beni, Butembo and Goma, to the entire province, giving two reasons: “these structures are not legal, and these protests are unfounded because the judgment of the Constitutional Court is unassailable. Moreover, the Province of North Kivu is mourning. In our tradition, we don’t grieve our dead people by protesting in the street.”¹⁰³ The Mayor of Mbuji-Mayi in central DRC told organizers who had notified him in writing of their intention to hold a peaceful demonstration: “Your letter does not provide legitimate reasons for holding the planned protest. The political groups that signed the letter which we are examining, have no legal status, which invalidates your request...”.¹⁰⁴ Protests were prevented or dispersed in at least 16 cities. The UNJHRO recorded 101 arbitrary arrests connected with protests between 23 and 26 May.¹⁰⁵ Most of those arrested were released after a few hours or days without charge.¹⁰⁶

On 22 September 2016, the provincial government of Kinshasa released a press release announcing a ban on “any political demonstrations” throughout Kinshasa, until further notice.¹⁰⁷ On 31 March 2017, on the instructions of the Deputy Prime Minister and the Minister of the Interior and Security, all political demonstrations were prohibited throughout the country.¹⁰⁸ The order was implemented by governors of provinces, mayors, territorial administrators and police officials, with an exception for rallies and meetings organized by members of the ruling majority.¹⁰⁹

These bans allowed law enforcement forces under the supervision of the administrative authorities, to disrupt the meetings, protests and other activities of targeted organizations, frequently using violence.

EXCERPT FROM AN INTERVIEW WITH THE PROVINCIAL POLICE COMMISSIONER FOR KINSHASA, CÉLESTIN KANYAMA, PUBLISHED BY JEUNE AFRIQUE ON 4 NOVEMBER 2016:

Question: “Since you say that the population is calm now, why not allow protests to proceed?”

Answer: “The provincial government felt that having street protests in the current context was not the priority. You can ask the governor. My responsibility is security. I do not mind politics. I’m just following orders.”¹¹⁰

Article 26 of the Constitution guarantees the right to assembly and requires organizers to notify the administrative authorities of all public demonstrations. According to the Special Rapporteur on the rights to freedom of peaceful assembly and of association, “this system of prior notification allows authorities to take necessary measures to facilitate and protect demonstrations, while taking measures to ensure public safety and order. However, spontaneous assemblies, exempt from prior notice, should be allowed when an immediate response to a political event might be justified. If organizers fail to notify the authorities, the assembly should not be dispersed, and the organizers should not be subjected to criminal or administrative sanctions resulting in fines or imprisonment”.¹¹¹ Local authorities, however, reacted to letters notifying them of assemblies as if they were requests for authorization, and arbitrarily prohibited planned protests. Such

¹⁰¹ UNJHRO, “Violations of human rights and fundamental freedoms linked to the restrictions of the democratic space”, May 2016; Sauti Ya Congo, “RDC : Trois provinces interdisent la marche de l’opposition de ce jeudi 26 mai”, 25 May 2016, <http://www.sautiyacongo.org/rdc-trois-provinces-interdisent-marche-de-l-opposition-de-jeudi-26-mai/>

¹⁰² Ibid

¹⁰³ Radio Okapi, “Nord-Kivu : Julien Paluku interdit toute manifestation le 26 mai”, 25 May 2016, <https://www.radiookapi.net/2016/05/25/actualite/politique/nord-kivu-julien-paluku-interdit-toute-manifestation-le-26-mai>

¹⁰⁴ Sauti Ya Congo, “RDC : Trois provinces interdisent la marche de l’opposition de ce jeudi 26 mai”, 25 May 2016, <http://www.sautiyacongo.org/rdc-trois-provinces-interdisent-marche-de-l-opposition-de-jeudi-26-mai/>

¹⁰⁵ Ibid

¹⁰⁶ Ibid

¹⁰⁷ VOA, “RDC: la police annonce qu’elle fera respecter l’interdiction de manifester à Kinshasa”, 3 November 2016, <https://www.voafrique.com/a/presence-de-la-police-renforcee-pour-empecher-le-meeting-de-l-opposition-a-kinshasa/3579570.html>

¹⁰⁸ Message No 25/CAB/VP/MinINTERSEC/ERS/067/2017 from the Deputy Prime Minister, Minister of Interior and Security (31 March 2017)

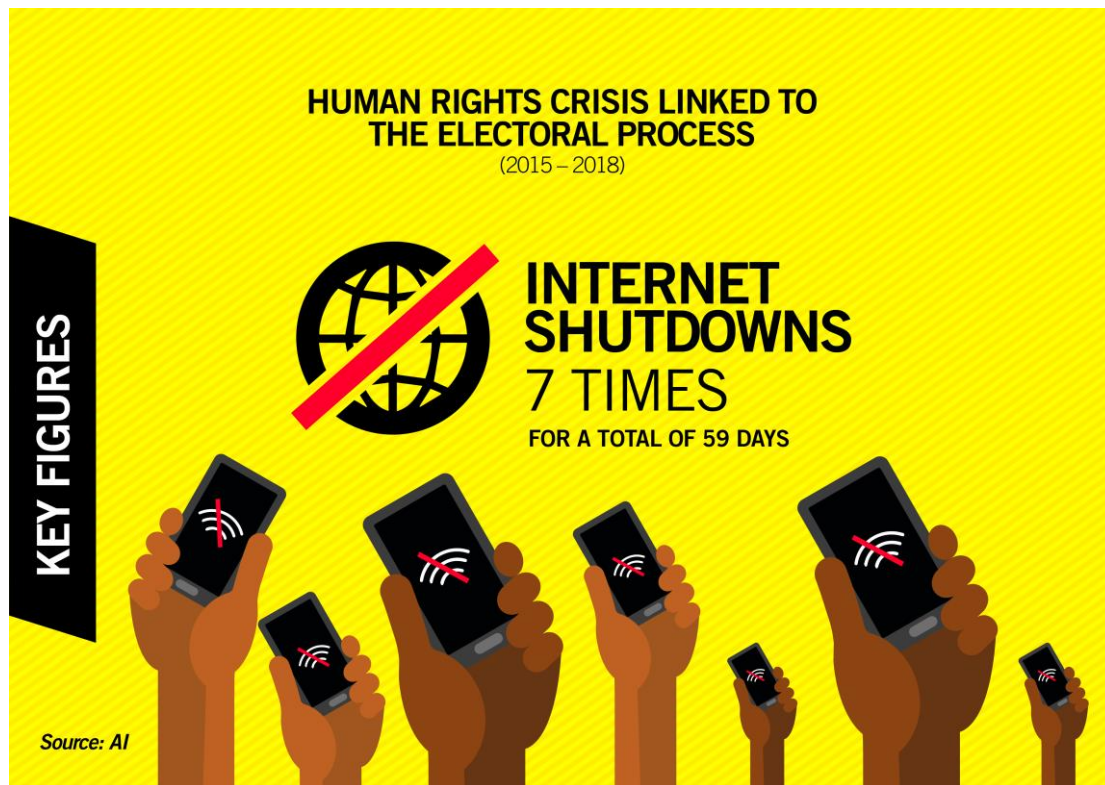
¹⁰⁹ UNJHRO, “Recours illégal, injustifié et disproportionné à la force lors de la gestion des manifestations publiques en République démocratique du Congo, de janvier 2017 à janvier 2018”, March 2018, https://www.ohchr.org/Documents/Countries/CD/BCNUDH-UnlawfulUnjustifiedUseofForce_Jan2017-Jan2018.pdf

¹¹⁰ Jeune Afrique, “RD Congo – Célestin Kanyama : “Je ne fais que suivre les ordres”, 4 November 2016, <https://www.jeuneafrique.com/371364/politique/celestin-kanyama/>

¹¹¹ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, June 2012, A/HRC/20/27, para. 28, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27-Add2_en.pdf

blanket bans, based on vague and unnecessary presumptions, fall short of international standards.¹¹² They illustrate the disproportionate, and unlawful restrictions on the right to freedom of assembly in the DRC between 2015 and 2018.

4.2 RESTRICTIONS OF THE RIGHT TO SEEK AND RECEIVE INFORMATION



↑ Graphic 5: Key Figures Graphic on Internet Shutdowns

Authorities systematically infringed upon the right to seek and receive information. Between January 2015 and December 2018, in a clear effort to break popular mobilization and to hide ongoing human rights violations, they repeatedly shutdown the internet for prolonged periods, and sometimes closed telephone lines and/or SMS services.¹¹³ They closed media outlets they considered to be critical of the government or too close to their opponents. They intimidated journalists, harassed human rights defenders and researchers, and used repressive legislation.¹¹⁴

In January 2015, one day after the uprising began, the authorities ordered telecommunication companies to shut down the internet, and block access to SMS services and phone lines.¹¹⁵ The blackout lasted for at least 18 days, although the services were restored for banks and government agencies after just 48 hours.¹¹⁶

¹¹² International human rights law and standards allow certain restrictions to be imposed by states. Article 21 of the International Covenant on Civil and Political Rights (ICCPR) states that permissible restrictions are those “imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”. The restriction must also be proportionate to the legitimate purpose it intends to achieve. No limitation should be imposed in a way that infringes the essence of the right.”

Human Rights Committee, General Comment No. 31: “The Nature of the General Legal Obligation Imposed on States Parties to the Covenant”, U.N. Doc. CCPR/C/21/Rev.1/Add.13, 2004, para 6

Amnesty International, “DRC: Legal analysis of DRC legislation on the right to freedom of peaceful assembly” (AFR 62/9190/2018)

¹¹³ Between January 2015 and January 2019, the Congolese authorities shut down the Internet seven times, for a total of 59 days.

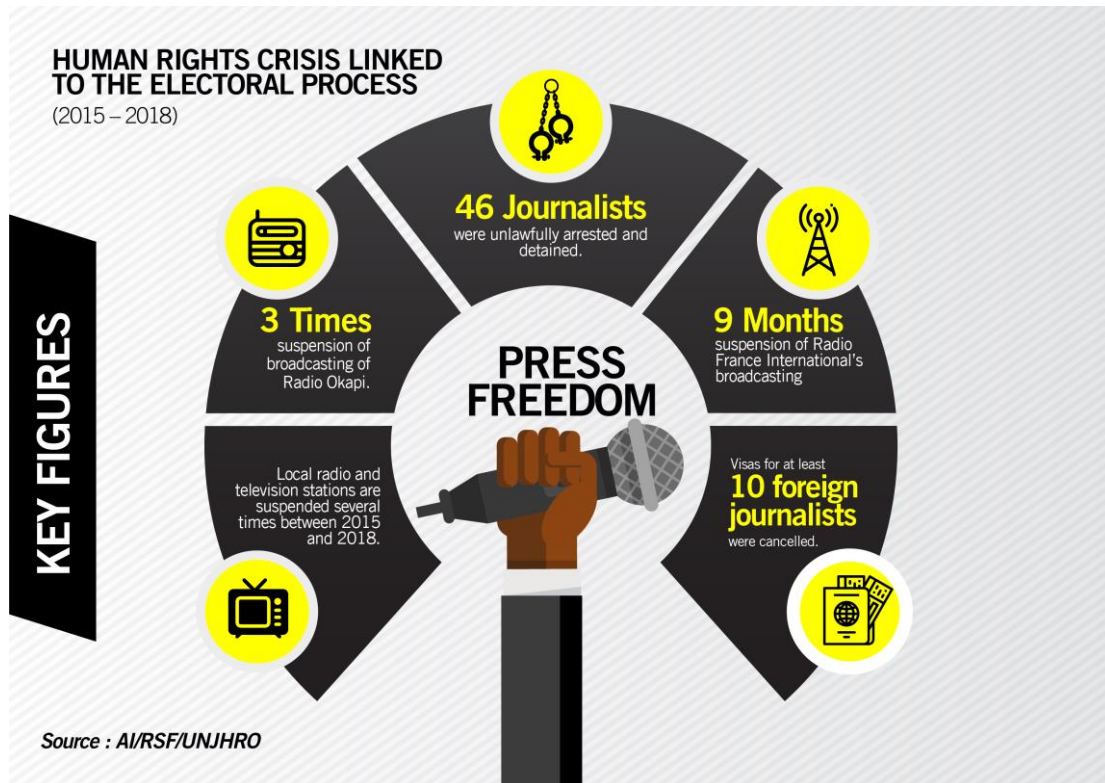
¹¹⁴ Amnesty International, “Democratic Republic of the Congo – Dismantling Dissent: Repression of Expression Amidst Electoral Delays” (Index: AFR 62/4761/2016)

¹¹⁵ Le Monde, “RDC : Internet coupé à Kinshasa sur ordre du pouvoir”, 20 January 2015,

https://www.lemonde.fr/pixels/article/2015/01/20/rdc-internet-coupe-a-kinshasa-sur-ordre-du-pouvoir_4559720_4408996.html

¹¹⁶ Collaboration on International Information and Communication Technology Policy for East and Southern Africa (CIPESA), “State of Internet Freedom in Democratic Republic of the Congo 2016”, December 2016, https://cipesa.org/?wpfb_dl=234

The shutdowns were imposed the day before or during major opposition protest events in September 2016, December 2016,¹¹⁷ August 2017,¹¹⁸ December 2017,¹¹⁹ January 2018¹²⁰ and February 2018.¹²¹ On 31 December 2018, in anticipation of the election results, the authorities cut internet access for 20 days.¹²² Over the same period (between January 2015 and December 2018), always on the eve of or during a major event, the authorities closed or obscured the signals used by several local and international media,¹²³ including the UN-backed Radio Okapi.¹²⁴



↑ Graphic 6: Key Figures Graphic on Press Freedom

¹¹⁷ Anadolu Agency, "RDC : Kinshasa bloque les réseaux sociaux", 16 December 2016, <https://www.aa.com.tr/fr/afrique/rdc-kinshasa-bloque-les-r%C3%A9seaux-sociaux-707777> According to Reporters Sans Frontières (RSF), telecommunication companies received the order from the Autorité de Régulation des Postes et Télé Communications (ARPTC), which is under the authority of the Presidency of the Republic

RSF, "Censure et violences contre les journalistes : une sombre fin de mandat pour le président Kabila", 16 December 2016, <https://rsf.org/fr/actualites/censure-et-violences-contre-les-journalistes-une-sombre-fin-de-mandat-pour-le-president-kabila>

¹¹⁸ Reuters, "Congo orders internet slowdown to restrict social media: telecoms source", 7 August 2017, <https://www.reuters.com/article/us-congo-violence-internet/congo-orders-internet-slowdown-to-restrict-social-media-telecoms-source-idUSKBN1AN2DE>

¹¹⁹ Le Soir, "RDC : internet coupé 'pour des raisons de sécurité d'État' et checks-points multiples dans Kinshasa", 31 December 2017, <https://www.lesoir.be/131757/article/2017-12-31/rdc-internet-coupe-pour-des-raisons-de-securite-detat-et-checks-points-multiples>

¹²⁰ VOA, "Internet toujours coupé après les marches de dimanche en RDC", 23 January 2018, <https://www.voafrique.com/a/rdc-internet-toujours-coupe-apres-les-marches-de-dimanche/4219881.html>

¹²¹ Reporters Sans Frontière, "RSF dénonce le nouveau black-out internet en République démocratique du Congo", 26 February 2018, <https://rsf.org/fr/actualites/rsf-denonce-le-nouveau-black-out-internet-en-republique-democratique-du-congo>

¹²² BBC, "DR Congo election: Internet shut down after presidential vote", 31 December 2018, <https://www.bbc.com/news/world-africa-46721168>

¹²³ For example, Radio France Internationale (RFI) was shut down in Kinshasa for nine months, between November 2016 and August 2017 Reuters, "RFI programs resume in Congo after lengthy gov't shutdown", 11 August 2017, <https://www.reuters.com/article/us-congo-media/rfi-programs-resume-in-congo-after-lengthy-govt-shutdown-idUSKBN1AR17U>

