

**UNITED NATIONS JOINT HUMAN RIGHTS OFFICE IN THE DEMOCRATIC
REPUBLIC OF THE CONGO
OHCHR-MONUSCO**

**Report on hate speech and incitement to hostility in the Democratic Republic of the
Congo**

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List of Acronyms

BDK:	Bundu Dia Kongo
CACH :	Cap pour le Changement
CENI :	National Independent Electoral Commission
FAO:	Food and Agriculture Organisation of the United Nations
FCC :	Front Commun pour le Congo
FPIC :	Force Patriotique Intégrationniste du Congo
ICCPR:	International Covenant on Civil and Political Rights
ICTR:	International Criminal Tribunal for Rwanda
ICTY:	International Criminal Tribunal for the former Yugoslavia
JAM :	Joint Assessment Mission
PNC :	Police Nationale Congolaise
UDHR:	Universal Declaration of Human Rights
UDPS :	Union pour la Démocratie et le Progrès Social
UNJHRO:	United Nations Joint Human Rights Office
UNOCA:	United Nations Regional Office for Central Africa
WFP:	World Food Program

Summary

Since the presidential and legislative elections of 2018, the Democratic Republic of Congo has seen a resurgence in hate speech, which is a major concern given the historical and political context. In this report, the United Nations Joint Human Rights Office (UNJHRO), in line with its mandate to promote and protect human rights, draws the attention of stakeholders, including national authorities, civil society organisations, political parties and international organisations in the Democratic Republic of Congo, to the seriousness of the situation and the potential risks of escalation.

Between 1 May and 31 December 2020, the UNJHRO documented some 30 cases of public discourse or messages that incited hostility. These were analysed based on the six criteria established by the Rabat Plan of Action of the Office of the United Nations High Commissioner for Human Rights on the prohibition of any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. The hate speech documented took the form of tribalist, sexist, and misogynist attacks; the instigators included public figures and political party activists, community leaders, civil society actors and members of the Congolese diaspora. The hate speech was mostly disseminated in the context of political activities and armed conflict. These instances of hate speech are not only in breach of national legislation but also contrary to human rights, particularly Article 20(2) of the International Covenant on Civil and Political Rights (ICCPR). They constitute a real threat to national cohesion, sustainable peace and security, and the protection of civilians in the Democratic Republic of Congo.

The reports make recommendations to the State, the media, political actors, community and religious leaders and civil society organisations, among others. It also makes recommendations on legal reform and mechanisms for collecting information, monitoring, and responding to hate speech.

Introduction

1. Article 20(2) of the ICCPR prohibits *"any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence"*.¹ The United Nations Strategy and Plan of Action on Hate Speech defines hate speech as "any kind of communication (...) that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor."² Fundamentally, hate speech³ denies the equality, dignity, and humanity of a person because of their identity. It often targets fixed aspects of identity.
2. The rapid spread of hate speech in the Democratic Republic of Congo through social media, local radio, leaflets and the written press has become a major concern, especially since the 30 December 2018 elections. Most of this speech has been linked to the debate on Congolese citizenship, the persistence of impunity, land and transhumance conflicts, competition for power and the dissemination of false information.
3. Hate speech acts as both an early warning indicator and a potential trigger for violence. In the worst cases, such speech has resulted in serious human rights violations and abuses that may constitute international crimes, including genocide, crimes against humanity and war crimes. Thus, addressing such rhetoric and messages is essential to ensure peace and the protection of civilians.
4. In a context as fragile as that of the Democratic Republic of Congo, marked in particular by a rise in political tensions at the national level, the persistence of communal tensions, the persistence of insecurity mainly in the provinces affected by armed conflict, and also the socio-economic fallout of the COVID-19 pandemic, this type of discourse contributes to sowing the seeds of suspicion and hatred and, consequently, to generating violence. The situation is even more worrisome given that several provinces of the country have a long history of collective grievances and communal violence.
5. This report provides an overview of the situation in the Democratic Republic of Congo in relation to incitement to hostility. It sets out the methodology used; the factors that contribute to the development of hate speech in the country; the international and national legal frameworks; the main trends, based on the UNJHRO's monitoring between May and October 2020⁴ as well as the follow-up actions undertaken by the UNJHRO and national authorities. Lastly, the report provides recommendations for national actors with a view to strengthening the prevention of and response to hate speech.

