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Technical assistance and capacity-building**Report on the situation of human rights in the Democratic Republic of the Congo before, during and after the elections of December 2018*****Report of the Office of the United Nations High Commissioner for Human Rights***Summary*

This report is presented pursuant to resolution 39/20 of the Human Rights Council, which requested the United Nations High Commissioner for Human Rights to submit a report on the human rights situation in the Democratic Republic of the Congo before, during and after the elections of December 2018.

The report describes violations and abuses of human rights and fundamental freedoms committed in the country between 22 November 2018 and 24 January 2019, within the framework of the electoral process, comprising the campaign period, election day and the immediate post-electoral period until the inauguration of a new president.

* Late slot due to the need to include information on the post-election period

Contents

	<i>Page</i>
I. Introduction	3
II. Context	3
III. Methodology	4
IV. Campaign period	5
A. Human rights violations perpetrated by State actors.....	5
B. Human rights abuses perpetrated by armed groups and militias.....	8
V. Election day.....	9
A. Violations of the right to vote	9
B. Other human rights violations.....	11
VI. Post-election period.....	11
A. Violations of the Rights to life, physical integrity and liberty and security.....	12
B. Violations of the rights to freedoms of opinion and expression, peaceful assembly, and association.....	12
VII. Conclusions and recommendations	13

I. Introduction

1. Resolution 39/20 of the Human Rights Council¹ requested the United Nations High Commissioner for Human Rights to submit at its fortieth session a report on the human rights situation in the Democratic Republic of the Congo before, during and after the elections of December 2018.
2. On 30 December 2018, the Democratic Republic of the Congo held presidential, and national and provincial legislative elections, preceded by an official campaign period from 22 November to 21 December 2018. The national electoral commission, the *Commission électorale nationale indépendante* (CENI), announced partial and provisional results on 10 January 2019, which the Constitutional Court confirmed on 20 January.
3. Noting the challenges posed by the electoral process to peace and stability in the country and the region, the United Nations Security Council requested the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) to “monitor, report immediately to the Security Council, and follow up on human rights violations and abuses and violations of international humanitarian law to report on restrictions to political space and violence, including in the context of the elections”.²

II. Context

4. According to the Congolese Constitution,³ the President of the Republic is elected by direct universal suffrage for a five-year term, renewable once.⁴ President Joseph Kabila Kabange started his second term on 20 December 2011. According to constitutional provisions, the legislative and presidential elections were to be organized before 19 December 2016 to elect a new President of the Republic and members of parliament.⁵ Elections were also to be held for senators, as well as local and provincial elected officials, and have been repeatedly postponed.
5. On 17 January 2015, the National Assembly adopted a draft law that included a provision conditioning the holding of the next presidential and legislative elections on the organization of a national census. Dissatisfaction with this draft law led to demonstrations across the country between 19 and 22 January 2015. The violent suppression of most of these demonstrations by defence forces and security services marked a deterioration in the human rights situation across the country, particularly with regards to respect for civil and political rights.⁶ The provision relating to the conduct of the census was subsequently removed from the draft electoral law. In May 2016, the Constitutional Court ruled that the incumbent president could remain in office in a custodian capacity until the election of the next president, which led to further protests and their violent repression by State defence forces and security services. In September and December 2016, demonstrations for the timely holding of elections and respect for the Constitution were again violently repressed by the State defence forces and security services, characterized by excessive use of force and loss of life.⁷
6. Following several rounds of dialogue, an agreement facilitated by the *Conférence épiscopale nationale du Congo* (CENCO) was signed on 31 December 2016 by representatives of the government, political parties and civil society. The so-called Saint-Sylvester Agreement established a framework for the delayed organization of elections by

¹ A/HRC/RES/39/20, para. 30.

² United Nations Security Council Resolution 2409 of 27 March 2018.

³ *Constitution de la république démocratique du Congo*, 18 February 2006.

⁴ Articles 30 and 220 of the Constitution.

⁵ Article 103 of the Constitution.

⁶ See the UNJHRO Report 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, available here.

⁷ See the UNJHRO Report on Human Rights Violations in the Democratic Republic of the Congo in the Context of the Events of 19 December 2016, published in February 2017 and available here, and the UNJHRO Preliminary investigation report on human rights violations and violence perpetrated during the demonstrations in Kinshasa between 19 and 21 September 2016, available here.

the end of 2017, the establishment of interim power-sharing mechanisms, the prioritization of confidence-building measures - including the release of political prisoners, the return of political figures in exile, the reopening of some media outlets - and the establishment of an oversight mechanism for the implementation of the agreement (the *Conseil national de suivi de l'Accord*).

7. On 5 November 2017, following the completion of the voters' registration update, and citing technical and logistical constraints in the organization of elections by the end of 2017, CENI published an electoral calendar which scheduled the holding of presidential, national and provincial assembly elections for 23 December 2018, sparking new protests that were again violently repressed. The pre-electoral period, before the campaign started, was marked by numerous protests led by civil society organizations, mostly against the use of voting machines and irregularities in the voters' registry. Members of the opposition were concerned that the use of voting machine could lead to fraud, and called for a review of the voters' registry alleging it included millions of voters with incomplete registration, notably without fingerprints. This period was also marred by a lack of inclusive dialogue and a climate of mistrust vis-à-vis CENI, with civil society leaders and the general population questioning its independence. Moreover, throughout the electoral process, UNJHRO observed politically-motivated restrictions to freedom of the press and violations of the right to freedom of expression and opinion.