¹²⁴ The signal of Radio Okapi was cut-off at least twice in November 2016 and December 2017

Radio Okapi, "Le signal de Radio Okapi brouillé sur sa fréquence de Kinshasa", 5 November 2016,

<https://www.radiookapi.net/2016/11/05/actualite/societe/le-signal-de-radio-okapi-brouille-sur-sa-frequence-de-kinshasa>

Radio Okapi, "Le signal de Radio Okapi brouillé à Kinshasa", 31 December 2017, <https://www.radiookapi.net/2017/12/31/actualite/en-bref/le-signal-de-radio-okapi-brouille-kinshasa>

Attacks against journalists were intensified, including by the increasing use of surveillance,¹²⁵ the refusal to grant or renew visas for foreign correspondents, some of whom were expelled from the country.¹²⁶ Between May and June 2017, the authorities refused to renew the accreditation of RFI and Reuters correspondents in Kinshasa, until they had no option but to leave the country.¹²⁷ A team from the Belgian *Vlaamse Radio- en Televisieomroeporganisatie* (VRT) channel was also expelled in December 2016,¹²⁸ as well as an independent Belgian journalist and film director in July 2017.¹²⁹ Reporters Without Borders had recently reported that it had recorded more abuses against journalists in the DRC than in any other sub-Saharan country in 2018.¹³⁰

Any restrictions on the right to freedom of expression should be provided for in law, be necessary and proportionate and serve the purpose of protecting specified public interests or the rights or reputations of others. Journalists and the media, in particular, should be protected by the state so that they are able to do their work. The DRC's prolonged Internet shutdowns and restrictions on social media use, as well as other restrictions imposed on journalists, appear to be unnecessary restrictions to the rights of the Congolese people to seek and receive information, and are in violation of international standards.¹³¹

¹²⁵ RFI, "RDC : un décret fixe de nouvelles règles de diffusion pour les médias étrangers", 15 November 2016, <http://www.rfi.fr/afrique/20161115-rdc-decret-regles-diffusion-medias-etrangers-lambert-mende-rfi>

BBC, "Foreign correspondents in the DRC to face new restrictions", 28 July 2017, <https://www.bbc.co.uk/programmes/p0597stz>

¹²⁶ Radiotélévision Belge Francophone (RTBF), « Journalistes belges expulsés de RDC: Didier Reynders condamné », 16 December 2016, https://www.rtbf.be/info/medias/detail_des-journalistes-belges-empêches-de-travailler-et-expulsés-de-rdc?id=9483109

¹²⁷ RFI, "La RDC ne renouvelle pas l'accréditation de l'envoyée spéciale permanente de RFI", 22 June 2017, <http://www.rfi.fr/afrique/20170622-rdc-renouvelle-pas-accréditation-envoyee-speciale-permanente-rfi>

¹²⁸ RTBF, "Journalistes belges expulsés de RDC: Didier Reynders condamné", 16 December 2016, https://www.rtbf.be/info/medias/detail_des-journalistes-belges-empêches-de-travailler-et-expulsés-de-rdc?id=9483109

¹²⁹ RTBF, "Kinshasa : le journaliste belge Quentin Noirfalisser sur le point d'être expulsé", 21 September 2017, https://www.rtbf.be/info/belgique/detail_un-journaliste-et-realisateur-belge-detenu-a-kinshasa-depuis-mardi-soir?id=9715451

¹³⁰ RSF, "Time for major press freedom reforms in DRC", 18 October 2019, <https://rsf.org/en/news/time-major-press-freedom-reforms-drc>

¹³¹ Human Rights Committee, Comment No. 34 on freedoms of opinion and expression, September 2011, <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

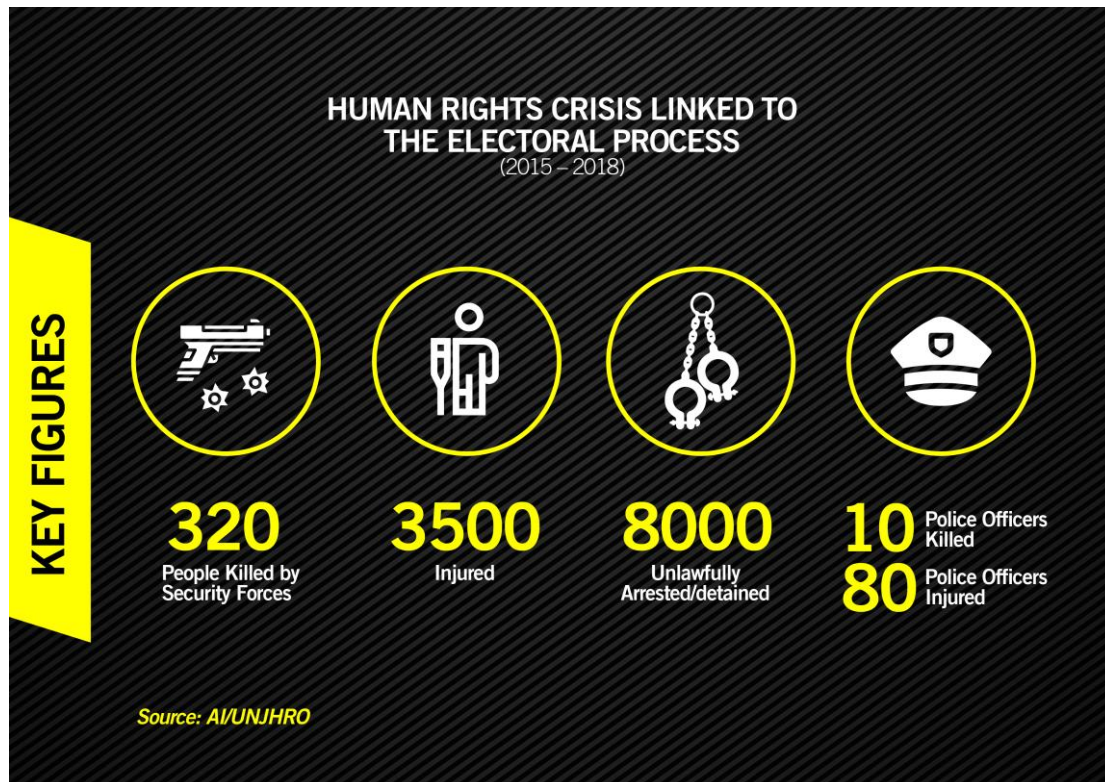
The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, U.N. Doc. E/CN.4/1996/39 (1996), <http://hrlibrary.umn.edu/instrree/johannesburg.html>

5. THE HUMAN COST OF THE “PEACEFUL TRANSFER OF POWER”: DEADLY CRACKDOWNS

“They have denied us everything. Absolutely everything: the freedom to express ourselves peacefully, the sanctity of life, the dignity of those they killed in cold blood and whose bodies they then confiscated, the right to mourn, and any prospects for truth and justice.”

Pierre, a Kinshasa Catholic priest and victim¹³²

¹³² Interview with Pierre, Kinshasa, 26 February 2018. (Name has been changed to respect the interviewee's anonymity)



 ↑ Graphic 7: Key Figures Graphic on Casualties

While the 2018 elections were followed by relative calm, the four-year run-up came at a high cost to the people of DRC: President Kabila's critics were killed, imprisoned and their voices muzzled, and peaceful protests brutally and systematically suppressed.¹³³

The unlawful use of blanket bans on demonstrations were almost always a prelude to violent repression. The administrative or political authorities, including the Minister of Interior and Security, governors and mayors, imposed the bans while giving explicit orders or instructions to the security forces to ensure their strict observance of such orders, which resulted, in practice, in the violent dispersal of protests, whether peaceful or not.

In November 2017, after the Kinshasa Governor reminded opposition and civil society organizations of the indefinite ban on all protests, the new Police Commissioner for Kinshasa said: "The Governor gave us the order to disperse all demonstrations. Any gathering of more than five people will be dispersed."¹³⁴

¹³³ Amnesty International, "Democratic Republic of the Congo – Treated like criminals: DRC's race to silence dissent" (Index: AFR 62/2917/2015)

Amnesty International, "Democratic Republic of the Congo – Dismantling Dissent: Repression of Expression Amidst Electoral Delays" (Index: AFR 62/4761/2016)

UNJHRO, "Report on the situation of human rights in the Democratic Republic of the Congo before, during and after the elections of December 2018", 6 March 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_40_47.pdf

¹³⁴ Jeune Afrique, "RDC : les autorités promettent de disperser tout rassemblement", 15 November 2017, <https://www.jeuneafrique.com/492896/politique/rdc-les-autorites-promettent-de-disperser-tout-rassemblement/>

During the four-year period, according to UN reports¹³⁵ and Amnesty International's research,¹³⁶ Congolese security forces killed at least 320 people, and injured around 3,500 others; they unlawfully arrested or detained at least 8,000 people in connection with the largely peaceful protests.

The following is a review of the events of January 2015, September and December 2016, December 2017, January and February 2018 – the deadliest episodes of the four-year long repression – with testimonies from some of the victims and their relatives.

5.1 JANUARY 2015

On Monday, 19 January 2015, demonstrations erupted in Kinshasa following the introduction of an electoral bill at the weekend by Parliament's lower house.

Thousands of police and army officers were deployed to the streets of Kinshasa armed with live ammunition, including machine guns.¹³⁷ Despite the disproportionate response, demonstrations turned into a popular uprising spreading to other cities like Lubumbashi and Goma. Throughout that week, security forces relentlessly fired live rounds and tear gas at protestors, killing at least 43 people and injuring at least 110 others, mainly in Kinshasa, according to UNJHRO.¹³⁸

On 24 January, Léon Kengo wa-Dondo, the Senate Speaker, withdrew the proposed controversial legislation and demonstrations halted.

5.1.1 GABY MAMBA

Gaby Mamba, a 16-year-old-high school student, was shot by police, while at home in Matete in the Kinshasa suburbs, on 19 January. When gunfire on the streets intensified he went upstairs to see what was happening from a window. He ducked to avoid a sudden spray of bullets but was hit in the neck when he got up and died on the spot.¹³⁹

Angry youths lifted his corpse and put him on a cart which took him to a nearby Matete police station, but the police quickly dispersed them. His aunt told Amnesty International how the family “watched from afar, horrified”¹⁴⁰ as one of the policemen slashed Gaby Mamba's face with a bayonet. The police then loaded his bleeding body onto their jeep and drove away. She said, “we tried to follow them to find out where they were taking him, but it was impossible to catch them. After two days searching, we found his body in the morgue at St. Joseph Hospital. The guards at the morgue told us that the body was thrown by a police pick-up onto the street nearby.”¹⁴¹ Still, the family could not retrieve Gaby Mamba's body. Four other survivors and relatives told Amnesty that the ANR had instructed morgue managers to refuse to allow family members or anyone else searching for the dead to embalm the bodies or to hand them over for burial.¹⁴²

¹³⁵ “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”, UNJHRO, December 2015, https://www.ohchr.org/Documents/Countries/CD/UNJHRODecember2015_en.pdf

¹³⁶ “Preliminary investigation report on human rights violations and violence perpetrated during demonstrations in Kinshasa between 19 and 21 September 2016”, UNJHRO, October 2016, https://www.ohchr.org/Documents/Countries/CD/UNJHROSeptember2016_en.pdf

¹³⁷ UNJHRO, “Report on human rights violations in the Democratic Republic of the Congo in the context of the events of 19 December 2016”, February 2017, https://www.ohchr.org/Documents/Countries/CD/UNJHRODecember2016_en.pdf

¹³⁸ UNJHRO, “Recours illégal, injustifié et disproportionné à la force lors de la gestion des manifestations publiques en République démocratique du Congo de janvier 2017 à janvier 2018”, March 2018, https://www.ohchr.org/Documents/Countries/CD/BCNUDH-UnlawfulUnjustifiedUseofForce_Jan2017-Jan2018.pdf

¹³⁹ Report of the UN High Commissioner for Human Rights, “Human rights situation and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo”, (A/HRC/39/42), August 2018, <https://undocs.org/A/HRC/39/42>

¹⁴⁰ Amnesty International report, “Democratic Republic of the Congo – Treated like criminals: DRC's race to silence dissent” (Index: AFR 62/2917/2015) documented the government's crackdown on politicians and activists speaking out against President Kabila's efforts to cling on to power beyond the constitutional term. It exposed a pattern of arbitrary arrests, prolonged incommunicado detentions by the ANR, and trials based on trumped-up charges which violated the rights to liberty, freedom of expression, association and peaceful assembly. In September 2016, in the “Dismantling Dissent” report (AFR 62/4761/2016), Amnesty International explored government repression of the right to freedom of association of youth movements, human rights organizations, and political parties opposing President Kabila, including through the use of trumped-up charges and unfair trials.

¹⁴¹ UNJHRO, op. cit.

¹⁴² Ibid.


¹³⁹ Interview with Gaby Mamba's uncle, Kinshasa, 16 August 2019

¹⁴⁰ Interview with Gaby Mamba's aunt, Kinshasa, 16 August 2019

¹⁴¹ Interview with Gaby Mamba's aunt, Kinshasa, 16 August 2019

¹⁴² Interview with four relatives and survivors, Matete, Lingwala and Mbinza-Pigeon in Kinshasa, 16 and 17 August 2019



 ↑ *Gaby Mamba's aunt looks sadly at the photos of her nephew who was shot dead in the family's house on 19 January 2015 in Kinshasa. © Amnesty International*

“The authorities wanted to bury him as a homeless person, to justify their narrative which presented the victims as looters. It took 45 days before we could finally bury him, after having spent more than USD2,000 in expenses.”¹⁴³ She said the family received over 1.5 million Congolese francs (USD2,000) from the provincial government for financial assistance¹⁴⁴ to cover or reimburse funeral expenses.

With the help of one of the neighbours, who is also a lawyer, Gaby Mamba's family filed a complaint against unknown¹⁴⁵ persons for his killing before the Matete High Court. They have never received a response from the prosecutor or any other judicial authority, nor even a visit from an official representative.¹⁴⁶

The magistrate in charge of the case, based at the Matete Prosecutor's office, told Amnesty International that they had no resources to investigate the case and he was not able¹⁴⁷ to find Gaby Mamba's file.¹⁴⁸ The family has no means to pursue the case and his aunt said, “the lawyer accepted to help us for free: how could we put pressure on him?”¹⁴⁹ A cousin said: “the years have passed, but for us the pain remains strong. Whenever I see young people of his age, I cannot help but think of the man he would have become. As long as those who killed him remain unpunished, it will be impossible for us to end the mourning.”¹⁵⁰

¹⁴³ The family was obliged to pay this illegal fee to state officials to obtain the body and organize the burial

¹⁴⁴ Interview with Gaby Mamba's aunt, Kinshasa, 16 August 2019

¹⁴⁵ This is a normal procedure under DRC law. When the offender is not known or not clearly identifiable, the victim may file a complaint against “persons unknown”

¹⁴⁶ Interview with Gaby family's lawyer, Kinshasa, 17 August 2019

¹⁴⁷ Interview with Benjamin Wango Batuli, Substitute Prosecutor of Republic, Matete High Court, 17 August 2019. Article 19 (2) of the Constitution stipulates that “everyone has the right to have his case heard within a reasonable timeframe by a competent judge”

¹⁴⁸ Ibid

¹⁴⁹ Interview with Gaby's aunt, Kinshasa, 16 August 2019.

¹⁵⁰ Interview with Gaby's cousin, Kinshasa, 16 August 2019.

5.1.2 PATRICK LUVILUKA

Patrick Luviluka, 27, was shot in the ribs by the police while at a demonstration on 20 January 2015, in Ngilima in the Kisenso neighborhood, Kinshasa. His aunt said, “he was bleeding, so young people put him on a wooden rickshaw to take him to OMECO, a local public hospital... but he was refused treatment.”¹⁵¹

The people who took Patrick Luviluka to the hospital told his uncle that the staff said they had been instructed not to treat anyone injured during the demonstrations and they had “begged them not to let him die... but they categorically refused to touch him. He died in our arms.”¹⁵² A Red Cross worker had tried to stitch the wound and later helped them to take his body to the morgue.