¹ For details on the definitions of "hate speech", "hate speech and hate messages" refer to Part III below.

²<https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf>

³ Hate speech refers to any type of communication, whether speech or written messages, thus "hate messages" are also hate speech. In the context of this report, for the sake of simplicity, the term "hate speech and hate messages" will be used to refer to messages and speech that incite hostility.

⁴ Systematic monitoring of hate speech and hate messages by the UNJHRO began in May 2020 (see para 74 below).

I. Methodology and challenges encountered

6. In the process of drafting this report, the UNJHRO analysed 30 communications (audio, video, letters, pamphlets, text messages, etc.) disseminated through social and traditional media, that could constitute hate speech and incitement to hostility according to the Rabat Plan of Action on Hate Speech and Incitement. The communications were analysed using the six-point evaluation criteria in the Action Plan. These take into account the context; the speaker's status; the purpose, i.e., whether there was intention to incite the public to target a protected group; the content and form of the speech; the extent; and the likelihood, including the imminence, of harm⁵.
7. The human rights monitoring methodology of the Office of the High Commissioner for Human Rights, including the monitoring cycle, was applied to the documentation of hate speech⁶. The UNJHRO was unable to meet with some victims and perpetrators of hate speech either because they were not available or for security reasons but was able to establish their positions by analysing their speeches and official positions.
8. While reflecting general trends in hate speech, the cases analysed in this report constitute only some of the total number of cases in the Democratic Republic of Congo. As the UNJHRO does not yet have tools for systematic monitoring of traditional media and social networks, it was not able to analyse a larger volume of data. In addition, a significant proportion of hate speech is now disseminated on social media, including in closed groups and in national languages and local dialects, presenting a challenge for monitoring.
9. Finally, the slow reporting of hate speech cases/messages to the UNJHRO has posed a challenge in terms of early warning and protection of civilians.

II. Factors explaining the use of hate speech in the Democratic Republic of the Congo

10. The UNJHRO documented hate speech in 15⁷ of the 26 provinces of the Democratic Republic of Congo⁸. For the most part, four factors contributed to hate speech: the context of fragility (political, social, economic, health, etc.), exacerbated by abuses linked to political competition; weakness of the formal institutional framework for the peaceful management of land and inter-community conflicts, particularly in provinces affected by armed conflict⁹; impunity for human rights violations and abuses; marginalisation, mutual mistrust, and discrimination against certain groups.

⁵ See the international legal framework developed below.

⁶ For more information on this methodology, see in particular the Human Rights Monitoring Manual of the Office of the High Commissioner for Human Rights. <https://www.ohchr.org/Documents/Publications/OHCHRIntro-12pp.pdf>

⁷ In particular Ituri, Kinshasa, Haut-Lomami, Haut-Katanga, Kasai Oriental, Kasai-Central, Kongo Central, Kwango, Kwilu, Lualaba, Maindombe, North Kivu, Sankuru, South Kivu, and Tanganyika.

⁸ For examples and illustrations of hate speech in the Democratic Republic of Congo see in particular PeaceTech Lab, "Hate speech and conflict in the Democratic Republic of Congo: A lexicon of hate speech terms", 2019.