8. Twenty-one candidates ran for the presidential election. An agreement between opposition parties signed in Geneva on 11 November 2018 that designated Martin Fayulu as the common opposition candidate, did not survive political divisions. As a result, the official campaign period was launched on 22 November 2018 with three political blocks rallied behind three main candidates: Martin Fayulu from the Lamuka coalition, Felix Tshisekedi from the *Cap pour le changement* (CACH) coalition, and Emmanuel Ramazani Shadary from the *Front commun pour le Congo* (FCC) coalition of the presidential majority.⁸

9. Armed groups interfered in the electoral process throughout the campaign period, notably in Ituri, the Kasai region, Maniema, North Kivu and South Kivu. Incidences of preventing electoral campaign activities by blocking access to some candidates were recorded, as were cases of abductions, looting, death threats and intimidation of candidates and the local population. More than half of the elections-related human rights abuses committed by armed groups in 2018 occurred in November and December, during the electoral campaign.

10. On 20 December 2018, one day before the end of the official campaign period, CENI announced the postponement of the elections to 30 December 2018, citing logistical challenges, mainly as a consequence of a fire at its warehouse in Kinshasa, on 13 December 2018, that destroyed voting machines intended for the capital and voter rolls.

11. On 26 December 2018, CENI announced the postponement to March 2019 of elections in the city and territory of Beni, as well as in the city of Butembo, all in North Kivu province, citing risks associated with the Ebola virus disease (EVD) outbreak and the security situation. The same delay would be observed in Yumbi (Mai-Ndombe), due to ethnic violence in which several hundred persons were killed and thousands displaced in December 2018.

III. Methodology

12. The report is based on information compiled by UNJHRO through its 18 field offices and its headquarters in Kinshasa. Throughout the campaign period, UNJHRO engaged with national and local authorities and stakeholders to defuse tensions and enable peaceful demonstrations to take place. On elections day, UNJHRO led monitoring teams that were deployed to at least 27 locations; special monitoring teams were deployed to locations identified as potential hotspots, such as Lodja (Sankuru) and Kikwit (Kwilu). The teams conducted interviews with voters, candidates, CENI staff, electoral observers, civil society

⁸ The official list of candidates included one woman.

members and the authorities. The deployment of these teams in key locations played a preventive role, deterring violence.

13. The report presents cases that were documented and verified by UNJHRO rather than an exhaustive overview of human rights violations perpetrated during the period under review. Certain allegations reported to UNJHRO could not be verified and were therefore not included in this report. It should be noted that one incident can include the violation of several human rights; UNJHRO records each violation. For the purposes of this report, UNJHRO included only human rights violations which were related to the electoral process, mostly resulting from violent dispersion of demonstrations or political gatherings by State actors, violations against candidates or voters, or actions committed with the aim of affecting the outcomes of the elections.

14. UNJHRO documents each case in accordance with OHCHR methodology, and in support of the Government's efforts towards respect for human rights and the fight against impunity.

15. Investigations and access to information by UNJHRO were hindered by various challenges. Due to the vastness of the territory, as well as logistical, financial, security and human resources constraints, the human rights monitoring teams were deployed primarily to key cities and towns. OHCHR methodology for verification and documentation of human rights violations requires triangulation of sources, and some allegations of elections-related violations were therefore not included in the report as they were still being investigated at the time of finalization. Moreover, as protests were continuing in some areas while the report was being prepared, some events are not captured.

IV. Campaign period

16. During the official electoral campaign period, from 22 November to 21 December 2018, UNJHRO documented 147 elections-related human rights violations, notably the use of excessive force by defence forces and security services during demonstrations leading to killings and injuries; threats against and intimidation of political party representatives and candidates; and undue restrictions to the rights to liberty and security of the person, and to the rights to freedoms of opinion and expression, peaceful assembly and association.

17. Elections-related human rights violations during the campaign period were recorded in 21 provinces,⁹ with significant variations. Approximately 75 per cent of human rights violations were documented in seven provinces, namely Haut-Katanga, Kasai, Maniema, North Kivu, South Kivu, Tanganyika and Tshopo. In some of these Provinces, inter-ethnic dynamics exacerbated tensions and were in some cases fuelled by inflammatory speech by some authorities, candidates and their supporters.

18. UNJHRO documented eight incidents of arbitrary killings affecting 15 persons, including two women and one child; 42 violations of the right to liberty and security of person, affecting 316 victims, including at least 12 women and six children, and 27 violations of the right to physical integrity affecting 137 victims, including at least three women and seven children.

19. Such infringements of fundamental rights and freedoms did not contribute to an environment conducive to electoral campaign activities.