Patrick Luviluka’s aunts told Amnesty International that while the Kinshasa provincial government gave them a small amount of money to help with the funeral, they received no visits from officials, “neither the mayor, or even the neighborhood chief, no one has ever come to see us to offer condolences or tell us about an... investigation into his killing.”¹⁵³

They said their nephew was not a political activist: “He was just a citizen who cared about his country and his family. We don’t know how state affairs work, all we know is that he deserves justice. He did not die of illness, and he was peaceful. He was not a looter or thief; he worked hard as a motorcycle driver to honorably earn a living. He was killed by the police. Somebody needs to be held accountable...”¹⁵⁴

They explained that no one in the family knows how to handle the legal process, and they could not afford a lawyer. They have not lodged a complaint; they “heard that even those who have complained have so far received nothing but threats. If the authorities cared about Patrick’s life, they would not wait for us to file a complaint to ensure justice.... We are here, waiting for them to act.”¹⁵⁵

There are more than 41 others who were also killed by security forces in Kinshasa between 19 and 22 January 2015.¹⁵⁶ At least six people were killed in Goma in similar circumstances.¹⁵⁷ To Amnesty International’s knowledge, no members of the security forces have been prosecuted in connection with these events to date. Even when families have brought judicial complaints, there have been no prosecutions and, apparently, there are no ongoing investigations. Consequently, even families who can afford to file complaints refrain from doing so.

5.2 VIOLENT CLASHES - SEPTEMBER AND DECEMBER 2016

On 19 September 2016, CENI failed to make the expected announcement to confirm that presidential elections would take place 60 days later, on 19 November, in accordance with the Constitution.¹⁵⁸

The day before, the authorities issued a ban on all gatherings in public places and ordered the deployment of thousands of police and military to all strategic areas of Kinshasa, as well as to other major cities to ensure public order.

Meanwhile, opposition parties and civil society organizations called for peaceful demonstrations across the country to demand President Kabila’s resignation.

On 19 September protesters defied the ban and took to the streets. Groups of youths attacked the headquarters of several political parties linked to the ruling coalition, surveillance cameras and traffic lights, and looted and set fire to private property like houses, cars, private schools and businesses which belonged

¹⁵¹ Interview with Claire Batwanga, Patrick Luvukila’s aunt, Kisenso, 15 August 2019

¹⁵² Interview with Claire Batwanga and Esther Fukumoko. Patrick Luviluka’s aunts, Kisenso, 15 August 2019

¹⁵³ Interview with Claire Batwanga and Esther Fukumoko. Patrick Luviluka’s aunts, Kisenso, 15 August 2019

¹⁵⁴ Ibid

¹⁵⁵ Ibid

¹⁵⁶ UNJHRO, Op. cit.

¹⁵⁷ Ibid.


¹⁵⁸ Article 73 of the Constitution states that “the ballot for the election of the President of the Republic is convened by the Independent National Electoral Commission ninety days before the expiration of the term of the incumbent President.” President Kabila’s second five-year term having started when he was sworn in on 20 November 2011, the opposition considered 19 September 2016 as the deadline for the 90th day before the expiration of his mandate on 19 December 2016

to people perceived to be close to, or to support the President. The demonstrators barricaded several roads including with burning tires, stones and anything else they could find.¹⁵⁹

Security forces responded with tear gas and live ammunition and as the situation became increasingly out of control, the authorities deployed more police and military personnel, using armoured tanks and vehicles.¹⁶⁰

5.2.1 THE UDPS FIVE



 ↑ Headquarters of the Union for Democracy and Social Progress (UDPS) party in Limete, Kinshasa. © Amnesty International, August 2019

On the night of 19 September 2016, a group of men in army uniforms attacked the UDPS headquarters in the Limete district of Kinshasa. Bouquin Bukasa, a 54-year-old UDPS member who worked as a security guard at the UDPS building, was hacked to death with knives. Stéphane Mwabilayi, Bilomba Tshimungu, Pierre Kapena Wetu and John Mutamba Mbuyi, also UDPS members, were killed¹⁶¹ after the attackers set fire to the building. Eyewitnesses said the perpetrators were wearing Republican Guard uniforms.¹⁶²

That night, Emmanuel¹⁶³ was working as a security guard at a commercial building about 50 meters from the UDPS headquarters. He told Amnesty International that he saw three army pick-up trucks stop at Le Petit Boulevard street around 11pm. They stayed a few minutes before making a U-turn and leaving. He said, "the first time, there were people around the party's headquarters, known locally as "Permanence". I saw three other cars which I believed to be the same at around 3am. I was awakened by the sound of their

¹⁵⁹ Amnesty International, "Democratic Republic of Congo – Dismantling Dissent: Repression of Expression Amidst Electoral Delays" (Index: AFR 62/4761/2016)

¹⁶⁰ Ibid

¹⁶¹ Interview with relatives of the five victims, Kinshasa, 7 August 2019

¹⁶² Interview with three eyewitnesses, Kinshasa, 8 August 2019. (Their names have been withheld to respect their anonymity)

¹⁶³ Interview with Emmanuel, Kinshasa, 8 August 2019. (Name has been changed to respect the interviewee's anonymity)

engine. This time there were no people around, and the electricity had just been cut-off in the neighbourhood. Four or five men climbed the wall of the Permanence, and sometime later I heard explosions and saw that the building was on fire. The pick-ups that were still waiting in the street went away at high speed, I was very scared."¹⁶⁴ Emmanuel's testimony was corroborated by three other eyewitnesses.¹⁶⁵

In the early hours of 20 September, UDPS members and others gathered at the headquarters to find out what had happened overnight and found the bodies among the debris.¹⁶⁶

The families of three of the victims told Amnesty International that they felt forgotten both by the state and the UDPS. One said: "Our loved ones were killed while serving the UDPS. Each year a ceremony is organized at the headquarters... supposedly to commemorate them. Yet no party official has ever visited any of us to see or find out about the living conditions of the widows and orphans. The complaints that the party leaders promised to lodge on our behalf have never been lodged. Even the graves where our loved ones are buried are barely recognizable: they are covered with grass... when the UDPS had promised to arrange the burials."¹⁶⁷

"ANYONE WHO TRIES TO PARTICIPATE IN THE DEMONSTRATIONS WILL BE TREATED AS AN ENEMY OF THE STATE"

Police Commissioner for Kinshasa Célestin Kanyama, 14 December 2016

Ahead of 19 December 2016, the day considered to be Kabila's last day as president, –opposition groups repeatedly called for peaceful protests to demand President Kabila's resignation.¹⁶⁸ At least two attempts to demonstrate were stifled by the security forces on 5 and on 19 November 2016.¹⁶⁹

On 14 December, the Police Commissioner for Kinshasa told journalists that anyone who tried to participate in the demonstrations against President Kabila "will be treated as an enemy of the state."¹⁷⁰ He said the police would "use all force and do everything in its power to 'neutralize' them..."¹⁷¹ "This time, papa, mama, uncle, grandparent, before your children leave the house, ask them 'where are you going? Did you look at the photos of your wife and children? Did you look at your husband's photos? If you have looked at their photos and have taken a decision, then you can go ahead. If you meet the police ... I do not even know if you will get a chance to see those pictures again'..."¹⁷² Célestin Kanyama's statements were widely broadcast on public radio and television.¹⁷³

According to the UNJHRO,¹⁷⁴ at least 17 people were killed by the police and the army between 19 and 20 December in Kinshasa alone, in connection with the demonstrations which still took place despite the authorities' ban, and their warning against the demonstrators. Célestin Kanyama's statements suggest the December 2016 crackdown was premeditated.

According to the UNJHRO, at least 49 people were killed by the security forces between 19 and 21 September 2016 across the DRC, including at least 40 in Kinshasa, as a result of the use of excessive force

¹⁶⁴ Interview with Emmanuel, Kinshasa, 8 August 2019. (Name has been changed to respect the interviewee's anonymity)

¹⁶⁵ Interview with eyewitnesses to the UDPS headquarters' attack, Kinshasa, 8 August 2019. (Their names have been withheld to respect their anonymity)

¹⁶⁶ Telephone interview with Jacquemin Shabani, senior UDPS member, Nairobi, 23 August 2019

¹⁶⁷ Group interview with three of the families of UDPS members killed during the attack at the party headquarters on 20 September 2016, Kinshasa, 7 August 2019

¹⁶⁸ A meeting called by opposition platform *Le Rassemblement* on 5 November 2016 in Kinshasa was stifled by the security forces before it even started (RFI, "RDC : nouveau meeting de l'opposition malgré l'interdiction, l'ONU vigilante", 4 November 2016, <http://www.rfi.fr/fr/afrique/20161104-rdc-nouveau-meeting-etienne-tshisekedi-onu-appelle-retenu-interdiction>). On 19 November 2016, the security forces stifled other demonstrations called by the opposition and civil society groups across DRC (BBC, "RDC : Manifestation de l'opposition étouffée", 19 November 2016, <https://www.bbc.com/afrique/38037961>)

¹⁶⁹ Ibid

¹⁷⁰ CONGO SYNTHÈSE, "Général Kanyama aux Kinois : le 19, avant obima osala mobulu tala ba photos ya famille nayo", 14 December 2016, <https://www.youtube.com/watch?v=6jklagzocis&feature=youtu.be>

¹⁷¹ Ibid

¹⁷² Ibid

¹⁷³ Jeune Afrique, "Fin du mandat de Kabila : black-out et psychose en RD Congo", 19 December 2016, <https://www.jeuneafrique.com/385075/politique/fin-mandat-de-kabila-black-out-psychose-rd-congo/>

¹⁷⁴ UNJHRO, "Report on human rights violations in the Democratic Republic of the Congo in the context of the events of 19 December 2016", February 2017, https://www.ohchr.org/Documents/Countries/CD/UNJHRODecember2016_en.pdf

against protesters and extrajudicial executions.¹⁷⁵ At least four police officers were also killed in clashes with the protesters.¹⁷⁶

The security forces killed at least 40 more people countrywide between 19 and 20 December 2016 in connection with the political tensions.¹⁷⁷ In Kinshasa alone, the security forces killed around 17 protesters, 15 of whom were killed either because they were targeted or otherwise by stray bullets.¹⁷⁸ At least 184 people were arrested in Kinshasa and 800 in other provinces. In most cases the arrests were arbitrary.¹⁷⁹

Victims and their families told Amnesty International researchers about the ordeals they faced when trying to file complaints and apply for remedies.

5.2.2 JACKSON MPUNGI, MESHACK BOTAMBA, BOWEYA NTANDO AND MUKANDA MANDOMBE

Jackson Mpungi Ndombasi, 43, was unlawfully killed on 19 December 2016 in front of his house in Kisenso neighbourhood in Kinshasa, while he was running to take shelter during the crackdown on protests. After killing him, the police took his body away. In an interview with Amnesty International, his brother said, “at each step, you are asked to pay money. The police officer or the prosecutor who is supposed to receive your complaint, the lawyer who must draft the complaint and accompany you throughout the process, the inspectors who must carry out field visits, the doctor who is supposed to give you the death certificate: everyone demands money. Where could we find all this money, when at the end of the day we are not even assured to get justice?”¹⁸⁰

Besides the financial cost, victims and their relatives expressed a lack of trust in the justice system which is why many were reluctant to file complaints. Meshack Botamba, 16, was shot dead during the protests in Kinshasa on 19 September 2016. His father Antoine Botamba Efomi told Amnesty International that “lodging a complaint would have been a waste of time and money. The police who killed my son did not act on their own, they had a leader and received orders somewhere. It turns out that they are the same leaders for the magistrates. This is a system that knows nothing about justice.”¹⁸¹

Others simply did not know how to go about obtaining justice, a situation often compounded for those who cannot afford a lawyer. Boweya Ntando, 46, died from a gunshot wound to the head on 20 September 2016, when soldiers fired at protesters around the Kingabwa neighbourhood, in the north of Kinshasa. Her younger sister Molela Mowaki, a fish seller at the local market, now cares for Boweya Ntando’s 12 children, aged between six and 17 years, in addition to her own six children. She said, “I know nothing about state affairs, and I have nobody to help me. Even if I knew what to do, where would I find the money to pay a lawyer when I am already struggling to take care of these children? And after all, is justice not a right that all victims are entitled to, whether we studied or not, whether we are rich or poor?”¹⁸²

At least 10 of the relatives interviewed said they feared taking steps to obtain justice for fear of reprisals from the police.

The mother of 31-year old Mukanda Mandombe who was shot dead by soldiers of the Republican Guard during the demonstrations on 19 December 2016 in Kimbanseke area told Amnesty International that, “the soldiers who shot my son are well known to everyone in the neighbourhood. They have weapons, they can do anything they want. Lodging a complaint against them would be suicide for me and my children. I have already lost a son, I do not want to cause more deaths in my family.”¹⁸³

¹⁷⁵ UNJHRO, “Rapport préliminaire d’enquête sur les violations des droits de l’homme et violences perpétrées dans le cadre des manifestations de Kinshasa entre les 19 et 21 septembre 2016”, 7 October 2016, https://www.ohchr.org/Documents/Countries/CD/UNJHROSeptember2016_fr.pdf

¹⁷⁶ Ibid

¹⁷⁷ UNJHRO, “Report on human rights violations in the Democratic Republic of the Congo in the context of the events of 19 December 2016”, February 2017, https://www.ohchr.org/Documents/Countries/CD/UNJHRODecember2016_en.pdf

¹⁷⁸ Ibid

¹⁷⁹ Ibid

¹⁸⁰ Interview with Eric Ndombasi Kisenso, Kinshasa, 9 August 2019

¹⁸¹ Interview with Antoine Botamba Efomi, Kinshasa, 7 August 2019

¹⁸² Interview with Molela Mowaki, Kinshasa, 9 August 2019

¹⁸³ Interview with the mother of a victim, Kinshasa, 12 August 2019

5.3 PEACEFUL CHURCHGOERS AND BYSTANDERS KILLED BY THE POLICE: DECEMBER 2017 – FEBRUARY 2018



 ↑ Flares are launched by DR Congo Police forces during a demonstration in Goma

On 31 December 2017, 21 January 2018 and 25 February 2018, peaceful demonstrations organized by the CLC in Kinshasa, Goma, Kananga, Lubumbashi and Mbandaka were brutally repressed by the security forces using excessive and lethal force. Amnesty International recorded at least 18 people killed, including 16 in Kinshasa, one in Kananga and one in Mbandaka, mostly from gunshot wounds. They wounded at least 160 people and arbitrarily arrested over 400.¹⁸⁴ The demonstrators were demanding the implementation of the Saint Sylvester Agreement of 31 December 2016.¹⁸⁵

In Kinshasa, Amnesty International investigated killings of peaceful demonstrators and by-standers by plain-clothed members of the police, army, the Presidential Guard and other security agents. They were killed on the streets, in people's homes, and even inside churches, parish courts and health facilities. Witnesses saw

¹⁸⁴ United Nations, "UN Security Council urges DRC authorities to urgently investigate any disproportionate use of force by security forces on peaceful protesters, so that suspected perpetrators of these acts are brought to justice", 16 January 2018, www.un.org/press/en/2018/sc13163.doc.htm; OHCHR, "Recours illégal, injustifié et disproportionné à la force lors de la gestion des manifestations publiques en République démocratique du Congo de janvier 2017 à janvier 2018", March 2018, https://www.ohchr.org/Documents/Countries/CD/BCNUDH-UnlawfulUnjustifiedUseofForce_Jan2017-Jan2018.pdf; OHCHR, "Unlawful, unjustified and disproportionate use of force against protestors in DR Congo", 23 January 2018, <https://news.un.org/en/story/2018/01/1000981>

¹⁸⁵ Catholic Lay Coordination Committee, "Call for the march on 31 December 2017 to liberate the future of the Congo", 17 December 2017, <https://revolutiondesrameaux.wordpress.com/2017/12/17/appel-a-la-marche-du-31-decembre-2017-pour-liberer-lavenir-du-congo/u>

police and army officers collecting the bodies of the dead and putting them in police and army trucks before disappearing. The organization's research found at least seven cases in which security forces had attempted to disappear the bodies of those killed at demonstrations.