⁹ The UNJHRO includes among the provinces affected by the conflict the eastern provinces of the Democratic Republic of Congo, namely Bas-Uélé, Haut-Uélé, Ituri, North Kivu, South Kivu, and

11. Hate speech is of particular concern in contexts as fragile¹⁰ as that of the Democratic Republic of Congo. It sows the seeds of suspicion and mistrust between communities, legitimises exclusion, inequality, and discrimination, and fosters resentment and mistrust among communities targeted. Several studies¹¹ have shown that social inequalities and discrimination, social exclusion, illegal exploitation of natural resources and the politicisation of the security services can lead to collective grievances¹². These collective grievances and resentments can subsequently trigger violence, particularly in contexts of weak state capacity or human rights violations and abuses. According to the Fragile States Index, the risk is all the higher for the Democratic Republic of Congo, as the country has been among the countries with the highest levels of collective grievances in the world for several years¹³.
12. Since 2019, the fragility of the Democratic Republic of Congo has been characterised in particular at the national level by increased tensions between coalitions of political parties, particularly between the *Cap pour le Changement* (CACH) and the *Front Commun pour le Congo* (FCC). These tensions have notably arisen around draft bills on judicial reform, the appointment of the office of the *Commission nationale électorale indépendante* (CENI) as well as its president, and appointments to posts in several administrative and judicial institutions.
13. The fragile health situation in the Democratic Republic of Congo has also encouraged the spread of hate speech. For example, the UNJHRO noted hate speech on social media and in audio recordings connected with the Ebola virus epidemic in North Kivu province and during the COVID-19 pandemic in 2020. From January 2019, the UNJHRO documented messages disseminated through various communication channels from the Nande community accusing "non-natives" of bringing Ebola into the province to exterminate them. These messages also gave rise to attacks against Ebola response teams. In South Kivu, in April 2020, a woman of Burundian nationality visiting Bukavu for a wedding ceremony was accused - despite having tested negative - of having been sent to infect the population of Uvira.

Maniema, as well as the provinces of Kasai, Kasai Oriental and Kasai Central, and the province of Tanganyika.

¹⁰ There is no internationally accepted definition of the concept of "fragile state". However, most definitions revolve around the inability or weak capacity of the state to perform the functions necessary to meet the basic needs and expectations of its citizens. The weak legitimacy of states is seen as an essential feature of fragility. See in particular the four types of indicators considered by the Fragile States Index of Fund for Peace : <https://fragilestatesindex.org/indicators/>.

¹¹ See in particular Pathways for Peace, the 2018 joint World Bank-United Nations report on conflict. (<https://www.pathwaysforpeace.org/>).

¹² The Fragile States Index of Collective Grievances includes data related to social divisions (intergroup hatred and intolerance, oppression and feelings of oppression, history of violence against a group or collective grievances, inter-community relations, persecution or intolerance based on religion), inter-community violence, resource distribution, and post-conflict responses.

¹³ The Fragile States Index of collective grievances shows alarming trends for the Democratic Republic of Congo. While the index declined between 2006-2011, it rose between 2011-2019. The Democratic Republic of Congo even reached the highest score on the Group Grievance Index between 2017-2019. Since 2019 there has been a slight decrease in group grievances. However, it remains to be seen whether this trend will continue in the coming years. (See <https://fragilestatesindex.org/country-data>).

14. The weakness of the formal institutional framework for the peaceful management of conflicts, in particular the judicial institutions, and the persistence of impunity for human rights violations and abuses, also contribute to the dissemination of hate speech. In addition, hate speech is often used to incite hostility and violence in conflict-affected provinces where armed groups and so-called "self-defence" groups are usually closely associated with communities and implicated in customary and land conflicts¹⁴.
15. The economic, political, and social marginalisation of certain ethnic groups also encourages hate speech. For example, in Tanganyika, the long-standing economic and political marginalisation of the Twa minority has been accompanied by systematic discrimination and prejudice by other communities. Hate speech against the Twa by local politicians and community leaders, including a member of the provincial assembly, has exacerbated this situation. The collective grievances led to an outbreak of violence in 2016-2017 and 2020. Despite a decrease in the intensity of inter-communal violence, armed confrontations between armed groups and self-defence groups continue.
16. Also, allegations of discrimination and acts of violence against some persons based on their sexual orientation or gender identity,¹⁵ and their prosecution on the basis of Article 176 of the Penal Code (activities that violate public decency) raise concerns about the vulnerability of these groups to hate speech, as well as lack of measures to address reported cases of discrimination and violence against persons with albinism, as noted by the Human Rights Committee in its concluding observations on the fourth periodic report of the Democratic Republic of Congo (CCPR/C/COD/CO/4).