A. Human rights violations perpetrated by State actors

20. Most of the human rights violations documented during the campaign period were related to the excessive use of force by State defence forces and security services to disperse

⁹ No violations were documented in Bas-Uélé, Equateur, Lomami, Nord-Ubangi and Sankuru.

political gatherings and peaceful protests, predominantly those organized by opposition parties.¹⁰

21. During the electoral campaign, the *Police nationale congolaise* (PNC) and *Forces armées de la République démocratique du Congo* (FARDC), including the Republican Guard, resorted to lethal weapons for crowd control purposes and, in many instances opened fire to disperse demonstrations, in contravention of international norms and standards.¹¹ The behaviour of State defence forces and security services varied significantly between different regions, with most cases of excessive use of force documented in Haut-Katanga, Kinshasa, Kwilu, Maniema, North Kivu, Tanganyika and Tshopo provinces, and in the three provinces of the Kasai region. For example, on 11 December 2018, in Lubumbashi (Haut-Katanga), PNC agents violently dispersed supporters of opposition presidential candidate Martin Fayulu, who had gathered at the airport to welcome him. They used live ammunition, killing three persons by gunshots, and wounding seven others. In other locations where the PNC policed campaign activities, such as in Mbuji-Mayi (Kasai Oriental), no violations of the rights to life or physical integrity by PNC were documented. This was partly the result of consistent UNJHRO and MONUSCO advocacy and capacity building and sensitization sessions organized throughout the country since July 2017.

22. During the electoral campaign, UNJHRO documented 18 violations of the right to life committed by State defence forces and security services, including the arbitrary killing¹² of nine victims, including two women and one child. In addition, at least 119 people, including three women and seven children, were wounded.

23. Moreover, FARDC soldiers, agents of PNC or the *Agence nationale de renseignements* (ANR) arbitrarily arrested 271 people, including 12 women and six children, during the repression of protests (some of which were partially violent) against the use of the voting machine and irregularities on the voters' registry, or the postponement of elections in Beni, Butembo and Yumbi. Most of these violations were linked to attempts to intimidate members of the political opposition, civil society or demonstrators in order to restrain or discourage their activities.

24. North Kivu was the province where UNJHRO documented the highest number of human rights violations. One man was executed extrajudicially by FARDC soldiers who used live ammunition to disperse a crowd of protesters, and 172 people, including 11 women and four children, were arrested arbitrarily by State defence forces and security services. Most of the violations happened in Beni and Butembo in the context of demonstrations against the deferment of elections in part of the province. Civil society and youth groups protested intensely in Beni, Isale, Bulambo, Bunyuka, Bulongo and Kasindi (Beni territory), and in Butembo city. In Beni, PNC agents shot live bullets into the air to disperse the protesters. These demonstrations led to the arbitrary arrests of 151 people (including four women and eight children) between 26 and 29 December 2018. At least 133 of them had been released at the time of finalizing the report, following advocacy by UNJHRO. The fact that CENI cited the Ebola outbreak as one of the reasons for postponing the elections led to the destruction by protesters of at least eight healthcare facilities in different parts of Beni territory, notably in Mutwanga, Bulongo, Kisima and Lume, which significantly slowed down the response to the outbreak.

25. The other provinces where the highest number of violations were documented were Haut-Katanga, Kasai, Maniema and Tanganyika. Restrictions to democratic space were particularly felt in the province of Maniema, home to ruling party candidate Emmanuel Shadary, where authorities prevented opposition candidates and supporters from accessing public space for political meetings. UNJHRO documented a high number of violent

¹⁰ See UNJHRO report on the unlawful, unjustified and disproportionate use of force against protesters in the Democratic Republic of the Congo in March 2018, available here. To date, the recommendations of this report have not been implemented despite UNJHRO advocacy and offer to support.

¹¹ The Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials are applicable.

¹² The other violations of the right to life mainly consisted of death threats.

confrontations between ruling party and opposition supporters, with no intervention by the police to protect the rights of the individuals concerned.

26. In many locations, campaign activities were restricted by local administrative authorities, as well as by PNC and FARDC, in clear violation of the rights to freedom of expression and of peaceful assembly. For example, on 19 December 2018, the Governor of Kinshasa issued an official statement forbidding political campaign activities involving public demonstrations in the capital, alleging a threat to public order and security. The announcement was made shortly before the arrival of Martin Fayulu, as thousands of his supporters were waiting for a public meeting with him. Consequently, police officers interrupted the construction of podiums and stopped the convoy of Mr Fayulu, who was subsequently escorted by the police to his residence and not to the place of the meeting. In Boma (Kongo Central), the mayor prohibited political meetings and processions, allegedly to prevent potential noise and traffic disruptions. In Tshuapa, while FCC candidates conducted campaign activities without restrictions, PNC agents and local authorities prevented opposition candidates from doing the same.

27. UNJHRO documented violations of freedom of expression, including freedom of the press, throughout the electoral campaign period. It documented the closure by State authorities of a radio television channel in Haut-Lomami, two radio stations in Mongala and one in South Kivu, all owned by members of the opposition. In Haut-Lomami, the radio was closed because it was accused of mobilizing the audience for the campaign visit of a certain candidate. UNJHRO also documented intimidation of a journalist working for a local radio-television station who was questioned by ANR agents on 5 December 2018, in Nioki (Mai-Ndombe). The previous day, during a broadcast, he had denounced police officers who had reportedly paid money in exchange for a copy or the number of voter registration cards. Following advocacy by UNJHRO, the journalist was released.