5.3.1 ERNESTE MAMBIMBI KIANGA

Erneste Mambimbi Kianga (also known as Sous-Diacre), a 59-year-old father of five, was a well-known actor from Kinshasa. He died on January 5, 2018 from a gunshot wound sustained on 31 December 2017 during the violent dispersal of demonstrations by the police in the Kasavubu commune of Kinshasa.

His wife told Amnesty International, "Erneste left home in the morning of Sunday 31 December 2017 to go to his younger brother who owns a garage here in Kasavubu neighbourhood. He told me he wanted to ensure his brother... would not open his business as the situation was tense. While talking to his brother at the entrance to the latter's compound, he was suddenly hit by a bullet in the lower abdomen, as the police were shooting on protesters in a street nearby."¹⁸⁶

He was taken to the Kokolo military hospital in a critical condition. His wife recalled that "doctors at the Kokolo hospital told us that they did not have enough room for him, so we took him to the Kinshasa General Hospital, also known as Mama Yemo hospital. The next day... on Monday, he had surgery as the doctors wanted to extract the bullet from his stomach. But as time went on, the situation continued to deteriorate. On Tuesday, he was admitted to the intensive care unit, to no avail. On Friday 5 January 2018, around midnight, he passed away."¹⁸⁷

His wife said that his body was taken to the Mama Yemo morgue, but instead of having it embalmed and kept with respect, the morgue employees wrapped him in a body bag and left it on the floor in filthy room serving as a morgue. The next day, on Saturday, as we came to talk to them, the body was still... on the floor. Morgue officers told us that they were forbidden from embalming the bodies of those killed with bullets during or in connection with the protests...

"We had visited all the offices of administrative and judicial authorities in Kinshasa. One day while we were desperately prowling around the hospital, one soldier among those who guarded the morgue told us he could arrange for us to recover the body, if we paid him USD50. The next day, I remember it was Saturday 27 January in the morning, we found the money and went to see the soldier. This is how we got the body back. It was literally decaying. We buried him the same day."¹⁸⁸

The family received three million Congolese francs (around USD2,000) from the Ministry of Human Rights as part of the Joint Commission of Inquiry (CEM 3121) initiative¹⁸⁹ for funeral expenses, but still do not have any information about who shot Erneste Kianga, nor have they received any form of redress. His wife explained "we are a modest family, and Sous-Diacre was everything to us. You know our country well: even to file a complaint and hope for justice, you have to have money. Justice is luxury for us, we could not afford it."

After Erneste Kianga's death, his family, including five children, left their home because they could not afford the rent. They moved into a small house with the children's grandparents. Bénédicte Kianga, the eldest daughter, managed to continue studying, and obtained her state diploma in July 2018. She said "it was dad who did everything for me. He paid for my studies. Mom had to go into debt so that I could take the state exams. I dreamed of doing graduate studies to become an air hostess, but that dream has vanished. Even finding something to eat is difficult. They killed papa, and my dream as well."¹⁹⁰

5.3.2 THÉRÈSE KAPANGALA

Thérèse Kapangala, 24, was the daughter of a police officer and an aspiring Catholic nun. She was shot dead on 21 January 2018, in the forecourt of Saint François de Sales church in Kinshasa. Eyewitnesses said that the Police Commissioner for Kinshasa and the Police Commissioner for the Lukunga District gave orders to shoot indiscriminately and disproportionately at peaceful protesters that day.

¹⁸⁶ Interview with Constantine Tambwe, Kinshasa, 6 August 2019

¹⁸⁷ Ibid

¹⁸⁸ Ibid

¹⁸⁹ See Section 6.2

¹⁹⁰ Interview with Bénédicte Kianga, Kinshasa, 6 August 2019

SHOOT-TO-KILL

Father Joseph Musubao, Thérèse Kapangala's uncle and a close friend, was conducting mass the day she died. He told Amnesty International, "the mass began around 6.30am.... At the end... around 8:30am, the representatives of the CLC reminded the Christians about taking precautions if they wished to participate in the peaceful march. The watchword was to march around the streets of the neighbourhood where the church is located, then return to the courtyard, say a final prayer and disperse. Around 9:00am, the crowd came out of the parish courtyard, with the acolytes and myself in front. We were carrying twigs as a sign of peace, walking peacefully, singing Christian hymns and praying. We had only marched about 50 meters from the gate, on the street called Kumriko, when the police started shooting tear gas at us. We fled into the parish enclosure. We tried to march two more times, and each time the police threw toxic gases at us. While some of us were inside the church and others in the courtyard, with the gate closed, I suddenly heard a burst of bullets. In the confusion, I heard young people calling me saying my niece Thérèse had been shot. I couldn't believe my ears. I ran up and saw Thérèse lying in front of the side door of the church."¹⁹¹



 ↑ A doctor trying to resuscitate Thérèse Kapangala who was shot at St Francois. She later died.

A retired surgeon who was also in the courtyard, and who attempted to revive Thérèse, told Amnesty International:

"... I had a good view of the courtyard gate. I saw a police vehicle with a machine gun on its roof. It was a large, dark blue vehicle. It stopped just outside the gate. The policeman who was on the turret turned the cannon towards the parish courtyard and adjusted it. I had the reflex to run and hide by the wall of the church. Then I heard a female voice shouting in Lingala 'beta!', which means: 'fire!' Then I heard a burst of bullets. The people in the courtyard were running around. Some huddled behind the trees, others threw themselves on the ground. Then I heard people screaming. As the blast stopped and the vehicle seemed to withdraw, I stepped forward and it was there, about ten meters from where I was hiding, that I saw Thérèse who was lying on the ground, in a pool of blood. I approached, pushing the weeping people already gathering around her. The bullet had... pierced her heart and exited on the left side. Her pulse was weak....

¹⁹¹ Interview with Father Joseph Musubao, Catholic priest, Kinshasa, 24 February 2018

I then did cardiac massages, while people were calling for emergency services. But it didn't work out: she died, in my arms."¹⁹²

Amnesty International interviewed at least four more eyewitnesses who confirmed the testimony about the police vehicle, the fact that the Police Commissioner for Lukunga District ordered the police to shoot, and the volley of bullets fired in cold blood on those hiding in the church courtyard.¹⁹³ At least three others in the congregation were wounded, including two by bullets and a third who was hit by a piece of brick which the gun fire caused to fall off from the wall of the church.¹⁹⁴ An MP who witnessed the event said:

"I was one of the people on the front line, right after the priests. I saw Police Commissioner Sylvano Kasongo with my own eyes - I had known him since... he was the Commander of the Institutional Protection Unit at the Parliament. He was sitting in a police pick-up, surrounded by dozens of armed policemen. We talked a bit as I tried to convince him to let us continue the peaceful march; the churchgoers behind me continued to kneel and sing Christian hymns. But he did not want to hear anything. He asked the police officers who were observing to disperse us. They seemed hesitant, which made him angry. He clapped his hand hard on the door of the jeep and shouted in Lingala at the dozen or so police officers 'beta bango!' which means 'hit them!' Then they started shooting again, and we ran as best we could."¹⁹⁵

Another eyewitness said, "there were several dozen police officers in the streets around the parish. Everyone knows the woman who commanded them, her name is Colonel Lily, she is the Chief of Police for the Lukunga district. I saw her with my own eyes."¹⁹⁶

THÉRÈSE'S BURIAL

Thanks to the Red Cross, Thérèse's body was taken to the morgue at the Mama Yemo general hospital. But complications arose when the family returned to the morgue the next day to embalm her body.

"The morgue official told us that since Thérèse died from a gunshot wound, we would need authorization from the provincial health ministry to embalm her... body and, later on, to bury her. The Minister of Health referred us to the advisor to the governor of Kinshasa. He asked us to go see the Attorney General at the Gombe Court of Appeal instead. When we got to the public prosecutor's office, the magistrate sent us back to the morgue's chief."¹⁹⁷

Forty-eight hours after Thérèse's death, the family received written authorization from the attorney general at the Kinshasa-Gombe Court of Appeal to embalm her corpse. Father Joseph Musubao said, "at every office we were sent to, we had to pay so that we could see the authorities or get any papers. We were able to remove the body on 8 February 2018, and to bury it on 9 February. During this time, and until the funeral, we had not been visited by any state representative, not even the mayor, nor did we get a simple message of condolences as we mourned."¹⁹⁸

COMPLAINTS, INACTION AND THREATS

On 29 January, the family lodged a complaint for murder against unknown persons, through a lawyer, at the office of the Auditor General of the FARDC.¹⁹⁹ On 15 February, having received no response, the family filed a second complaint, this time against the Police Commissioner for Kinshasa. At the time of writing, neither complaints have been acknowledged.²⁰⁰

When the Ministry for Human Rights established a joint commission of inquiry into the events of 31 December 2017 and 21 January 2018, Thérèse's family were contacted in connection with funds to cover the funerals. Unlike other families, they declined the government's offer of funds. Father Joseph Musubao said he was more concerned about getting truth and justice. Another family member said, "the state has not

¹⁹² Interview with Dr Sondji, Kinshasa, 25 February 2018

¹⁹³ Interviews with witnesses of Saint François events, Kinshasa, 25 February 2018

¹⁹⁴ Ibid

¹⁹⁵ Interview with Dely Sesanga, MP, Kinshasa, 28 February 2018

¹⁹⁶ Interview with an eyewitness from Saint François parish, Kinshasa, 25 February 2018. According to eyewitnesses, both the Police Commissioner for Kinshasa and the Police Commissioner for the Lukunga District gave orders to use force to disperse the protesters at Saint François De Salle parish, at different times.

¹⁹⁷ Interview with Father Joseph Musubao, Catholic priest and Thérèse Kapangala's uncle, Kinshasa, 24 February 2018

¹⁹⁸ Ibid

¹⁹⁹ Under the Congolese law (Military Judicial Code of 18 November 2002), the Auditor General of the FARDC can receive complaints of any kind. It is up to him to redirect complaints to the right institutions if the matter does not fall within his jurisdiction, and to inform the complainant accordingly.

²⁰⁰ Ibid

yet told us who killed our daughter, why it has killed her, where the weapon used came from and from whom came the order to shoot inside at churchgoers, yet it wants to make fun of us or is it a way for the state to buy our silence? Our daughter's blood is priceless!"²⁰¹

Thérèse's mother, Mrs. Madeleine Longo, told Amnesty International: "As if killing Thérèse was not enough, from the beginning they did everything to intimidate and threaten us. Because of these threats, Thérèse's dad was unable to attend the funeral. He had to give up his job for the state, and up to now he lives in hiding because he refuses to continue working for a state that killed his own daughter. One evening, three men entered the house, they told me: 'Madam, why are you refusing the money? You are hard-headed, but we can take you, your daughters and your brother, and you will do nothing. People can come here and rape your remaining daughters; you will continue to scream but nothing will ever happen.'"²⁰²

A few weeks later, during a formal meeting with the judicial inspector charged with investigating the complaint against the Police Commissioner for Kinshasa, the official asked Mrs. Madeleine Ngalula if she was sure she wanted to confront Sylvano Kasongo. She said, "his eyes and the tone of his voice clearly meant that we had gone too far by daring to target the Police Commissioner for Kinshasa. We never heard back from the Inspector."²⁰³

Father Joseph Musubao told Amnesty International, "I know we are taking a lot of risks in demanding justice for Thérèse. But we owe it to her: her life and her dignity are not negotiable. And then what will happen if those who killed her realize that there is no consequence, as usual? Beyond Thérèse, our fight is a fight for justice in the Congo. Those who shed people's blood must know that it comes at a high price."²⁰⁴

Thérèse Kapangala was waiting to join the convent of the Holy Family Sisters of Bergam in July 2018. As her father can no longer work, her mother must take care of Thérèse's five siblings alone.

5.3.3 ROSSY MUKENDI TSHIMANGA

TARGETED

Prominent pro-democracy activist Rossy Mukendi Tshimanga, 36, died a few hours after he was shot by a policeman at Saint Benoît Catholic church of Lemba, in Kinshasa, during a march on 25 February 2018. Eyewitnesses told Amnesty International that Rossy Mukendi was shot in the abdomen while he was closing the church gate to protect protesters who had taken refuge there after the police dispersed them.²⁰⁵ Rossy Tshimanga's friend Fidèle²⁰⁶ was with him when he was killed. He told Amnesty International:

"The police were shooting tear gas all along. At least two tear gas cannisters were thrown inside the church's courtyard. Most protesters went to hide inside the church. Rossy, myself and a few other youth leaders stayed outside to ensure everyone was safe and to warn the youths to stop throwing stones at the police... I wanted to stop a young man from throwing a projectile, I sensed that the police who were advancing towards us had a clear intention to do harm. I told Rossy, 'we need to retreat.' I saw the lady, Carine. I saw her arriving. There were about eight policemen around her. The way they were coming towards us, they had bad intentions... I asked my brother Rossy to go inside the church. At the gate, a young man who was on the street climbed the wall of the parish on the side I was... he wanted to throw stones at the police and hide in the church. I stopped him. 'It is not allowed', I told him. At this point, I turned my back to the gate. I told Rossy, 'let's close the gate'. The guy who wanted to throw stones... tried to climb the wall again. When I let go of the gate to take the guy down, I heard a shot. I bent down. I thought I was injured by the bullet. I started to yell at the guy. A young man from Ngaba came to touch me on the shoulder. I turned, I saw Rossy lying down and screaming. I called for help. I had to see the parish priest to let him know we needed urgent transport. I didn't know the church. I was running everywhere, in all directions. I was looking for a solution without success."²⁰⁷

"I wanted us to go through the main gate, but I was advised not to use that exit as the police were still around. We decided to use the compound behind the parish, where there is a maternity wing. We climbed

²⁰¹ Interview with Jean-René Mabwilo, Thérèse Kapangala's uncle Kinshasa, 14 August 2019

²⁰² Interview with Madeleine Longo, Thérèse Kapangala's mother, Kinshasa, 14 August 2019

²⁰³ Ibid

²⁰⁴ Interview with Father Joseph Musubao, Catholic priest, Kinshasa, 7 February 2018

²⁰⁵ Interview with three eyewitnesses to Rossy Mukendi Tshimanga's killing, Kinshasa, 28 February 2018

²⁰⁶ Interview with Fidèle, Kinshasa, 28 February 2018. (Name has been changed to respect the interviewee's anonymity).

²⁰⁷ Ibid

the wall. I asked a group of youths to climb the other side to receive Rossy. We made it to the other side of the wall. We put him somewhere in that compound while we went to look for help in that maternity wing.

“Someone told us that there was a medical centre on Avenue Mongala... called Le Panthéon Omeco Lemba. Having failed to find a car, we put Rossy on a cart and took him to Le Panthéon. There was only one lady nurse. Alone with a huge crowd of youth, she didn’t know what to do.

“We deployed friends and Rossy’s younger brother, Yannick to look for a car, but they couldn’t find one. So, we tried to take him on a motorbike. The motorbike didn’t work out. Rossy told us ‘you are making me suffer’. We decided to abandon the motorbike and carry him in our arms. By chance, as we were running with Rossy... we found a car in front of a compound. We knocked on the gate and asked a man to help us. He agreed and took us to the hospital.

“We went to the Saint Gabriel Hospital where a woman came and told us that we had to go to Camp Kokolo Hospital instead. We left... and took the road towards Camp Kokolo Hospital. But on the way, Rossy was in distress. We kept encouraging him. I asked the driver to go to Saint Joseph Hospital instead, because it was closer. I had one hand on his wound and another on his arm. I was holding tight. Someone else was holding his legs. His brother, Yannick, was holding his head.