III. Legal Framework

A. International Norms

17. International human rights law requires that any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence shall be prohibited by law. However, to safeguard fundamental rights and the right to freedom of opinion and expression, a high threshold is required to qualify speech or messages as incitement. It is necessary to analyse the context, the status of the speaker, the content of the speech or message, the scope of the speech or message, and the intention of the author to incite the public to target a certain group. Also, a certain degree of reasonable probability that the speech will result in the violence it calls for is required.
18. Several international legal instruments prohibit incitement to hostility. The Universal Declaration of Human Rights (UDHR) proclaims the principle of equality of all human beings' dignity and rights. According to Article 2 of the UDHR, every human being is entitled to all rights equally, without discrimination of any kind, such as race, colour, sex,

¹⁴ Concerning land conflicts in the Democratic Republic of Congo, particularly in the east of the country, several factors were highlighted, including the persistence of several mechanisms and legal frameworks for land governance, weak land law, competition between 'indigenous' and migrant communities, and limited access to arable land in densely populated areas, the weak performance of the administration and the judicial system in reconciling and arbitrating land conflicts, the increasing pressure on local resources caused by massive population displacements, the expansion of artisanal and small-scale mining, and the increased competition between elites for control of land and land concentration.

¹⁵ They are prosecuted under Article 176 of the Criminal Code (activities contrary to public decency).

language, religion, political or other opinions, national or social origin, property, birth, or another status.

19. More specifically, Article 7 of the UDHR recognises protection against discrimination as well as "against any incitement to such discrimination." Finally, Article 29 refers to the duties of the individual to the community. It recognises that it may be necessary and legitimate to restrict the exercise of individual rights, including the right to freedom of expression, "to secure the recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society."
20. Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination prohibits the dissemination of ideas based on racial superiority or hatred and incitement to racial discrimination. The Convention also prohibits acts of violence or incitement to such acts, directed against any group based on race, colour, or ethnicity; assistance to racist activities, including financing; organizations and organized and all other propaganda activities that promote and incite racial discrimination.
21. Article 20-2 of the ICCPR is more restricted. It prohibits "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence." The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression¹⁶ has clarified that "hatred" is a state of mind characterized by "intense and irrational expressions of opprobrium, hostility or detestation towards the targeted group." "Hostility" can be understood as a manifestation of hatred that goes beyond a mere state of mind. "Advocacy" is the explicit, intentional, public and active promotion and support of hatred against the targeted group. "Incitement" refers to statements about national, racial or religious groups that create an imminent risk of discrimination, hostility or violence against persons belonging to those groups. Finally, "violence" is the use of physical force or power against another person or against a group or community that results in, or is likely to result in, injury, death, psychological damage, developmental problems, or deficiencies.
22. The Human Rights Committee specifies that the ICCPR provisions that represent rules of customary international law cannot be subject to reservations. Thus, states cannot reserve the right to permit incitement to national, racial, or religious hatred¹⁷. Similarly, the Committee has held that article 20(2) of the ICCPR is non-derogable insofar as a state may never invoke the proclamation of a state of emergency to indulge in advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence¹⁸.
23. Article 20 of the ICCPR requires a high threshold since the restriction of freedom of expression must remain an exception. The Rabat Plan of Action on the Prohibition of All Forms of National, Racial or Religious¹⁹ Hatred suggests that each of the six threshold

¹⁶ A/67/357.

¹⁷ General Observation No 24 de 1994, CCPR/C/21/Rev.1/Add.6, para. 8.

¹⁸ General Observation No 29 de 2001, CCPR/C/21/Rev.1/Add.11, para. 13 (e).

¹⁹ A/HRC/22/17/Add.4, Appendix.

elements below must be met for a message or speech to be considered as incitement to hostility falling within the "criminal domain." This analysis will have to be made on a case-by-case basis.