28. Political divisions and intolerance led to numerous cases of threats and intimidation of voters, human rights defenders and other civil society activists, journalists and opposition candidates by State authorities as well as by State defence forces and security services, impeding the exercise of public freedoms. On 5 December 2018, in Likasi, (Haut-Katanga), an opposition candidate in the national legislative elections was threatened with death by a PNC commander who also tore up a campaign poster of the candidate. On 26 December 2018, in Fungurume (Lualaba), during a meeting with local authorities and civil society, two FCC members of the provincial assembly and two FCC candidates in the provincial legislative threatened to kill or harm anyone campaigning for opposition candidates in the presidential election. No action was taken by the party or by the authorities to condemn this behaviour.

29. UNJHRO documented over 50 violent clashes between supporters of different candidates, in 18 different provinces, notably in Haut-Katanga, Ituri, in the greater Kasai region, in Kwilu, Maniema, South Kivu and Tshopo provinces. In some cases, the police did not intervene to manage the situation and protect the rights of those concerned, including those who were physically attacked. In several cases, the clashes were marked by human rights violations by State agents, such as arbitrary arrests. For example, on 9 December 2018, in Kindu (Maniema), the police used tear gas and live ammunition to disperse a confrontation between supporters of Lamuka and of the *Parti du peuple pour le renouveau et la démocratie* (PPRD). Five persons who were not involved in the violence were arbitrarily arrested and released the following day, following advocacy by UNJHRO. On 25 December 2018, in Ibambi, Wamba territory, Haut-Uélé province, PNC agents injured a man when shooting live bullets to disperse two groups of supporters of different National Assembly candidates of the FCC coalition who were fighting.

30. While article 33 of the electoral law and international instruments and jurisprudence¹³ provide candidates in elections with equal, non-discriminatory access to the media, State media, particularly the *Radio-télévision nationale congolaise*, focused their coverage on the activities of the ruling majority candidates and their allies during the electoral campaign, and

¹³ A/HRC/39/28, para. 34; A/HRC/26/30, para 23; United Nations Human Rights Committee, Concluding Observations on Togo (2002), para 17.

provided limited coverage of opposition events, often appearing biased. Most media outlets were partisan, favouring one political party, and failed to broadcast objective, fact-based news of electoral developments. Pro-opposition journalists faced threats, harassment and intimidation by some authorities, candidates and their supporters, while journalists working for pro-ruling majority media who covered events criticizing the Government were increasingly subjected to harassment. Meanwhile, close collaborators of President Kabila, such as Government Spokesperson Lambert Mende, shunned UN Radio station Radio Okapi over claims that it was not impartial. Women were generally given little access to media, which consequently did not address specifically women concerns.

B. Human rights abuses perpetrated by armed groups and militias

31. Armed groups were responsible for 17 elections-related violations, such as abductions of candidates, death threats, attacks against civilians, looting and destruction of property. The interference of armed groups in electoral campaign activities mostly occurred in Ituri, Kasai Central, Maniema and North Kivu provinces, and included abuses of the rights to freedoms of expression and peaceful assembly, and the right to vote and stand for elections. In some regions dominated by armed groups, candidates were prevented from carrying out campaign activities due to the security situation, such as the northern part of Beni territory, which is controlled by the Allied Democratic Forces (ADF). In some instances, restrictions of access were politically motivated, such as in Kibombo, Kasongo and Kabambare territories, in the south-east region of Maniema province, where Mayi-Mayi Malaika combatants prevented certain candidates from engaging in campaign activities. In other areas controlled by armed groups, such as in southern Lubero,¹⁴ candidates were allowed to campaign freely, and in several locations, some were reportedly supported by armed groups.

32. UNJHRO documented at least three cases of armed groups requesting candidates for money to allow access to communities, notably in Masisi and Rutshuru territories (North Kivu), by Mayi-Mayi Nyatura combatants, and in Maniema province, in areas controlled by Mayi-Mayi Malaika.

33. The insecurity generated by armed groups' activities posed challenges for campaign activities, notably in North Kivu, the Kasai region and southern Irumu territory (Ituri). For instance, on 9 December 2018, in Logobi, Irumu territory, 42 persons, including nine women and three children (some belonging to the campaigning team of a provincial assembly candidate of PPRD) were victims of an ambush carried out by 33 combatants of the *Forces de résistance patriotique de l'Ituri*. All their belongings were stolen, including clothes. On 6 December 2018, in Bunande, Masisi territory, 17 supporters of the *Union des Congolais pour le progrès*, a party of the presidential majority, sustained gunshot wounds as their convoy was ambushed by Mayi-Mayi Nyatura combatants.

34. Similarly, in some locations of Dibaya territory (Kasai Central), security challenges posed by the activity of the Kamwina Nsapu militia prevented campaign activities. According to several sources, the militia imposed the political prevalence of FCC in Dibaya territory by intimidating voters. This was illustrated by threats uttered on 26 November 2018 by Trésor Mputu, the leader of a faction of the Kamwina Nsapu militia, during an electoral meeting in Tshikungulu, in support of a candidate of the *Convention des progressistes pour la République* (member of the FCC platform) to the National Assembly. The militia leader declared in front of around 200 people that anyone not voting for the candidate he was campaigning for would be killed or expelled from the area by the militiamen who, he stated, would be present at the polling stations on election day to carry out his threats.

¹⁴ See UNJHRO report on the deterioration of the human rights situation in Masisi and Lubero territories (North Kivu province) and the related challenges to protection of civilians, released in December 2018, available here. This report lists lack of State institutions, security threats and possible relations between some FARDC soldiers and some armed groups as possible factors that could influence full access to political rights during the electoral period in these territories.