“But a few meters before the entrance to the hospital, Rossy passed away. I tried to press tight on his wound, he was no longer responding. He was no longer in distress. They took him to the emergency room. After a moment, the doctor came to ask who was from his family. I pointed at Yannick. After a few seconds, there were cries.”²⁰⁸

Almost one hour passed between the time of Rossy Tshimanga’s injury and his arrival at hospital. His family and friends believe he could have been saved if he had been taken care of as soon as possible.”²⁰⁹

DISMISSED AS “TROUBLEMAKERS”

On the evening of 25 February 2018, a police spokesperson dismissed reports about Rossy Tshimanga’s killing, as well as another protester, 18-year-old Eric Boloko, a college student, who had been killed in the town of Mbandaka. The police spokesperson announced on national radio and television that the security forces had reached their “zero death” target, with “only two offenders wounded in Kinshasa, and a few troublemakers arrested in Goma.”²¹⁰ The next day, the police acknowledged Rossy Tshimanga and Eric Boloko’s deaths.²¹¹ However, the police insisted that “Mr Rossy Mukendi, domiciled at Manzengele Avenue in Ngaba, came down to Saint Benoit, in Lemba to cause disorder. During confrontations with the police, the troublemaker Rossy was seriously injured by rubber bullets. Rushed to Saint Joseph, he eventually died.”²¹² As for Eric Boloko’s murder, the authorities announced that the police officer responsible for his murder was arrested and sentenced to life imprisonment and USD 150,000 in damages, following an accelerated trial held in Mbandaka on 26 and 27 February 2018.²¹³ No senior police official was prosecuted in this trial, which had sparked criticism from local human rights defenders.²¹⁴

On 26 February 2018, at a press conference, the Police Commissioner for Kinshasa said Brigadier-in-Chief, Tokis Kumbo, had “fired rubber bullets” at Rossy Tshimanga. In a press release, the police said, “... this police officer wanted to defend his Unit’s Commander, Deputy Superior Commissioner Lokeso Koso Carine, in front of a hostile crowd which attacked her and her colleague Scom Mutampa Willy who got away with a serious head injury. The accused police officer will be referred to the competent authority for disobeying orders.”²¹⁵

The official version was strongly challenged by Rossy Tshimanga’s relatives, who continued to accuse Deputy Superior Commissioner Carine Lokeso of being responsible for his murder. Their claim is supported

²⁰⁸ Ibid

²⁰⁹ Ibid

²¹⁰ RFI, “RDC : les marches organisées par le Comité laïc brutalement dispersés”, 25 February 2018, <http://www.rfi.fr/fr/afrique/20180225-rdc-journee-action-comite-laic-clc-accords-saint-sylvestre>

²¹¹ Radio Okapi, “Pour la police, Rossy Tshimanga, tué à Lemba, était un fauteur de troubles”, 26 February 2018, <https://www.radiookapi.net/2018/02/26/actualite/societe/pour-la-police-rossy-tshimanga-tue-lemba-etait-un-fauteur-de-troubles>

²¹² Radio Okapi, “Pour la police, Rossy Tshimanga, tué à Lemba, était un fauteur de troubles”, 26 February 2018, <https://www.radiookapi.net/2018/02/26/actualite/societe/pour-la-police-rossy-tshimanga-tue-lemba-etait-un-fauteur-de-troubles>

²¹³ Radio Okapi, “Mbandaka : prison à vie pour le policier auteur du meurtre d’un manifestant”, 27 February 2018, <https://www.radiookapi.net/2018/02/27/actualite/justice/mbandaka-prison-vie-pour-le-policier-auteur-du-meurtre-dun-manifestant>

²¹⁴ Ibid

²¹⁵ National Congolese Police press release, 26 February 2018, <https://www.afriwave.com/2018/02/26/kinshasa-meurtre-de-rossy-tshimanga-la-pnc-presente-le-presume-policier-tireur/>

by several witnesses,²¹⁶ who said she had ordered one of her guards to shoot. Doctor François Kajingulu, Director of the Saint Joseph hospital, who examined Rossy Tshimanga and certified his death, said he was “adamant that the wounds were caused by one or two live bullets, not rubber bullets.”²¹⁷

On 1 March 2018, as the public accused the authorities of a cover-up, and of protecting Deputy Superior Commissioner Lokeso Carine from prosecution²¹⁸, the police spokesperson went even further in opposing any challenge to the official version, declaring “we wish that any confusion concerning the responsibility for this homicide on the Deputy Superior Commissioner Lokeso Koso Carine, be ruled out. The alleged perpetrator of the homicide of Rossy has indeed been identified and referred to the Gombe garrison prosecutor’s office. We take this opportunity to warn all those who continue to spin a web of lies by spreading outrageous remarks about the aforementioned police officer: they will be liable to prosecution, in accordance with relevant criminal law.”²¹⁹

ROSSY MUKENDI’S BURIAL

Rossy Mukendi's family and local human rights organizations accused the authorities of “confiscating” his body and preventing his burial.²²⁰ His body was kept in a morgue for almost three months, amid disagreement between his family and the authorities about his funerals. His funerals were eventually held on 18 and 19 May 2018. On the day of his burial on 19 May, the police fired tear gas at the mourners, including many of Rossy’s fellow pro-democracy activists, following a disagreement with them about the route to the cemetery, prompting the young people carrying the coffin to drop it to the ground and run away. The police placed the coffin in a pick-up truck and dropped it off at the Necropole cemetery where he was later buried by a few family members and friends.²²¹

Two weeks later, on 2 June 2018, Rossy Mukendi’s father, Ferdinand-Ignace Tshimanga, died of a heart attack which his wife, Madeleine Ngalula believed was “caused by the great sorrow he suffered since Rossy’s death.”²²² Rossy Tshimanga’s younger brother, Yannick Tshimanga, said his father had been “plagued by grief” since Rossy’s killing, the difficulties in recovering his son’s body, and finally the “humiliation” during the May funeral.²²³ “It was too much for him”, he said.²²⁴

After Rossy's funeral, his relatives said they continued to receive threats and were put under pressure by the authorities to stop demanding justice. Yannick Tshimanga said, “I have been threatened with death by individuals posing as Commissioner Carine’s relatives. I have received anonymous calls from individuals who told me that if I don’t shut up, I would be the next to be killed. Even today, I do not feel completely safe especially since Carine Lokeso is still in her post and has not been prosecuted.”²²⁵ Overnight on 12/13 June, on the eve of Rossy Mukendi’s father’s funeral, unidentified armed men attacked the family home in the Ngaba district of Kinshasa and stole furniture, electronic devices and other valuables.

Despite the serious allegations against her, on 7 August 2018, Deputy Superior Commissioner Carine Lokeso was among police and army officers decorated by President Kabila for their “exceptional bravery” during an official ceremony held at the Cité de l’OUA in Kinshasa and aired on national television.²²⁶

²¹⁶ Jeune Afrique, “Répression en RDC : retour sur la mort tragique de Rossy Mukendi”, 28 February 2018, <https://www.jeuneafrique.com/537335/societe/repression-en-rdc-retour-sur-la-mort-tragique-de-rossy-mukendi/>

²¹⁷ Ibid

²¹⁸ Radio Okapi, “RDC : des mouvements citoyens réclament justice après le meurtre de Rossy Mukendi”, 27 February 2018, <https://www.radiookapi.net/2018/02/27/actualite/politique/rdc-des-mouvements-citoyens-reclament-justice-apres-le-meurtre-de>

²¹⁹ National Congolese Police spokesperson media statement from Pierrot Mwanamputu, 1 March 2018, <https://soundcloud.com/actualitecd/meurtre-de-rossy-la-police-met-en-garde-ceux-qui-citent-le-nom-de-major-carine-lokeso>

²²⁰ VOA, “Une ONG demande aux autorités de restituer le corps d’un opposant en RDC”, 25 April 2018, <https://www.voafrique.com/a/une-ong-demande-aux-autorit%C3%A9s-de-restituer-le-corps-d-un-opposant-en-rdc-/4364109.html>

²²¹ Mediacongo, “Obsèques de Rossy Mukendi : dispersion de la procession funéraire par la police”, 19 May 2018, <https://www.mediacongo.net/article-actualite-38473.html>

²²² Interview with Madeleine Ngalula, Rossy Mukendi’s mother, Kinshasa, 8 August 2019

²²³ interview with Yannick Tshimanga, Rossy Mukendi’s brother, Kinshasa, 8 August 2019

²²⁴ Ibid

²²⁵ Ibid

²²⁶ Digital Congo, “Le président Joseph Kabila a présidé la cérémonie de reconnaissance de grades des généraux promu et de passation de commandement à l’Etat-major général des FARDC”, 8 August 2018, <https://www.digitalcongo.net/article/5b6aa4fed44e2400045bd621/>

A TRIAL MARRED BY SERIOUS IRREGULARITIES, A FAMILY IN DISTRESS



👁️ ↑ *Rossy Tshimanga Mukendi's eldest son Kelly Tshimanga mourning at his father's tomb, Kinshasa, May 2018. @Private*

The trial of the policeman charged with Rossy Tshimanga's murder began on 25 May 2018 before the Matete garrison military tribunal.²²⁷ During the hearings, in which Deputy Superior Commissioner Carine Lokeso was invited to attend only as a witness, the lawyers tried unsuccessfully to press the military tribunal to prosecute her on the basis of "consistent witness testimonies" which suggested she had instigated his murder.²²⁸ Faced with the tribunal's persistent reluctance to prosecute her, in August, the family's lawyers requested that the tribunal refer the case to the Constitutional Court as the appropriate court to hear the case,²²⁹ which the tribunal accepted on 1 October 2018.

According to the family's lawyer, Richard Bondo, the "defendant Tokis Kumbo himself persistently denied having been the perpetrator of the Rossy Mukendi shooting. Another police officer named Mukenge Alexis corroborated the testimonies of other eyewitnesses, by affirming during the pre-judicial investigation... that it was Carine Lokeso's bodyguard Bivuala Makiadi who shot Rossy on Carine's orders. The court also refused to summon Bivuala to give evidence. This is why we have raised unconstitutionality, since article 17 of the DRC Constitution makes it clear that no one can be prosecuted, arrested, detained or convicted for offenses committed by others."²³⁰

Meanwhile, on 21 September, the lawyers had lodged a complaint with the FARDC Auditor General, identifying 10 individuals including the Police Commander for Kinshasa, Sylvano Kasongo, the spokesman for the PNC, Pierrot Mwana Mputu, and Deputy Superior Commissioner Carine Lokeso.²³¹ At the time of writing, no action had been taken by the military justice or the Constitutional Court in regard to the case. Richard Bondo told Amnesty International that, in his view, both the Constitutional Court and the FARDC Auditor General had "shown a lack of will to ensure justice...".²³²

Rossy Tshimanga's eldest son, Kelly Tshimanga,²³³ who turned 15 in 2019, is studying Biochemistry, and dreams of becoming a computer scientist or politician. He told Amnesty International:

"When Félix Tshisekedi was still an opponent, he came to see us and told me" we will always be there for you." But since he became president, he has given no sign ... Those who killed daddy must be prosecuted and punished."²³⁴

²²⁷ RFI, « RDC : première audience dans le procès du meurtre de l'activiste Rossy Mukendi », 26 May 2018,

<http://www.rfi.fr/fr/afrique/20180526-proces-meurtre-activiste-rossy-mukendi-rdc-premiere-audience>

²²⁸ Amnesty International phone interview with Richard Bondo, the family's lead lawyer, Nairobi, 3 October 2019

²²⁹ Ibid

²³⁰ Ibid

²³¹ Complaint No. CAB/RBTB/PH/177/2018, received at the Office of the Auditor General of FARDC on 21 September 2018

²³² Telephone interview with Richard Bondo, family's lead lawyer, Nairobi, 3 October 2019

²³³ Rossy Mukendi left two children, a son, Kelly Tshimanga, who was aged 14 by February 2018, and a daughter, Tempérance Ditalala, who was three months old by February 2018

²³⁴ interview with Kelly Mukendi, Rossy Mukendi's son, Kinshasa, 8 August 2019

6. INVESTIGATIONS: BIASED, INCOMPLETE AND LACKING IN TRANSPARENCY

The authorities first reaction to the use of excessive and lethal force by security forces was to accuse the protesters of instigating the violence, and to congratulate the conduct of the security forces. For example, The Minister of Interior and Security announced in December 2016 that "precise instructions have been given to the police to maintain security and public order in strict compliance with the laws and fundamental rights of the people. The Government of the Republic wishes to congratulate the police and salute their courage and patriotism in the face of the numerous provocations to which police agents have been subjected."²³⁵

However, following international outrage in response to the levels of violence and the high number of casualties, the government announced it would carry out investigations.

6.1 THE GOVERNMENT'S LIVRE BLANC ON THE SEPTEMBER 2016 DEMONSTRATIONS

On 12 October 2016, the Minister of the Interior and Security presented foreign diplomats accredited in Kinshasa with the findings of government's investigation into the September 2016 violence, contained in a report dubbed "Livres Blanc."²³⁶

Amnesty International analysed the 46-page report and found that it failed to provide any information on the methodology used, how and when the information was collected, and who the investigation team was composed of. It did, however, list damage to buildings and properties: "28 police substations ransacked or burned by protesters, 27 buildings including public buildings and a court of justice, 13 ruling coalition political parties' headquarters, four schools, private buildings, bank branches, shops." It pointed to the "insurrectional behaviour" of the organizers and accused them of the "destruction of state symbols, as well as the looting and the burning of public and private goods."²³⁷ The report did not mention the fire at the UDPS headquarters overnight on 19/20 September, in which five people died. It did acknowledge that 32

²³⁵ RFI, "Violences en RDC : opposition et pouvoir se renvoient la responsabilité", 20 December 2016, <http://www.rfi.fr/fr/afrique/20160920-manifestation-rdc-opposition-pouvoir-renvoient-balle-violences-boshab>

²³⁶ The report was presented by Interior and Security Minister Evariste Boshab and Justice Minister Alexis Thambwe Mwamba

²³⁷ Gouvernement de la RDC, "Livres Blanc sur les événements de septembre 2016 à Kinshasa", 12 October 2016

individuals were killed, including demonstrators killed by the security forces, and security officers killed by demonstrators, but it concluded that "many of the victims among the demonstrators were either armed protesters or looters killed by the security forces in self-defence or to protect private property." It alluded to funeral cost reimbursements for families of the victims.

The report also detailed arrests of "troublemakers, killers, thugs and looters" which led to summary trials against these individuals who were considered to be "morally and physically responsible for the violence".

While it dealt with the killing of 32 people by the security forces, it did not examine the use of lethal force by law enforcement bodies, in particular whether they had applied the principles of necessity and proportionality in accordance with international standards. The information about the circumstances of these killings strongly suggests that they were unlawful killings for which alleged perpetrators should be investigated and prosecuted.

For example, with regards to events at the Institut Madame de Sévigné school in which three demonstrators were shot dead by police officers on 19 September 2016²³⁸, it only said: "In reaction to this fire and to put an end to the looting, two law enforcement officers on duty outside the residence of former army General Faustin Munene shot and killed three demonstrators and looters: two men including Mr Tony Bongeli, a 3rd year undergraduate National Pedagogical University student, residing on Mpaka avenue, Ozone district, in the Commune of Ngaliema, and one woman not otherwise identified."²³⁹

Further, on page 26, the report referred to the killing of one demonstrator, saying only: "...around 8am, the gunshot murder of Mr Luzolo Giresse, a 22-year-old, student at the Higher Institute of Applied Techniques, domiciled on Avenue Musaka No 39, district 3 / Camp Luka, Commune of Ngaliema, following the looting."²⁴⁰

The report did not provide any indication about which looting event it referred to or the identity of the individuals who shot Giresse nor did it shed any light on the circumstances of, and the reasons for, this killing. In addition, while the report acknowledges the killing by security forces of 32 people on 19 and 20 September 2016, it fails to answer any of the basic questions about the circumstances of these killings.