24. First, the message needs to be placed in its **context** (political, social, economic, historical, health, etc.) to understand why it (re)emerges. The analysis of the context must take into account elements related in particular to the existence of conflict within society; the potential history of institutionalised inequality and discrimination; the likely history of inter-community grievances and/or violence; the national legal framework, particularly concerning non-discrimination, the right to freedom of expression and access to justice; and the media landscape. In general, the heavier and more fragile the context, the higher the risks.
25. The second element of the threshold test focuses on the **author of the message**. It is intended to provide information on the role and status of the originator of the message. Incitement to hostility consists of a triangular relationship between an author (1) who utters hate speech for the purpose of enticement/encouraging his audience (2) to act against a protected group (3) by his identity. Therefore, the greater the perpetrator's influence, the greater the risk of acts of discrimination, violence, or hostility. This implies particular vigilance regarding speeches and messages from political actors, prominent members of political parties, and civil servants or persons of similar status such as teachers and religious leaders²⁰.
26. The third element concerns the **intent of the message** or speech and seeks to establish whether there is an act of "advocacy" and "incitement" rather than mere dissemination or circulation of information. There must be a deliberate intention to target a group because of its identity. Negligence, error, and recklessness are not enough.
27. The fourth element concerns the **content and form** of the discourse. This part of the analysis seeks to establish the meaning of the words and the language used, the tone, the degree of provocation of the language, and the manner in which the discourse is direct, as well as the form, style, nature, or balance of the arguments used in the discourse in question.
28. The fifth element aims to establish the **reach** of the speech or message. This includes the scope, public nature, frequency, quantity of the message, and audience size.
29. Finally, since incitement is by definition an implied crime, the action encouraged by the inciting speech does not have to be committed for it to be considered a criminal act. However, the level of harm that may result must be identified. This involves assessing the **reasonable likelihood** that the speech or message might lead to the violence it seeks to perpetrate. The causal link should be direct.
30. Beyond international human rights law, international criminal law also punishes the most flagrant cases of direct and public incitement to commit the crime of genocide through

²⁰ Cf. A/HRC/22/17/Add.4, Appendix, para. 36 ; Déclaration de Beyrouth et les 18 engagements concernant « La foi pour les droits », A/HRC/40/58, annexes I et II.

the Convention on the Prevention and Punishment of the Crime of Genocide (Article 3(c)) and the Rome Statute of the International Criminal Court (Article 25(3)e).

31. While international law does not define the concept of hate speech, the 2019 United Nations Strategy and Action Plan on Hate Speech defines hate speech as “*any kind of communication (...) that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor*”. However, it should be stressed here that this is primarily a document aimed at initiating or strengthening political and social action against discrimination and hatred²¹.
32. However, the fight against hate speech and incitement to hostility must not infringe upon the rights to freedom of opinion, expression, association and peaceful assembly. Thus, peaceful criticism of institutions and symbols falls within the purview of the right to freedom of expression, not of hate speech or incitement to hostility. The right to freedom of expression also includes “minority” views as well as speech that may be perceived as “offensive” or “shocking”. These forms of expression must be protected by the state, even if they are disapproved of by or deemed offensive to the state or a section of public opinion²².
33. Thus, according to article 19(3) of the ICCPR, restrictions on the right to freedom of opinion and expression are permitted only in two circumstances. These are when they represent a threat to national security, public order, health or public morals, or attack the right or reputations of others, including the right to equality and non-discrimination. In this regard, the Human Rights Committee has specified that “*the rights or the reputation of others, for the protection of which restrictions may be permitted under article 19, may relate to the rights or reputation of individuals or to those of the community as a whole*”²³. However, any restrictions by national authorities must always comply with the principles of legality, necessity, and proportionality. They must also be applied by a body that is independent of political or commercial pressure or other undue influence, in a manner that is neither arbitrary nor discriminatory. In addition, adequate safeguards, including regarding the right of access to an independent court of law or tribunal, must be provided to prevent abuse. The acts referred to in article 20 of the ICCPR, i.e. advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, are all subject to the restrictions set out in article 19 (3)²⁴.
34. As the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has pointed out, the fight against hate speech must therefore always reconcile two distinct principles: on the one hand, the imperative for all democratic societies to make room for public debate and the autonomy and development of the individual, and on the other hand, the equally imperative obligation to prevent the

²¹Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/74/486, para. 20.