35. In the conflict-affected regions, the security situation also led to operational challenges, such as obstacles to the deployment and securing of electoral material ahead of the polls. For example, on 16 December 2018, in Beni, the CENI warehouse was reportedly attacked by presumed Mayi-Mayi Mazembe combatants.¹⁵ The attack was countered by MONUSCO contingents and FARDC soldiers.

36. In some cases, electoral campaign activities exacerbated inter-ethnic tensions, notably between the Luba and Pende groups, particularly in the Kasai province, and between the Tetelas of the forest and those of the savannah, in Sankuru province. Several instances of threats, intimidation or incitement to violence based on ethnic considerations were observed during the electoral campaign, notably in Kinshasa, Tshikapa, Bandundu, Mbandaka, and Kisangani, as well as in Kasai Oriental and Maniema provinces. In Kisangani (Tshopo), UNJHRO documented threats against and intimidation of the Nande community by ANR agents as well as by the local Minister of Education, a PPRD candidate to the National Assembly, who incited the local community to violence against the Nande community, claiming that their political aspirations were illegitimate as they were not originally from the province. No action was taken by the authorities to condemn this behaviour.

V. Election day

37. The presidential and legislative elections were held on 30 December 2018, in a predominantly peaceful atmosphere. Polling operations were monitored by party observers, present in most polling centres, and by other national and international observers at many locations.¹⁶

38. Most of the polling centres were secured by unarmed or lightly armed police agents, except in North and South Kivu, Tanganyika and Kongo Central, where FARDC soldiers and PNC agents securing polling stations were armed with rifles. It was noted though that, in general, the behaviour and intervention of defence forces and security services on polling day was restrained, particularly as compared to their behaviour during the electoral campaign. This appears to be partly due to intense advocacy by UNJHRO and MONUSCO with defence forces and security services at various levels. Before election day, the national police commissioner publicly emphasized the neutral and apolitical character of the police. In at least six different locations in Lubero territory, armed group combatants took over polling stations and, in some cases, impeded the vote, notably in Masisi territory.

39. Most of the incidents reported during election day included violations of the right to vote, including failure to put in place measures to guarantee an inclusive, non-discriminatory election. Moreover, UNJHRO documented 16 elections-related human rights violations on that day. State agents were responsible for 14 of these violations and combatants of Nyatura Delta and of Nduma defense of Congo - *Rénové* (NDC-R) for two. Most of the violations were documented in the provinces that saw the most human rights violations during the pre-electoral period (Haut-Katanga, Kasai, Maniema, North Kivu, South Kivu and Tanganyika).

A. Violations of the right to vote

40. UNJHRO observed numerous violations of the right to vote on polling day. It received numerous reports of people who were prevented from voting because they could not locate their polling stations or find their names on the electoral lists, due to technical or logistical issues, including delays in setting up polling stations as electoral material was not deployed on time. In some cases, the issue was addressed by extending the closing time while in other cases, people were unable to vote. For example, in Nyalongo, Luebo territory (Kasai), the inhabitants of an entire village were denied the right to vote as the electoral material did not arrive until 17h30.

¹⁵ This happened before the election was postponed in Beni.

¹⁶ The main organizations that deployed observers were the CENCO, the *Synergie des missions d'observation citoyenne des élections*, the African Union and the Southern African Development Community. MONUSCO did not have an observer mandate.

41. Names were missing from the voters lists in Haut-Lomami, Haut-Katanga, Haut-Uélé, Ituri, Kasai-Oriental, Kinshasa, Lualaba, Mai-Ndombe, Maniema, North Kivu, Sankuru, Tanganyika and Tshopo, among others. While the absence of names on the lists did not appear to be discriminatory, the individuals concerned were unable to exercise their right to vote.

42. The use of voting machines posed particular challenges to elderly voters and the illiterate who required additional time and assistance that was not systematically available. In many rural areas, a large percentage of the population was unable to use the machine without assistance. In many instances, it was reported that persons available to assist, such as electoral observers deployed by political parties, attempted to influence voters. Moreover, in some locations, there were insufficient measures to accommodate those who could not stand in line for an extended period, such as the elderly, persons living with disability, pregnant women, or mothers carrying small children, who in some locations ended up leaving without voting. However, at many locations it was observed that these categories of voters were given priority in queues. Finally, some voting centres were considered too far away for the population to access, resulting in discrimination against some rural populations, particularly in the provinces of Equateur, Mongala, Nord-Ubangi, Sud-Ubangi and Tshuapa.

43. There were no provisions to allow internally displaced persons to vote, as they were generally far away from the locations where they were registered. In a country that has 6,8 million internally displaced persons,¹⁷ this represented disenfranchisement for a large sector of the population. The diaspora was also unable to vote, based on a decision by the National Assembly in June 2018, and were therefore also disenfranchised.

44. Very few prisoners were given the chance to exercise their right to vote, even though some pre-trial and convicted prisoners were included in the voters list. Notably, no provisions were made to allow prisoners to vote in Bunia, Goma, Kalemie, Lubumbashi, Mbuji-Mayi and Tshikapa, among others. Kananga was an exception as, following advocacy by UNJHRO and MONUSCO, 17 prisoners from the central prison were able to vote. Registered prisoners from the Makala central prison in Kinshasa were also allowed to vote.