It concluded²⁴¹, by denouncing the "violent demonstrations organized by a fringe of the opposition with the aim of realizing their plans to trigger chaos"²⁴², and lists the measures taken by the authorities following these demonstrations, including the "suspension of public demonstrations of a political nature throughout the country", the arrest of "troublemakers", and the initiation of proceedings against the "instigators."

According to the government, 172 offenders [protesters or perceived protesters] were brought before the courts²⁴³ in Kinshasa for various offences including rebellion, looting, malicious destruction of public or private property, arson or theft with violence. The report says that 84 individuals were in fact prosecuted by civilian courts in September 2016 resulting in 53 acquittals and 31 were sentenced to between 30 days and 20 years' imprisonment. Of 17 minors reportedly referred to juvenile courts, four were handed over to their parents and one was detained in prison.²⁴⁴ The report does not provide further information, including what happened to other adults and children who were arrested.

Regarding the security forces, the report speaks only of the "arrest of law enforcement officers who were the exception in the sense of their reprehensible behaviour,"²⁴⁵ and says that the PNC were investigating, but it fails to give any figures or other details; and none of the judicial proceedings referred to relate to the killings. Neither does it specify how many agents were subject to these investigations, what type of disciplinary or judicial actions were taken against them, or the exact charges brought against them. It makes no reference to claims and testimonies from the victims, their relatives, or eyewitnesses. At the time of writing, Amnesty International could find no information with regards to investigations into or prosecutions of members of the security forces.

The prosecutions were apparently carried out in haste, casting serious doubts as to their impartiality and fairness. The Livre Blanc was a unilateral and unsubstantiated document drafted by the government for political purposes, rather than an investigative report meeting international human rights standards.

²³⁸ Livre Blanc, pp. 10-11

²³⁹ Op. cit., p. 11

²⁴⁰ Op. cit., p. 26

²⁴¹ Op. cit., Sections VII and VIII, pp. 43 *et seq.*

²⁴² Op. cit., p. 43

²⁴³ The report does not mention any case brought before the military justice, suggesting no police or military officer had been brought to justice at least until the date of the publication of the government's report on 12 October 2016

²⁴⁴ "Livre Blanc", pp. 44-45

²⁴⁵ Ibid

The UNJHRO have repeatedly said that the authorities had not conducted any credible and impartial investigations to shed light on the events of September and December 2016.

6.2 JOINT INVESTIGATION COMMISSION INTO THE EVENTS OF 31 DECEMBER 2017 AND 21 JANUARY 2018

On 1 February 2018, the Minister for Human Rights established the Joint Investigation Commission to investigate the events of 31 December 2017 and 21 January 2018.²⁴⁶ The government-led Commission was composed of delegates from the ministries of Human Rights and Justice, as well as from the CNDH and from civil society organizations. The UNJHRO and AU were invited as observers.²⁴⁷ The Joint Commission's purpose was to "collect evidence, verify facts and ensure the perpetrators were punished."²⁴⁸

Although the full report was never made public, a summary was published on 10 March 2018. It confirmed that 14 individuals were shot dead by the police in Kinshasa and made a series of solid recommendations, notably to the government, the Parliament and the judiciary, including to prosecute police and army officers responsible for human rights violations, provide financial assistance to the victims of the crackdowns or their families and to lift the blanket ban on protests immediately.

At the time of writing, apart from a flat rate financial allowance from the government to 32 victims (families of those killed or injured during the two demonstrations), the recommendations have not been implemented.²⁴⁹ To Amnesty International's knowledge, the authorities have carried out no judicial investigations or prosecutions in connection with the unlawful killings and other human rights violations committed during the December 2017 and January 2018 protests.

"Justice and investigations are just a farce. It's not the first time we've heard that. It is a public relations exercise to try to put people to sleep. Justice does not exist, and when there is a semblance of justice, it is the little people who are sacrificed, the main players and the instigators are never worried."

Father Jean-Claude Tabu, Saint Benoît Parish priest, 1 March 2018

Three delegates on the Joint Commission of Inquiry, who were members of local human rights organizations,²⁵⁰ told Amnesty International of their doubts about the authorities' intentions to ensure accountability and justice. One referred to "the numerous cases in the past where the authorities have announced investigations into human rights violations and serious crimes without anyone being subsequently prosecuted."²⁵¹ They accepted the Human Rights Minister's invitation to participate in the

²⁴⁶ Ministerial Order No. 001/CAB/MIN/DH/2018 of 1 February 2018 on human rights allegations and abuses related to the protests of 31 December 2017 and 21 January 2018

²⁴⁷ Ibid

²⁴⁸ Ibid

²⁴⁹ According to beneficiaries interviewed by Amnesty International, the financial assistance ranged from an equivalent of USD500-5000 and was intended to help families pay for funeral expenses or medical treatment for those wounded. However, these sums were handed over to only 32 victims in an apparently random manner. Furthermore, such financial support does not constitute reparations as there was no judicial proceeding or recognition of the state's responsibility for human rights violations. Amnesty International, "The Democratic Republic of the Congo: Persistent suppression of civic space despite official rhetoric" (Index: AFR 62/8395/2018)

²⁵⁰ The Association for Access to Justice (ACAJ), Les Amis de Nelson Mandela pour les Droits de l'Homme (ANMDH), and the Voix des Sans Voix (VSV)

²⁵¹ Interview with Franck Banza, of "Les Amis de Nelson Mandela pour les Droits de l'Homme", Kinshasa, 6 August 2019

Commission because they had for a long time been urging the authorities to investigate and prosecute those responsible for the violence during crackdowns: “we wanted to give the government the benefit of the doubt and play a constructive role. After all, there is a beginning to everything!”²⁵² On 11 April 2018, a month after the report’s summary was published, six human rights organizations, including those which Amnesty International spoke to, suspended their participation in the Commission, accusing the government of failing to implement the primary recommendations.²⁵³

THE CNDH: ITS ROLE AND CHALLENGES

The CNDH was established by Organic Law No. 13/011 of 21 March 2013.²⁵⁴ However, it has only been operational since July 2015 following the appointment and swearing-in of its nine members.

The CNDH is an independent, pluralist, and pro-democracy institution. It is endowed with legal personality, and enjoys administrative, financial and technical autonomy.²⁵⁵ It is mandated, *inter alia*, to investigate all cases of human rights violations; to refer complainants and victims to relevant government and judicial organs and help them to obtain justice for all known human rights violations.²⁵⁶ Its headquarters are in Kinshasa and it has local offices or branches in all provinces.

The CNDH conducted investigations and published several reports on the suppression of the demonstrations dealt with in this report. However, its investigations were often limited to [events] in Kinshasa and fell short of international human rights standards.²⁵⁷ The CNDH President told Amnesty International that the institution lacks the means to carry out its mission properly.²⁵⁸ “The investigations could not be conducted outside Kinshasa for lack of financial resources and staffing. We manage the best we can. The state only pays the salaries of members of the Commission and some support staff, but the CNDH does not have enough resources to fulfil its human rights mandate, especially in relation to investigating human rights violations. We have a good budget on paper, but implementation is very problematic. We see this as a government strategy to hinder our action.”²⁵⁹

Even when the CNDH documents human rights violations and makes recommendations, they “... are rarely followed. The government rarely enforces court decisions, let alone our recommendations. But we are not a pressure group, we are a state institution, albeit independent and impartial. We try to push for action through dialogue within the institutional framework.”²⁶⁰

6.3 THE JUNE 2018 “JOINT INVESTIGATION COMMISSION”

The international community responded positively to the government’s Joint Commission of Inquiry (CEM 3121) which was established on 1 February 2018 to investigate human rights violations committed on 31 December 2017 and 21 January 2018. The international community’s response led the government to announce its decision to re-investigate²⁶¹ human rights violations and abuses committed during September and December 2016. Consequently, on 28 June 2018, the Minister for Human rights established another Joint Commission of Inquiry (also known as CEM 1919) to investigate “the events of 19 September and 19 December 2016.”²⁶² The inquiry was composed of delegates from the ministries of Human Rights, Justice

²⁵² Interview with Rostin Manketa, Director, La Voix des Sans Voix, Kinshasa, 9 August 2019

²⁵³ ACAJ, ANMDH and VSV’s joint letter to the Minister for Human Rights, 11 April 2018

²⁵⁴ The Organic Law establishing the CNDH is available at <https://www.leganet.cd/Legislation/Droit%20Public/DH/L.13.011.21.03.2013.htm>

²⁵⁵ Article 1 of Organic Law of 21 October 2013 establishing the CNDH

²⁵⁶ Article 6 of Organic Law of 21 October 2013 establishing the CNDH

²⁵⁷ CNDH, “Ad hoc investigation report on the human rights situation following the march of 31 December 2017 in the city of Kinshasa in the Democratic Republic of the Congo”, January 2018 See also: CNDH, “Ad hoc investigation report on the human rights situation following the march of 21 January 2018 in the city of Kinshasa in the Democratic Republic of the Congo”, February 2018.

²⁵⁸ Interview with Mwamba Mushikonke Mwamus, Kinshasa, 12 August 2019

²⁵⁹ *Ibid*

²⁶⁰ *Ibid*

²⁶¹ These events had already been covered by the semblance of an investigation contained in the Government’s “Livre Blanc” (October 2016). See Section 6.1.

²⁶² Ministerial Decree No. 003/CAB/MIN/DH/2018, 28 June 2018, the Minister for Human Rights “establishing the Joint Investigation Commission on the events of 19 September and 19 December 2016”

and Interior, the CNDH and representatives of Congolese civil society organizations, with the participation of the UNJHRO and the AU Human Rights Liaison Office as observers.²⁶³

In its report to the UN Human Rights Council in the framework of the Universal Periodic Review in February 2019, the DRC government claimed: “both joint commissions made it possible to establish who was responsible for the events and to draw up recommendations for all public institutions.”²⁶⁴ Unfortunately, the CEM 1919 report was never made public and Amnesty International has not been able to find a copy. A local human rights defender who participated in the CEM 1919, acting as a rapporteur, told Amnesty International that the investigations were “conducted in spite of many challenges”, but that the final report’s findings were not adopted by delegates and nor were its findings made public.²⁶⁵ He said: “We only interviewed the victims and families in Kinshasa; we could not make it to other provinces because the Minister for Human Rights said the government did not have sufficient resources. No police or army officer among those we wished to interview responded to our invitation, even though the Commission was led by the government. The work was blocked at some point because the Minister for Human Rights who chaired the Commission had gone on the electoral campaign. She had delegated her deputy chief of staff, but the latter did not seem to have the necessary leadership and power to ensure the work was completed. To date, I cannot tell you what happened with the draft report we were working on. I tried to get a copy of it, to no avail.”²⁶⁶ According to the delegate, the report has still not been finalized, nor its recommendations adopted; it has not submitted to the judicial authorities.²⁶⁷

At the time of writing, and to Amnesty International’s knowledge, the authorities have not carried out any judicial investigations or prosecutions in connection with the unlawful killings and other human rights violations committed during the September and December 2016 protests. In her August 2019 report, the OHCHR noted that she found “...it regrettable that, even though the two joint commissions set up to investigate the violations committed during protests that took place between 2016 and 2018..., no judicial action has been taken with regard to the violations documented.”²⁶⁸

²⁶³ Ibid

²⁶⁴ UN Human Rights Council, A/HRC/WG.6/33/COD/1, 27 February 2019

²⁶⁵ Telephone interview with the rapporteur of the CEM 1919, 10 February 2020. (Name has been withheld to respect the interviewee’s anonymity)

²⁶⁶ Ibid

²⁶⁷ Ibid

²⁶⁸ OHCHR, “Human rights situation and the activities of the UNJHRO in the Democratic Republic of the Congo”, (A/HRC/42/32), 14 August 2019, https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_42_32.pdf

7. INTERNATIONAL RESPONSE

The US government (via its Department of the Treasury's OFAC) and the EU have responded to persistent human rights violations perpetrated against demonstrators during 2015 - 2018, by imposing sanctions, including travel bans and asset freezes, against 13 DRC government officials and senior security force officers. The sanctions against one individual were lifted in December 2019.²⁶⁹ Sanctions were first imposed by the US in June 2016 and by the EU in December 2016 and are regularly renewed or reviewed. EU sanctions have also been enacted by the United Kingdom²⁷⁰ and Switzerland.²⁷¹

²⁶⁹ The Council of the EU lifted sanctions against Lambert Mende on 9 December 2019. Lambert Mende, an MP for the ruling majority, had been sanctioned by the EU in May 2017 in his capacity as the Communications and Media Minister since 2008 when he was "responsible for the repressive media policy applied in DRC, which breaches the right to freedom of expression and information" after he had adopted, in November 2016, a decree limiting the ability of foreign media outlets to broadcast in the DRC.

EU Sanctions, «EU Council renews DRC sanctions and de-lists 2 people», 9 December 2019, <https://www.europeansanctions.com/2019/12/eu-council-renews-drc-sanctions-de-lists-2-people/>

²⁷⁰ UK Government, "UK sanctions on the Democratic Republic of the Congo", 7 March 2019, <https://www.gov.uk/government/collections/uk-sanctions-on-the-democratic-republic-of-the-congo>

²⁷¹ Reuters, "Switzerland imposes sanctions on allies of Congo's Kabila", 21 February 2018, <https://www.reuters.com/article/us-congo-swiss-sanctions/switzerland-imposes-sanctions-on-allies-of-congos-kabila-idUSKCN1G52CX>

OVERVIEW OF US AND EU TARGETED SANCTIONS AGAINST DRC OFFICIALS SUSPECTED OF SERIOUS HUMAN RIGHTS VIOLATIONS IN CONNECTION WITH THE 2015-2018 CRACKDOWNS.²⁷²

Name and role	Sanctioning entity	Date listed	Human rights grounds – EU	Human rights grounds - US Department of the Treasury	Position at the time of designation	Current position
Célestin Kanyama (Police Divisional Commissioner)	US Department of the Treasury E.U.	23 June 2016 12 December 2016	Célestin Kanyama AKA <i>Esprit de mort</i> was “responsible for the disproportionate use of force and violent repression in September 2016 in Kinshasa. In this capacity, Célestin Kanyama was therefore involved in planning, directing or committing acts that constitute serious human rights violations in DRC.” ²⁷³	“Leading role” in serious human rights violations, including extrajudicial executions and enforced disappearances, in his capacity as the Provincial Police Commissioner for Kinshasa between 2013 and 2016, including during the Operation Likofi in which he was the primary commander, and the January 2015 demonstrations. ²⁷⁴	Police Commissioner for Kinshasa	Director General of the Congolese National Police Training Centers (appointed to this position by President Joseph Kabila on 17 July 2017)
Gabriel Amisi Kumba (Major-General)	US Department of the Treasury EU	28 September 2016 12 December 2016	“Former Commander of the first defence zone of the Congolese Army (FARDC), whose forces took part in the disproportionate use of force and violent repression in September 2016 in Kinshasa. Gabriel Amisi Kumba has been Deputy Chief of Staff of the Congolese Armed Forces (FARDC) since July 2018, with responsibility for operations and intelligence. Owing to his role, he bears responsibility for the recent human rights violations committed by the FARDC. Gabriel Amisi Kumba was therefore involved in planning, directing, or committing acts that constitute serious human rights violations or abuses in DRC.” ²⁷⁵	According to the US Department of the Treasury, Gabriel Amisi’s units “have reportedly engaged in violent repression of political demonstrations.” They have “used excessive force and lethal weapons during demonstrations and political rallies, particularly during demonstrations organized by opposition leaders and civil society actors in January 2015.” ²⁷⁶	FARDC Commander for the First Defence Region which covered the provinces of Bandundu, Bas-Congo, Equator, and Kinshasa (September 2014-July 2018)	FARDC’s Deputy Chief of Staff in charge of operations and intelligence (since his appointment to this position by President Kabila in July 2018).
John Numbi Banza	US Department	28 September 2016	“Was notably involved in the campaign of violent intimidation in the March	“During the March 2016 gubernatorial elections in the DRC’s four ex-Katangan	Former Inspector-General for the	FARDC’s Inspector General (since

²⁷² Individuals sanctioned for reasons other than their alleged involvement in acts constituting human rights violations related to the 2015-2018 political and electoral crisis have not been included in this table

²⁷³ Council of the EU, “Council Regulation (EU) 2016/2230 of 12 December 2016 amending Council Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo”, 12 December 2016, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.LL.2016.336.01.0001.01.ENG&toc=OJ.L.2016.336:TOC>

Sanctions were subsequently renewed in December 2017, December 2018 and December 2019

²⁷⁴ US Department of the Treasury, “Treasury Sanctions High-Ranking Government Security Official for Role in Violence in the Democratic Republic of the Congo”, 23 June 2016, <https://www.treasury.gov/press-center/press-releases/Pages/i10496.aspx>

²⁷⁵ Council Regulation (EU) 2016/2230 of 12 December 2016, op. cit.