²² Idem. See also European Court of Human Rights, *Handyside v. UK*, arrêt du 7 December 1976, série A no 24, para 49.

²³ See *Faurisson v. France* (1996), para. 9.6 and *Ross v. Canada* (2001) para. 11.5.

²⁴ General Observation No 34 de 2011, CCPR/C/GC/34, para. 50.

targeting of populations that are vulnerable due to entrenched stigmatization, exclusion and marginalization in the political, economic and social life of a society and to guarantee equal and non-discriminatory participation in public life²⁵.

B. International Jurisprudence

35. In 2009, the European Court of Human Rights concluded that the restriction by the Belgian State on the freedom of expression of Daniel Féret, President and Member of the Belgian House of Representatives of the political party "Front National," following the distribution of anti-immigration leaflets and posters between July 1999 and October 2001 in the context of the electoral campaign was legal and legitimate. The Court had noted that the leaflets presented immigrants as criminogenic and interested in exploiting the advantages of settling in Belgium. The leaflets also ridiculed immigrants, and were likely to encourage feelings of contempt, rejection, and even hatred of immigrants, particularly among the less informed public.
36. In 2009, the European Court of Human Rights recognised that "political parties have the right to defend their opinions in public, even if some of them offend, shock or disturb a section of the population." However, "*they must avoid doing so by advocating racial discrimination and by resorting to vexatious or humiliating words or attitudes since such behaviour is likely to provoke reactions from the public which are incompatible with a peaceful social climate and undermine confidence in democratic institutions*²⁶." In its judgment, the Court recognised, concerning the case in hand, an overriding social need to protect the immigrant community's rights.
37. In the context of international criminal law, hate speech has not been prosecuted in isolation. This is because international criminal law applies to the most serious crimes that often involve widespread physical violence. However, case law indicates that certain hate speech may amount to a crime if it constitutes direct and public incitement to genocide, persecution, or "other inhumane acts"²⁷ such as crimes against humanity. The International Military Tribunal in Nuremberg²⁸, the International Criminal Tribunal for Rwanda (ICTR), and the International Criminal Tribunal for the former Yugoslavia (ICTY) have all convicted public figures for serious acts of hate speech.
38. In 1998, the ICTR Trial Chamber convicted a mayor for direct and public incitement to commit genocide. The Chamber concluded that in the speech he made at a gathering of more than 100 people, in which he called on the population to unite to eliminate "the accomplice of the Inkotanyi" (a term that referred to Tutsis), the accused had intended to "directly create in his audience a state of mind conducive to the destruction of the Tutsi

²⁵ A/74/486, para. 4

²⁶ European Court of Human Rights, *Féret v. Belgium*, Application No. 15615/07, judgment of 16 July 2009, para. 77.

²⁷ As an element of a crime against humanity at the ICC. See Richard Ashby Wilson and Matthew Gillett, "The Hartford Guidelines on Speech Crimes in International Criminal Law", Peace and Justice Initiative, August 2018, p.32.

²⁸ See "*Procès des grands criminels de guerre devant le Tribunal militaire international*", Vol. 1 (TMI, Nuremberg, 1947), Julius Streicher (Le Constat de Streicher), p. 302-304.

group as such²⁹." The Chamber had also noted the causal relationship between these remarks and the extermination of many Tutsis in the Mayor's Commune.