45. In most cases, armed groups did not interfere in the vote, but their attitude varied. At some locations, notably Kashuga, Bukombo and Nyabiondo in Masisi territory, members of armed groups prevented the opening of polling stations, while at others, they took over the polling stations. At some voting centres, armed groups forced the population to vote in favour of certain candidates. For example, significant interference of armed groups was noted in Masisi territory, where some armed groups coerced the population to vote for FCC candidates, notably Mapenzi, the commander of the Alliance des patriotes pour un Congo libre et souverain (APCLS), and NDC-R combatants, Nyatura Delta, and Mayi-Mayi Mazembe combatants of the *Union des patriotes pour la défense des innocents* (UPDI). Nyatura Delta and UPDI expelled opposition parties' observers from voting centres. In Bukombo and Nyabiondo, also in Masisi, as combatants of NDC-R were not successful in coercing voters into choosing FCC candidates, they closed the voting centres despite the presence of FARDC soldiers and PNC agents who did not intervene.

46. UNJHRO received allegations of interference, including by CENI agents, with the right to vote freely, in Haut-Lomami, Haut-Katanga, Kasai, Kasai Central, Lualaba, Maniema, North Kivu and Tshopo provinces. For example, in Mutongo, Walikale territory (North Kivu), a man was forced by FARDC soldiers, under threat of arrest, to vote for the FCC presidential candidate.

47. In the provinces of Haut-Katanga, Haut-Lomami, Kasai, Kongo Central, Mai-Ndombe, North Kivu, Sankuru and Tshopo, political party observers, mostly those linked to the opposition, were partially restricted or, in some cases, fully prevented from accessing assigned polling stations. In Tshikapa (Kasai), when the voting centres closed, electoral observers who questioned the methodology of counting were expelled from the polling station by CENI agents.

¹⁷ 2018 update of the 2017-2019 Humanitarian Response Plan.

B. Other human rights violations

48. On polling day, in Lurhale (South Kivu), UNJHRO documented the arbitrary killing of a civilian, shot by a PNC agent who used live bullets to disperse a crowd.¹⁸ UNJHRO also documented four incidents of threats and intimidation against eight persons, including three women. In three of the cases, State agents were the perpetrators, while in one case, NDC-R combatants were involved. In Bodumbili (Sud-Ubangi), an electoral observer working for PPRD was threatened with death by a PNC commander and expelled from the voting centre.

49. UNJHRO documented violations of the right to physical integrity of four persons, including two women. Two of the violations were committed by PNC agents, one by FARDC soldiers and one by Nyatura Delta. For instance, in Bulungu (Kwilu), a man was shot by an FARDC soldier guarding a national minister when the population protested against the latter, accusing him of corruption. Additionally, UNJHRO documented the arbitrary arrest of six men, two by FARDC soldiers and four by PNC agents, as well as one violation of the right to freedom of opinion and expression by FARDC soldiers who threatened a man to influence his vote. Most of those arrested were involved in the elections, including CENI officials, electoral observers, and political party workers. For instance, in Lubumbashi and Kindu, two electoral observers were arbitrarily arrested at the request of the manager of the voting centres, as they were gathering information on the elections.

VI. Post-election period

50. According to the electoral calendar, the provisional results of the presidential election were expected on 6 January 2019. Due to technical challenges and a delay in vote counting, CENI postponed the announcement to the early hours of 10 January 2019, when Felix Tshisekedi was proclaimed winner. In the immediate aftermath of the announcement, peaceful celebratory demonstrations were violently repressed by defence forces and security services, notably in Kasai and Tshopo provinces. After Martin Fayulu publicly contested the results, protests were organized by civil society groups, notably in Equateur, Haut-Katanga, Kinshasa, Kwilu and Tanganyika provinces. The inauguration ceremony of President Tshisekedi, on 24 January 2019, closed the presidential election period.

51. UNJHRO documented 141 human rights violations between 31 December 2018 and 24 January 2019, mostly as a result of actions by State defence forces and security services to disperse demonstrations, particularly in the Kasai, North Kivu and Tshopo provinces. These incidents included 19 violations of the right to life, including the arbitrary killing of 20 persons (including three women and three children); 32 violations of the right to liberty and security of person, affecting 371 persons, including at least 19 women and 50 children; and 23 violations of the right to physical integrity, affecting 62 persons, including 14 women and two children. The high number of victims is explained by the numerous incidents of mass arrests. For example, on 11 January 2019, in Lubumbashi, at least 32 persons, including 27 children, were arrested arbitrarily by PNC agents during a peaceful celebration following an announcement on the radio regarding the results of the election. At least six incidents of mass arrests were documented, with the number of victims ranging from 30 to 79.

52. For the presidential election, the available time for the submission of complaints related to electoral disputes to the pertinent jurisdictions was of two days following the announcement of provisional results, while it was eight days for the provincial elections. Taking into consideration the location of polling stations, the vast distances and the transport infrastructure, such time limits created challenges for gathering evidence and supporting information. This could impact the effectiveness and thoroughness of the legal dispute and settlement system, and therefore the access to justice and right to an effective remedy.