²⁷⁶ US Department of the Treasury, “Treasury Sanctions Two Individuals for Threatening the Stability of and Undermining Democratic Processes in The Democratic Republic of the Congo”, 28 September 2016, <https://www.treasury.gov/press-center/press-releases/Pages/i10560.aspx>

(Lieutenant-General)	of the Treasury EU.	12 December 2016	2016 gubernatorial elections in the DRC's four ex-Katanga provinces." ²⁷⁷	provinces, Numbi used violent intimidation to secure victories for candidates affiliated with President Kabila's MP coalition. Numbi threatened to kill opposition candidates who did not voluntarily withdraw from the race, and on the day these exchanges purportedly took place, three candidates withdrew." ²⁷⁸	Congolese National Police ²⁷⁹	his appointment to this position by President Kabila on 14 July 2018)
Kalev Mutondo	US Department of the Treasury EU	12 December 2016 29 May 2017	"As long-term Head of the... ANR), Kalev Mutondo is involved in and responsible for the arbitrary arrest, detention and mistreatment of opposition members, civil society activists and others. He has therefore [been involved in] planning or directing acts that constitute serious human rights violations in DRC." ²⁸⁰	"He has ordered surveillance of the opposition and supported the neutralization of opposition demonstrations and the extrajudicial arrest and detainment of opposition members, many of whom were reportedly tortured." ²⁸¹	Head (formerly General Administrator) of the ANR	No official position currently. President Tshisekedi replaced him with former deputy Justin Inzun Kakiak on 19 March 2019
Gaston Ilunga Kampete (General)	EU	12 December 2016	"As Commander of the Republican Guard (GR), Ilunga Kampete was responsible for the GR [Republican Guard] units deployed on the ground and involved in the disproportionate use of force and violent repression, in September 2016 in Kinshasa. Owing to his continuing role as head of the GR, he is responsible for the repression and infringements of human rights committed by GR agents, such as the violent repression of an opposition rally in Lubumbashi in December 2018. Ilunga Kampete was therefore involved in planning, directing, or committing acts that constitute serious	N/A	Commander of the Republican Guard	Unchanged

²⁷⁷ Council Regulation (EU) 2016/2230 of 12 December 2016, op. cit.

²⁷⁸ U.S. Department of the Treasury, "Treasury Sanctions Two Individuals for Threatening the Stability of and Undermining Democratic Processes in The Democratic Republic of the Congo", 28 September 2016, <https://www.treasury.gov/press-center/press-releases/Pages/i10560.aspx>

²⁷⁹ General John Numbi was suspended from his position as Inspector-General of Police on 5 June 2010, after he was accused of the murders of prominent human rights defender Floribert Chebeya and his assistant and driver Fidèle Bazana in Kinshasa on 2 June 2010. However, he continued to play an important role as an unofficial advisor to President Kabila, according to the US Department of the Treasury

²⁸⁰ Council Implementing Regulation (EU) 2017/904 of 29 May 2017 implementing Article 9(2) of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, 29 May 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.LI.2017.138.01.0001.01.ENG&toc=OJ:L:2017:138:TOC>

²⁸¹ US Department of the Treasury, "Treasury Sanctions Two Congolese Government Officials", 12 December 2016, <https://www.treasury.gov/press-center/press-releases/Pages/i10682.aspx>

			human rights violations or abuses in DRC.” ²⁸²			
Ferdinand Ilunga Luyolo (Colonel)	EU	12 December 2016	“Responsible for disproportionate use of force and violent repression in September 2016 in Kinshasa. In this capacity, Ferdinand Ilunga Luyoyo was therefore involved in planning, directing, or committing acts that constitute serious human rights violations in DRC.” ²⁸³	N/A	Commander of the anti-riot body known as the Légion Nationale d’Intervention (LENI) of the Congolese National Police (LENI)	N/A
Roger Kibelisa	EU	12 December 2016	“As Interior Director of the National Intelligence Service (ANR), Roger Kibelisa is involved in the intimidation campaign carried out by ANR officials towards opposition members, including arbitrary arrests and detention.” ²⁸⁴	N/A	Deputy General Administrator and Head of Interior Security at the National Intelligence Agency	Assistant to the Special Security Advisor at the Presidency of the Republic (appointed by President Tshisekedi on 19 March 2019)
Delphin Kahimbi (Major-General)	EU.	12 December 2016	“Head of Military Intelligence Body (ex-DEMIAP), part of the National Operations Centre, the command and control structure responsible for arbitrary arrests and violent repression in Kinshasa in September 2016, and responsible for forces that participated in intimidation and arbitrary arrests.” ²⁸⁵	N/A	Director of Military Intelligence (DEMIAP)	Was the Deputy Chief of Staff in charge of military intelligence (appointed to this position by President Kabila on 14 July 2018) until his death under unclear circumstances on 28 February 2020
M. Evariste Boshab	US Department of the Treasury EU	12 December 2016 29 May 2017	“In his capacity as Vice Prime Minister and Minister of Interior and Security from December 2014 to December 2016, Evariste Boshab was officially responsible for the police and security services and coordinating the work of provincial governors. In this capacity, he was responsible for arrests of activists and opposition members, as well as disproportionate use of force, including between	“Has supported the neutralization of opposition demonstrations” ²⁸⁷	Former Vice Prime Minister for Interior and Security	Member of Parliament for the ruling coalition following the 30 December 2018 elections

²⁸² Sanctions renewed on 9 December 2019. See: Council of Europe, Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo, 10 December 2019

²⁸³ Ibid

²⁸⁴ Ibid

²⁸⁵ Ibid

²⁸⁷ US Department of Treasury, “Treasury Sanctions Two Congolese Government Officials”, 12 December 2016, <https://www.treasury.gov/press-center/press-releases/Pages/jl0682.aspx>

			September 2016 and December 2016 in response to demonstrations in Kinshasa, which resulted in a large number of civilians being killed or injured by security services. Evariste Boshab was therefore involved in planning, directing, or committing acts that constitute serious human rights violations in DRC. ²⁸⁶			
Emmanuel Ramazani Shadary	EU	29 May 2017	“As Vice Prime Minister and Minister of Interior and Security since 20 December 2016, Ramazani Shadari is officially responsible for the police and security services and coordinating the work of provincial governors. In this capacity, he is responsible for the recent arrests of activists and opposition members, as well as the disproportionate use of force since his appointment, such as the violent crackdown on members of the Bundu Dia Kongo (BDK) movement in Kongo Central, the repression in Kinshasa over January–February 2017 and the disproportionate use of force and violent repression in Kasai provinces. In this capacity, Ramazani Shadari is therefore involved in planning, directing, or committing acts that constitute serious human rights violations in DRC.” ²⁸⁸	N/A	Vice Prime Minister of Interior and Security	Secretary General of the People’s Party for Reconstruction and Democracy (PPRD) which is part of the current ruling coalition
M. Jean-Claude Kazembe Musonda	EU	29 May 2016	“As Governor of Haut Katanga until April 2017, Jean-Claude Kazembe Musonda was responsible for the disproportionate use of force and violent repression committed by security forces and the PNC in Haut Katanga, including between 15 and 31 December 2016, when 12 civilians were killed and 64 were injured as a result of the use of lethal force by	N/A	Former Governor of Haut-Katanga province (March 2016 – April 2017)	N/A

²⁸⁶ Sanctions renewed on 9 December 2019. See: Council of Europe, Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo, 10 December 2019

²⁸⁸ Ibid

			security forces including PNC agents in response to protests in Lubumbashi. Jean-Claude Kazembe Musonda was therefore involved in planning, directing, or committing acts that constitute serious human rights violations in DRC. ²⁸⁹			
François Olenga (General of the Army)	US Department of the Treasury	1 June 2017	N/A	“In his role as head of the Maison Militaire, Olenga has operational control over the Republican Guard” which “has actively disrupted the political process in the DRC, including harassing political rivals, targeting opposing political parties, and arbitrarily arresting and executing Congolese citizens. “Olenga” has overseen security operations on behalf of President Kabila’s efforts to suppress political opposition in the DRC.” ²⁹⁰	Joseph Kabila’s Personal Military Chief	To Amnesty International’s knowledge, Olenga holds no official position since he retired in July 2018

²⁸⁹ Ibid.

²⁹⁰ US Department of Treasury, “Treasury Sanctions Senior Congolese Official for Leading Republican Guard in Undermining Democratic Processes”, 1 June 2017, <https://www.treasury.gov/press-center/press-releases/Pages/sm0100.aspx>

To Amnesty International's knowledge, the Congolese authorities have not investigated any of the sanctioned individuals. Indeed, some of them have been appointed to new, sometimes more senior official positions. For example, on 16 May 2017, President Kabila appointed General John Numbi by Presidential Order to the rank of Grand Officer in the National Order of Heroes – the country's highest honorary title – for "his merits and loyal service rendered to the Nation within the Congolese National Police."²⁹¹ In a series of orders on 17 July 2017, President Kabila, and others, promoted Célestin Kanyama to the rank of Divisional Commissioner (the most senior rank in the Congolese National Police)²⁹² as well as appointing him as the Director General of the Police Training Schools.²⁹³ In November 2017, the President reinstated John Numbi Banza Tambo to a position in the army, and on 14 July 2018, promoted him to Army General or Grand Admiral – making him the Congolese army's highest ranking officer²⁹⁴. He was also appointed as the General-Inspector of the army.²⁹⁵

The UN, the AU and the EU have repeatedly and publicly condemned the deadly repression of protests and called on the authorities to ensure those responsible are held accountable.²⁹⁶

EXTRACT FROM THE UNJHRO-OHCHR JOINT REPORT ON THE EVENTS OF 19 DECEMBER 2016²⁹⁷

"The DRC security forces have repeatedly used excessive force to quash protests related to proposed presidential elections, firing teargas and live ammunition into crowds of protestors and inflicting numerous casualties." (UN Special Rapporteur on freedom of peaceful assembly and of association, Maina Kiai, 23 September 2016²⁹⁸)

"People's demand for a legal and peaceful political transition should not be met with excessive force and paid in blood. They ought to be celebrated and respected. Indiscriminate firing into a crowd is unlawful. Firearms and other potentially lethal weapons should never be used simply to disperse a demonstration."

(UN Special Rapporteur on summary executions, Agnes Callamard, 23 September 2016²⁹⁹)

"The modus operandi of the Congolese police, Republican Guard, Military Police and ANR agents for dispersing protesters generally involved the use of excessive force, including the disproportionate use of tear gas and the unjustified use of live ammunition."

(The UN Joint Human Rights Office³⁰⁰)

"While many individuals who took part in the December 2016 events were arrested and charged with looting, destruction of property and insurrection, no State agent or official has so far been investigated or prosecuted for the extrajudicial killings and other serious human rights violations committed in the context of the authorities' actions to prevent and contain the demonstrations. This was also the case during major demonstrations and opposition activities which occurred in September and November 2016. The lack of accountability for past human rights violations, including those committed during the demonstrations in Kinshasa on 19 and 20 September 2016, may have encouraged a sense of impunity, and defence and security forces to commit further violations in December 2016.

"Despite several calls by national and international actors, including special procedures of the United Nations Human Rights Council, no action was taken by the authorities to create a more conducive

²⁹¹ AFP via Sunday Times, "DR Congo's tainted ex-police chief made national hero", 6 June 2017,

<https://www.timeslive.co.za/news/africa/2017-06-06-dr-congos-tainted-ex-police-chief-made-national-hero/>

²⁹² As per the Organic 11/013 of 11 August 2011 on the organization and functioning of the Congolese National Police

²⁹³ Anadolu Agency, "RDC : Nouvelles nominations à la tête de la police", 18 July 2017, <https://www.aa.com.tr/fr/afrique/rdc-nouvelles-nominations-%C3%A0-la-t%C3%AAtede-la-police/864133>

²⁹⁴ Under the Congolese Law (Presidential Ordinance No. 10/047 of 23 June 2010 instituting the wearing of ranks and distinctive insignia within the Armed Forces of the Democratic Republic of the Congo), the General of the Army or Grand Admiral is the highest rank, followed by Lieutenant-General or Admiral, Major-General or Vice-Admiral, Brigadier-General or Rear-Admiral, https://www.droitcongolais.info/files/412.06.10-Ordonnance-du-23-juin-2010_Grades-et-insignes.pdf

²⁹⁵ RFI, "RDC : John Numbi nommé Inspecteur général de l'armée", 15 juillet 2018, <http://www.rfi.fr/afrique/20180715-rdc-john-numbi-inspecteur-general-armee-fardc-chebeya-bazana-enquete>

²⁹⁶ OHCHR, "DRC: UN human rights experts deeply condemn new violent repression of protests", 23 September 2016, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20573&LangID=E>; The AU, the UN, the EU and the International Organization of the Francophonie, "Joint statement on the Democratic Republic of Congo", 24 September 2016,

https://eeas.europa.eu/delegations/un-new-york/10411/node/10411_gl; VOA News, "UN Condemns Violent Government Response Against Protesters in DRC", 5 January 2018, <https://www.voanews.com/africa/un-condemns-violent-government-response-against-protesters-drc>;

²⁹⁷ OHCHR, "Report on the human rights violations in the Democratic Republic of Congo in the context of the events of 19 December 2016" (para. 79 & 80), February 2017, https://www.ohchr.org/Documents/Countries/CD/UNJHRODecember2016_en.pdf

²⁹⁸ OHCHR, "DRC: UN human rights experts deeply condemn new violent repression of protests", 23 September 2016,

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20573&LangID=E>

²⁹⁹ Ibid

³⁰⁰ UNJHRO, "Rapport du Bureau conjoint des Nations unies aux droits de l'homme sur les droits de l'homme et les libertés fondamentales en période pré-électorale en République démocratique du Congo, entre le 1er janvier et le 30 septembre 2015", December 2015, https://www.ohchr.org/Documents/Countries/CD/UNJHRODecember2015_fr.pdf

environment for the holding of peaceful political activities. In view of the deterioration of the political and human rights situation, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders issued two joint public statements on 1 and 19 December respectively calling for the restoration of all public liberties and the lifting of political restrictions. No action has been taken by the Government in this regard. The human rights violations documented in the context of the December 2016 events also show that the Government has made insufficient progress in implementing the recommendations of the most recent previous reports by MONUSCO and OHCHR on human rights and fundamental freedoms.”