39. In 2003, the ICTR Trial Chamber found two persons³⁰ guilty of persecution as a crime against humanity because they had, inter alia, advocated ethnic hatred or incited violence against the Tutsi population during Radio RTLM broadcasts before and after the genocide in 1994.
40. Furthermore, the ICTR Appeals Chamber recalled in 2007 that there is "a difference between hate speech in general (or incitement to discrimination or violence) and direct and public incitement to commit genocide³¹" and that the Genocide Convention prohibits only the latter.
41. In 2008, the ICTR Trial Chamber found a singer of Hutu origin guilty of public and direct incitement to commit the crime of genocide for broadcasting on the public highway, through loud hailers, songs denigrating Tutsis, and calling for their extermination³².
42. At the ICTY, the Appeals Chamber found that a speech by a defendant calling for the forced expulsion of an ethnic community constituted incitement to violence. The defendant had discriminatory intent, and the Chamber therefore convicted the accused of persecution as the crime against humanity of persecution³³.

C. National legal framework

43. Congolese law prohibits speech that incites hostility. The 25 March 1960 Ordinance provides for criminal penalties for speech inciting hostility that is "*likely to provoke, maintain or aggravate tensions between races, ethnic groups or religions*". The 7 June 1966 Ordinance extends the prohibition beyond racial, ethnic and religious hatred to include speech targeting individuals or groups based on their tribal or regional identity. In addition to speech, this Ordinance also prohibits clubs, associations or groupings whose real aims, activity or actions are "*inspired by a desire for racial, ethnic, tribal or regional discrimination*". The same applies to "*tribal associations of a political nature*". Moreover, this provision increases the penalties according to the status of the author by providing for heavier penalties when the offence is committed by a "*someone in a position of public authority in the exercise of his/her functions*".

²⁹ International Criminal Tribunal for Rwanda, Chamber I, The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4, Decision of 2 September 1998, para. 674. Upheld on appeal.

³⁰ Ferdinand Nahimana was the founder of *Radiotélévision Libre des Mille Collines* (RTLM) and a member of the *Mouvement Révolutionnaire National pour le Développement* (MRND); and Jean-Bosco Barayagwiza was the Director of Political Affairs at the Ministry of Foreign Affairs and a member of RTLM's Steering Committee. The third accused, Hassan Ngeze, an editor of the newspaper Kanguka, was also convicted of the same crime in relation to the content of his newspaper.

³¹ International Criminal Tribunal for Rwanda, Appeals Chamber, The Prosecutor v. Ferdinand Nahimana *et al*, Case No. ICTR-99-52-A, Judgment of 28 November 2007, para. 692.

³² *Tribunal Pénal International pour le Rwanda, Chambre III, Le Procureur contre Simon Bikindi, Affaire n° ICTR-2001-72-T, jugement du 2 décembre 2008, para. 422-426.*

³³ International Criminal Tribunal for the former Yugoslavia, Appeals Chamber, The Prosecutor v. Vojislav Šešelj, Case No. MICT -16-99-A, Judgment rendered on 11 April 2018, paras. 163-165.

44. While the Ordinances are broadly in line with international human rights law, they nevertheless associate the prohibition to national, racial or religious hatred with new legal categories not included in the ICCPR³⁴, such as regional, ethnic or tribal affiliation.
45. Finally, Article 6 of Organic Law No. 11/001 of 10 January 2011 on the composition, attribution and functioning of the High Council for Audio-visual and Communication (CSAC) prohibits "*incitement to violence, (...) xenophobia, tribal, ethnic, racial or religious hatred, as well as any other form of discrimination*" through the media. Article 59 of this law provides for the CSAC to impose administrative sanctions on media companies in case of violations of the rules of ethics and deontology. However, the CSAC has budgetary and structural constraints that greatly limit its capacity to carry out its responsibilities.

IV. Analysis of cases of incitement to hostility

46. Between 1 May and 31 December 2020, the UNJHRO documented 30³⁵ allegations³⁶ of hate speech. Of these, most (39%) took place in the province of South Kivu, followed by Kinshasa (19%). The provinces of Ituri and Lualaba each accounted for 13% of the allegations.
47. After an in-depth analysis based on the threshold required by the six criteria of the Rabat Plan of Action, 16 of the 30 allegations were found to constitute incitement to hostility. A further two cases were found to constitute hate speech as defined by the UN Strategy and Plan of Action but did not meet the threshold of incitement to hostility.