¹⁸ In the same incident, protesters killed a CENI official they accused of fraud.

A. Violations of the rights to life, physical integrity and liberty and security

53. The delay in publishing provisional results led to significant tensions. In many instances, rumours that a particular candidate had won led to spontaneous peaceful celebrations that were suppressed by State defence forces and security services. For example, on 5 January 2019, in Goma (North Kivu), 79 persons, including seven women and 15 children, were arrested arbitrarily by PNC agents during a peaceful celebration following rumours that Martin Fayulu had won the presidential elections. After being accused of disturbing public order, destruction and rebellion, all were released on 14 January 2019 following advocacy by UNJHRO.

54. Following the much-expected announcement by CENI of the provisional election results on 10 January 2019, the situation remained mostly calm. However, several incidents of violence and human rights violations were reported. For instance, on 10 January 2019, in Mutshima, Kamonia territory (Kasai), during peaceful celebrations of the electoral results, a man was reportedly killed by FARDC soldiers who shot to disperse the crowd. On the same day, in Tshikapa Three persons, including a woman, were reportedly killed by PNC agents who shot live bullets to disperse a celebration.

55. Out of the 74 documented violations of the right to life, physical integrity and liberty and security of person, 68 were committed by State defence forces and security services (92 per cent), including nine incidents of arbitrary killings, affecting 11 persons, including one woman and two children. They were also responsible for 30 violations of liberty and security of person, affecting 361 persons, including at least 17 women and 50 children; as well as for 21 violations of the right to physical integrity, affecting 60 persons, including 13 women and one child.

56. Following the announcement of the electoral result, inter-ethnic tensions targeting particularly members of the Luba community were documented in several locations, notably in the Kasai region, in Haut-Katanga and Kinshasa. These dynamics were particularly notable in Tshikapa, where members of the Luba community attacked people of the Pende community, accusing them of not voting for Felix Tshisekedi. In Kamonia territory, a man was injured in an election-related attack against members of the Luba community by members of the Tshokwe community.

57. In Kikwit, Kwilu province, violent demonstrations erupted immediately after the announcement of the provisional electoral results and led to the destruction and looting of several public buildings. FARDC intervened, killing four persons when they opened fire at a protest by a youth group.¹⁹

58. Elections-related attacks by members of armed groups, namely APCLS and NDC-R, were documented in at least two villages of Masisi territory in North Kivu, on 12 and 14 January 2019. The attackers shot indiscriminately against the population, accusing them of having voted for the wrong candidates. At least 10 persons were consequently killed, including four children and four women, two of whom were raped until they died. A third woman was raped, and a 17-year-old boy was wounded. These incidents led to forced displacement of an unconfirmed number of persons.

B. Violations of the rights to freedoms of opinion and expression, peaceful assembly, and association

59. UNJHRO documented 32 violations of the rights to freedoms of opinion and expression, including freedom of the press, and of peaceful assembly related to the violent suppression of protests by State defence forces and security services. For example, in Kinshasa, on 12 January 2019, as Lamuka activists accompanied Martin Fayulu to file his

¹⁹ The death toll does not take into account the fatalities resulting from the prison break that occurred on the same day as a consequence of the disorder generated by the violent protests.

complaint at the Constitutional Court, at least three persons participating in a demonstration were beaten by PNC agents who violently dispersed the crowd.

60. In different parts of the country, notably in Bunia (Ituri), Kisangani (Tshopo), Uvira and Fizi (South Kivu), the rights to freedom of opinion and expression and of peaceful assembly were violated by a general prohibition by provincial authorities on demonstrations related to the provisional election results. In Bunia, the provincial police commissioner announced on 4 January 2019 that the opposition party leaders were being watched and threatened to arrest them in case of trouble.

61. Starting on 31 December 2018, various restrictions were imposed on freedom of expression and opinion. From 31 December 2018 to 19 January 2019, the Government shut down internet, mobile data and SMS services, stating that this was necessary to preserve public order and prevent the dissemination of inaccurate results via social media. Moreover, the signals of *Radio France internationale* and the TV channel *Canal Congo Télévision* were blocked until 21 January 2019.²⁰ During this time, intimidation and harassment of journalists, opposition candidates and human rights defenders continued.

62. The blocking of internet services hindered the capacity of electoral observers and witnesses to send information from rural polling centres for the compilation of results. It also hampered the ability of MONUSCO to communicate with community alert networks and other protection mechanisms in the field. Access to information is an essential tool to increase accountability and transparency and reinforces the credibility of electoral processes. A general network shutdown hinders people's access to information and basic services and is a violation of international law.²¹ On 7 January 2018, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression issued a press release condemning the general network shutdown as unjustified and in clear violation of international law, calling on the Government to restore telecommunications services in the country.²²

VII. Conclusions and recommendations

63. **The electoral process took place in an environment of restricted democratic space, that has been increasingly limited since 2015, leading to the high number of human rights violations documented by UNJHRO in this report. As repeatedly in the past, many violations were the result of excessive use of force, including lethal force and mass arrests, to disperse protesters, by the Congolese defence forces and security services, mainly PNC agents and FARDC soldiers.**

64. **The persisting use of force to disperse demonstrations over the years, not least during the electoral context, questions the professionalism of defence forces and security services. Between 22 November 2018 and 24 January 2019, UNJHRO documented the killing of at least 36 civilians in elections-related violence, 21 as a result of a disproportionate use of force and the use of live ammunition for crowd control purposes by PNC and FARDC.**

65. **During the same period, at least 656 individuals, including at least 29 women and 56 children, were arrested arbitrarily by State agents across the country, mostly during demonstrations. The prohibition of demonstrations in some locations and the violent repression by security forces of those exercising their right to peaceful assembly in many other instances demonstrate the continued trend of shrinking democratic space.**

²⁰ CCVT belongs to Jean-Pierre Bemba, leader of the Mouvement de Libération du Congo (MLC), and supporter of the Lamuka coalition.