In addition to reactions from DRC partner states and international organizations, the Office of the Prosecutor of the ICC pressured the Congolese authorities to promptly investigate allegations of crimes that may fall under the jurisdiction of the ICC. In September 2016, the Office of the Prosecutor expressed “concerns about allegations of crimes that could constitute crimes within the jurisdiction of the ICC”, and warned all stakeholders that “the Prosecutor would not hesitate to act and take all necessary steps to prosecute those responsible, in line with the principle of complementarity if such crimes were committed.”³⁰¹

Further to that statement, the Office of the Prosecutor of the ICC deployed a mission to Kinshasa between 16 and 20 October 2016 and recalled on “all parties potentially involved, and to all Congolese actors, irrespective of their official status or political affiliation, to show restraint, and ensure in particular that they, their supporters, sympathisers and agents refrain, at all times and in all locations, from committing any act of criminal violence against individuals and property, and take the necessary measures to prevent the commission of such acts.”³⁰² The Prosecutor of the ICC reiterated these calls during her visit in Kinshasa in May 2018³⁰³ and in a statement a few days before the holding of elections in December 2018.³⁰⁴

³⁰¹ Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, following the recent violence in the Democratic Republic of the Congo, 23 September 2016, <https://www.icc-cpi.int/Pages/item.aspx?name=160923-otp-stat-drc>

³⁰² Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, regarding the mission sent to the Democratic Republic of the Congo, 17 October 2016, <https://www.icc-cpi.int/Pages/item.aspx?name=161017-otp-stat-drc>

³⁰³ Statement Prosecutor of the International Criminal Court, Fatou Bensouda, at the conclusion of her visit to the DRC: “The fight against impunity and the critical prevention of crimes under the Rome Statute are essential for social stability”, 4 May 2018, <https://www.icc-cpi.int/Pages/item.aspx?name=180405-otp-stat>

³⁰⁴ Statement by the Prosecutor of the International Criminal Court, Fatou Bensouda, on the recent pre-election violence in the Democratic Republic of Congo, 20 December 2018, <https://www.icc-cpi.int/Pages/item.aspx?name=20181220-ostat-prosecutor>

8. LEGAL FRAMEWORK

The DRC is a state party to several international human rights instruments³⁰⁵ including the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights (ACHPR), the Convention on the Rights of the Child (CRC) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Many human rights are also enshrined and protected under the DRC's Constitution. The Constitution guarantees the rights to life and to physical integrity³⁰⁶; to individual freedom;³⁰⁷ the right not to be subject to arbitrary arrest or detention³⁰⁸; the right to information³⁰⁹; to freedom of opinion and expression;³¹⁰ and the right not to be subject to torture or to cruel, inhuman or degrading treatment.³¹¹

8.1 FREEDOM OF PEACEFUL ASSEMBLY

The right to peaceful assembly is protected under international law. Article 21 of the ICCPR states: “the right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.” It is also protected by Congolese law under Article 25 of the Constitution which says that “the freedom of peaceful and unarmed assembly is guaranteed subject to the respect for law, public order and morality.” Article 26 states, that “the freedom to demonstrate is guaranteed. Any demonstration on the public roads or in the open air, requires organizers to inform the competent administrative authority in writing....”

Restrictions to this right must therefore be provided by law and any restrictions should be necessary and proportionate. Policing of assemblies should be guided by international human rights law, and, in particular, decisions to disperse and to use force should be taken only as a last resort and in line with the principles of necessity and proportionality. Members of the security forces should act in accordance with the UN Code of Conduct for Law Enforcement Officials and the ACHPR Guidelines on Policing assemblies.³¹² Using lethal force against a protester who does not pose an imminent threat to life or of serious injury is prohibited under international human rights law.

Killings that result from unnecessary or excessive use of force by state agents constitute arbitrary deprivation of the right to life, and as such violate Article 6(1) of the ICCPR and Article 4 of the ACHPR. Similarly, unlawful and deliberate killings ordered by government officials or with their complicity or acquiescence

³⁰⁵ The Democratic Republic of the Congo (then Zaïre) ratified the ICCPR in 1976; the International Covenant on Economic, Social and Cultural Rights (ICESC) in 1976; the Convention on the Rights of the Child (CRC) in 1990; the African Charter on Human and Peoples' Rights in 1987; the Convention on the Rights of the Child (CRC) in 1990; the CAT in 1996.

³⁰⁶ Article 16 of the Constitution

³⁰⁷ Article 17

³⁰⁸ Article 17 and 18

³⁰⁹ Article 24

³¹⁰ Article 22 and 23

³¹¹ Article 61

³¹² UN General Assembly, Resolution 34/169 of 17 December 1979, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>

amount to extrajudicial executions, which are prohibited at all times and constitute crimes under international law.

8.2 RIGHT TO AN EFFECTIVE REMEDY

The authorities have an obligation to conduct prompt, thorough, independent and impartial investigations into all possible unlawful killings and other allegations of human rights violations by security forces, and to bring the alleged perpetrators to justice.³¹³

Victims of crimes and other serious human rights violations have a right to justice and reparations. The DRC Constitution recognizes that “Everyone has the right to have his case heard within a reasonable time by a competent judge.”³¹⁴ The ACHPR provides that: “Every individual has the right to an appeal to competent national bodies against acts which violate his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force.”³¹⁵

Under international law, victims’ right to remedies³¹⁶ include:

- Equal and effective access to justice
- Adequate, effective and prompt reparation for harm suffered
- Access to relevant information concerning violations and reparation mechanisms

With regards to reparations, the UN Basic Principles and Guidelines states that: “In accordance with domestic law and international law, and taking account of individual circumstances, victims of gross violations of international human rights law and serious violations of international humanitarian law should, as appropriate and proportional to the gravity of the violation and the circumstances of each case, be provided with full and effective reparation, as laid out in principles 19 to 23, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.”³¹⁷

³¹³ OHCHR, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>
The UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (the “Minnesota Protocol”), endorsed by the UN General Assembly in 1989, <https://www.ohchr.org/Documents/Publications/MinnesotaProtocol.pdf>

³¹⁴ Article 19

³¹⁵ Article 7.1.1. of the ACHPR

³¹⁶ Per international law, “victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute violations of international human rights law.” (Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by General Assembly resolution 40/34 of 29 November 1985), <https://www.ohchr.org/EN/ProfessionalInterest/Pages/VictimsOfCrimeAndAbuseOfPower.aspx>

³¹⁷ UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, para. 18.

9. INSTITUTIONAL FRAMEWORK

The President of the Republic is the "guarantor of the Constitution" and is responsible for "ensuring the proper functioning of the institutions."³¹⁸ To this end, he enjoys broad powers, including the power to appoint, remove from office, and if necessary dismiss, subject to the proposal from the government³¹⁹:

- Senior army and national police officers
- The army's General Chief of Staff, the Chiefs of Staff and the commanders of the major armed forces units
- Senior officials in the public administration
- Managers of public services and establishments, including, for example, the senior officers of the ANR

The President also appoints, removes their responsibilities and, if necessary, dismisses, by decree, the judges and the prosecution services on the proposal of the Superior Council of the Judiciary.³²⁰

The Parliament – made up of the National Assembly and the Senate – is responsible for passing legislation and exercises control over the government and public services.³²¹ As such, it should ensure that adopted laws respect the rights of the people as enshrined in the Constitution and in international conventions ratified by the state, including the right to life and the right to effective remedy, as well as the rights to freedom of expression, association and assembly. As the budgetary authority,³²² it must also ensure that the judiciary has the necessary means to carry out its mission.

The judiciary is "the guarantor of individual freedoms and fundamental rights."³²³ Therefore, it must enforce the rights of people as enshrined in the Constitution and in international conventions ratified by the state, including the rights to life, to justice, and the rights to freedom of expression, association, and assembly.

³¹⁸ Article 69

³¹⁹ Article 81

³²⁰ Article 82

³²¹ Article 100

³²² Article 126

³²³ Article 150

10. CONCLUSION AND RECOMMENDATIONS

Five years since the beginning of the protests against President Kabila's continued rule, members of the security forces allegedly responsible for crimes and other human rights violations during protests, continue to enjoy impunity. This report demonstrates the clear lack of investigations and prosecutions into those who allegedly ordered, committed or facilitated these abuses.

Since his inauguration in January 2019, President Tshisekedi committed on many occasions to strengthen the rule of law, fight impunity and ensure justice. His promises raised the hopes of many, including the victims of the 2015-2018 crackdowns. The measures he took to ensure that most of the DRC's prisoners of conscience were released were welcomed as a step towards a more open and just society. However, a year after taking office, not one perpetrator of the human rights violations committed during protests has been brought to justice and the few credible recommendations from the government-led CEM 3121 inquiry are yet to be acted upon.³²⁴ As the Director of human rights organisation *La Voix des Sans Voix* put it, "these are not mere files, but the lives of hundreds of victims which seem to have been dismissed by the State without any form of trial."³²⁵

In September 2019, when asked during an interview with French media, about the Congolese people's need for accountability for past human rights abuses, President Tshisekedi said he had no time to "poke around....in the past. I have no time to waste in gangland slaying, I am forward-looking."³²⁶

President Tshisekedi and his government must stop ignoring victims' suffering and their calls for truth, justice and reparations. Justice is not optional, it is a right for the victims and the state has an obligation to allow its people to realize that right. As a father who lost his 16-year old son at the hands of security forces put it, "justice will not bring my son back, but perhaps it will prevent another parent from having to experience what I have gone through."³²⁷

10.1 TO THE PRESIDENT OF THE REPUBLIC

- Publicly commit to ensure that those allegedly involved in crimes and other serious human rights violations against demonstrators between January 2015 and December 2018 are effectively prosecuted regardless of the suspect's rank or position, and that all necessary measures are taken as a matter of urgency to prevent further brutality against protesters.
- Suspend all government officials, police and military officers suspected of human rights violations in the context of the January 2015 to December 2018 protests including the Police Commissioner for

³²⁴ Open letter from 26 former prisoners of conscience to President Tshisekedi, 10 April 2019, <https://www.sautiyacongo.org/lettre-publique-a-monsieur-felix-tshisekedi-president-de-la-republique-democratique-du-congo/>

³²⁵ Interview with Rostin Manketa, Director, La Voix des Sans Voix, Kinshasa, 9 August 2019

³²⁶ Le Monde, Félix Tshisekedi : "J'ai trop de travail et pas de temps à perdre avec des règlements de comptes", 22 September 2019, https://www.lemonde.fr/afrique/article/2019/09/22/felix-tshisekedi-j-ai-trop-de-travail-et-pas-de-temps-a-perdre-avec-des-reglements-de-compte_6012599_3212.html

³²⁷ Interview with Julien, father of a victim, Kinshasa, 2 March 2018. (Name has been changed to respect the interviewee's anonymity).

Kinshasa Sylvano Kasongo, as well as all those under international sanctions over allegations of such violations, pending thorough, independent and impartial investigations and prosecutions.

10.2 TO THE JUDICIARY

- Promptly conduct or resume independent, impartial and effective investigations in relation to crimes and other serious human rights violations committed during protests between January 2015 and December 2018, including the killing of Gaby Mamba in January 2015, the killings of five UDPS members on 20 September 2016, the deaths of Thérèse Kapangala on 21 January 2018 and Rossy Mukendi on 25 February 2018.
- Ensure that those suspected of sponsoring, committing or condoning these crimes and other serious human rights violations, including Police Commissioner for Kinshasa Sylvano Kasongo and Deputy Superior Commissioner Carine Lokeso Koso and other high-ranking police, military and government officials subjected to judicial complaints, are promptly investigated and, if accusations are substantiated, prosecuted before independent, impartial and competent courts, in accordance with international fair trial standards.
- Ensure victims' rights to justice and reparations are respected, including by giving due consideration to their complaints and by allowing such complaints to progress.

10.3 TO THE MINISTER OF JUSTICE

- Ensure the recommendations of the Joint Investigation Commission (CEM 3121) report are promptly acted upon in relation to prosecutions of individuals suspected of human rights violations committed during these events.
- Promptly instruct prosecutors nationwide to open and/or expedite investigations, in an impartial, independent and effective manner, in all cases in connection with crimes and other serious human rights violations committed during protests between January 2015 and December 2018.

10.4 TO THE MINISTER FOR HUMAN RIGHTS

- Ensure the Joint Investigation Commission (CEM 1919) report is finalized and made public as a matter of urgency.
- Compile and promptly publish an inventory of all ongoing judicial investigations and prosecutions in connection with crimes and other serious human rights violations allegedly committed during protests between January 2015 and December 2018, including information about the status of those cases.
- Monitor the implementation of the recommendations of the Joint Commission on the events of January 2018 and February 2018 by relevant state institutions, and regularly communicate progress to the public, the African Commission on Human and Peoples' Rights, the UN Human Rights Council as well as other regional and international human rights bodies.

10.5 TO THE MINISTER OF THE INTERIOR AND SECURITY

- Enforce the right to freedom of peaceful assembly as provided for by the ICCPR, the ACHPR and other binding international instruments, and, as laid down in international standards including the UN and AU guidelines on policing assemblies, including on the use of force.
- Enforce the provision of Article 26 of the Constitution concerning freedom of peaceful assembly and relevant provisions concerning prior notification: issue formal instructions to administrative authorities including governors, mayors, administrators of territories and others to abstain from imposing the automatic requirement for prior authorization to hold peaceful assemblies, and by sanctioning those who flout instructions, in accordance with relevant laws.

10.6 TO PARLIAMENT

- Adopt and implement a clear legal and policy framework on policing assemblies which is compliant with human rights, including on the use of force, in line with international standards. In relation to the use of force, establish a clear obligation to attempt de-escalation and resort to non-violent means in the first instance, and define clear criteria and thresholds for the different degrees of force and weapons used, including by establishing restrictions and prohibitions to achieve the full respect of the principles of necessity and proportionality.
- Ensure that institutions mandated with investigations and prosecutions of human rights violations, including the judicial system and the CNDH, have adequate means to effectively fulfil their mandates, – including an adequate budget.

10.7 TO THE CNDH

- Actively and effectively support victims and their relatives in their quest for truth, justice and reparation; including through independent and thorough investigations into reports of human rights violations; and regularly report to the public as well as to relevant regional and international human rights bodies, including at the UN and AU levels.

10.8 TO THE INTERNATIONAL COMMUNITY, INCLUDING THE AU, UN, EU, THEIR RESPECTIVE HUMAN RIGHTS MECHANISMS, AND DRC'S BILATERAL PARTNERS

- Support efforts by the DRC authorities to investigate and prosecute alleged past crimes and other serious human rights violations, including by providing funding and technical support where appropriate.
- Hold the DRC authorities to account with regards to the lack of justice and accountability for crimes and other serious human rights violations committed during demonstrations between 2015 and 2018, particularly during relevant human rights review mechanisms.
- Ensure that individuals who are the subject of international sanctions for allegations of serious human rights violations are effectively investigated and prosecuted at national or international levels before considering lifting sanctions.
- Assist the DRC authorities in the enforcement of international standards in relation to the rights to freedom of peaceful assembly and association and public order management procedures, including through human rights components in training courses for police and others.

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VICTIMS OF 2015-2018 BRUTAL CRACKDOWNS IN THE DEMOCRATIC REPUBLIC OF CONGO DENIED JUSTICE

Between January 2015 and December 2018, Congolese security forces brutally and systematically cracked down on protesters who opposed President Kabila's attempts to remain in power beyond his second constitutional term. By the end of December 2018, at least 320 people were dead and 3,500 had been injured, mainly in the capital Kinshasa. More than 8,000 people were also arbitrarily arrested or detained in connection with the protests.

Based on Amnesty International's monitoring of the situation since 2015 and an intensive two-year research conducted between February 2018 and January 2020, this report explores the Congolese authorities' failure to effectively investigate these human rights violations, and to bring perpetrators to justice.

While speaking of a past period, the report brings alive the real issues facing the Democratic Republic of the Congo today: the lack of accountability, the judicial acquiescence, the complete absence of justice mechanisms, the widening trust deficit between government and people, the reckless and senseless killings of young people whose only wrong is to have peacefully stood for their rights such as Thérèse Kapangala and Rossy Mukendi, among many others.

It echoes the voices of the victims of the brutal crackdown and their relatives, who are still demanding that justice be done.