²¹ See A/HRC/17/27. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression considers cutting off users from Internet access, regardless of the justification provided, to be disproportionate and thus a violation of article 19, paragraph 3, of the International Covenant on Civil and Political Rights.

²² Click here to read the press release.

66. The politically-motivated restrictions to freedom of the press and violations of freedom of expression recorded throughout the electoral process also constitute a worrying illustration of persistent restrictions to democratic space.

67. The December 2018 elections showed the eagerness of Congolese to express themselves democratically and participate in public life. Considering that local and provincial elections are expected throughout 2019, all stakeholders should bear in mind the importance of fully respecting human rights, not least the rights to freedoms of opinion and expression, peaceful assembly, association and the right to vote, as essential conditions for the holding of peaceful, safe, free, and inclusive elections.

68. In light of the above, OHCHR recommends:

A. To the authorities of the Democratic Republic of the Congo

69. To carry out prompt, independent, credible and impartial investigations into all human rights violations committed in the context of the electoral process; to bring to justice all suspected perpetrators, regardless of their rank or position; and to guarantee victims' rights effective remedies.

70. To ensure that electoral authorities or independent oversight bodies are given sufficient financial and human resources and enforcement powers to effectively fulfil their duties, including making all political entities accountable for irregularities, including all forms of abuse of political and economic powers;

71. To take disciplinary action against Government officials and State agents who have abused or exceeded their powers.

72. To promulgate the draft law on peaceful demonstrations in order to promote and ensure the right to peaceful assembly, in line with the Constitution and international law.

73. To promptly release all political figures and human rights defenders arbitrarily arrested and detained.

74. To refrain from using military forces, including the Republican Guard and the Military Police, to conduct crowd control operations, as they are not trained nor equipped for such law enforcement tasks.

75. To authorize the use of force strictly as a last resort in crowd control measures and in compliance with the principles of necessity, proportionality and legality, in accordance with international standards. Equipment for law enforcement officials deployed during assemblies should include both appropriate personal protective equipment and appropriate less-lethal weapons. Equipment that cannot achieve a legitimate law enforcement objective or which present unwarranted risks should not be authorized for use.

76. To ensure that law enforcement officials are regularly trained in and tested on the lawful use of force and on the use of the weapons with which they are equipped.

77. To ensure the protection of the human rights and fundamental freedoms of all individuals in relation to the exercise of their civil and political rights, including political opponents, journalists and other civil society actors; and to ensure that any restrictions to those freedoms respect the principles of legality, necessity and proportionality.

78. To guarantee the safety of journalists and media workers; to adopt legislative and policy measures to prevent attacks against journalists and eradicate impunity for violence and intimidation targeting them;

79. To remove any restrictions or regulations that might place the media under political influence or compromise their essential role as public watchdog; and to take appropriate action, consistent with relevant human rights standards, to promote media diversity and access of women to media;

80. To put in place measures to ensure that all political candidates and parties have direct access to State-owned broadcast media services for specific times on an equal basis, and that they are treated fairly and equitably by those services;

81. To ensure the provision of training for journalists and other media workers in order to challenge gender stereotyping and misrepresentation of women in the media, and to sensitize the media and the electorate on the need and benefits of women in leadership positions.

82. To expedite the approval and adoption of the draft laws on the freedom of the press and access to information; to allow unhindered access to the internet and other telecommunications networks; and to investigate the allegations of attacks against and intimidation of journalists and media professionals.

83. To take measures to ensure full accessibility for persons with disabilities in all aspects of the electoral process.

84. To ensure that the legal framework provides for the right of candidates to effectively challenge elections results and for remedies that are prompt, adequate and effective, and enforceable within the context of the electoral calendar

85. To ratify the African Charter on Democracy, Elections and Governance.

B. To political parties, media and civil society

86. To refrain from and strongly condemn incitement to violence and ethnic hatred, to promote human rights and actively contribute to defuse tensions.

87. For journalists and media outlets to seek the highest standards of professionalism and ethics through the promotion of self-regulation.

C. To the international community

88. To request political opposition stakeholders to pursue their goals through peaceful means and squarely ensure that their actions strictly comply with national and international norms.

89. To publicly denounce violations and abuses committed against those exercising or seeking to exercise their public freedoms in the context of elections, and to provide support to the victims.

90. To raise these violations in international and regional fora, including human rights mechanisms.

91. To provide the necessary support to the Government of the Democratic Republic of the Congo to ensure the investigation and prosecution of alleged perpetrators of human rights violations committed during the electoral process.

92. To engage with the Government to take preventive measures so that violations are not repeated, particularly in view of upcoming elections, and to monitor measures taken by the authorities in response to these violations.