1. Context-specific case analysis:

1.1. Political competitions outside elections

48. Contexts linked to political competition outside of elections (62% of cases) prove to be fertile ground for disseminating discourse and messages inciting hostility. For example, in September 2020, a video containing the logo of a coalition of political parties (but whose authenticity the UNJHRO was unable to confirm) was circulated on social media inciting hostility against the Luba.
49. Similarly, in December 2020 the UNJHRO noted the dissemination, within the province of Lualaba, of at least two messages inciting hostility against the population originating from the Kasai provinces and emanating from political actors and activists. The first message was published on 11 December on social media by an influential political figure close to the former president who had held positions such as President of CENI, General Superintendent and Pastor of the New Methodist Church (NEM). The second message

³⁴ See in particular Doudou Diène, "Etude sur l'interdiction de l'incitation à la haine nationale, raciale ou religieuse en Afrique". (<https://www.ohchr.org/Documents/Issues/Expression/ICCPR/Nairobi/NairobiStudyF.pdf>), p.4.

³⁵ These figures represent cases documented and confirmed by the UNJHRO. They do not represent all cases of hate speech, as some cases may have escaped the attention of the UNJHRO.

³⁶ In the context of this report, the term "allegation" refers to any communication to the UNJHRO indicating that a speech/message is or could be hateful. The word "case" refers to any communication that the UNJHRO has concluded constitutes incitement to hostility based on the six criteria of the Rabat Plan of Action.

was broadcast on 9 December, by FCC activists using loudspeakers, on the main roads of the town of Kolwezi in Lualaba province during a caravan organised by the leaders of this political platform to inform the population about the arrival of former president Joseph Kabila. The message said that "The Kasaians imported the coronavirus to Lualaba."

1.2. Armed conflicts

50. Armed conflicts also provided fertile ground for the dissemination of hate speech (25% of cases). For example, on 15 July 2020, one of the doctors treating patients at the Evangelical Medical Centre of Nyankunde (Andisoma Chiefdom, Irumu territory, Ituri province), who is from the Lubara ethnic group and originates from Aru territory in the province of Ituri, received an anonymous text message on his mobile phone calling for "non-natives" to leave the hospital in a fortnight. This reference to ethnicity was coupled with highly threatening content ("if you don't listen, you will redeem yourself with your own blood, we will cut off your heads. He who has ears should listen. Leave, leave our hospital".)
51. Then, on 3 November 2020 at around 7:00 am, the same message was sent to 10 doctors, nurses and paramedics from the same hospital, from the Nande, Hema, Guéguéré, Logo, and Lendu and Lubara ethnic groups. According to several corroborating local sources, the messages were sent at the instigation of a health worker of Bira ethnic origin, the majority ethnic group in the area around Nyankunde, Irumu territory. It would seem that the proliferation of the *Force Patriotique Intégrationniste du Congo* (FPIC) armed group in the five chiefdoms of the Bira community, notably Andisoma, Mobala, Basili, Baboa Bokoe, and Babelebe, has increased distrust and divisions among the communities and thus also the feeling of insecurity among "non-natives."
52. Thus, the armed group *Force Patriotique Intégrationniste du Congo* (FPIC) allegedly killed a non-native trader around December 2019/January 2020. On 16 October 2020, the FPIC allegedly erected barricades around Marabo, Irumu territory and then attacked the Hema with knives and guns. This situation of insecurity gave rise to significant population displacement to the towns of Irumu and Bunia. The weak presence of the state and security forces in the area is a factor that has increased the probability of real harm being inflicted on "non-natives." Only ten agents of the Congolese National Police (PNC) oversee the localities of Sota, Marabo, and Nyankunde. Following the hostile and threatening messages sent to medical staff at Nyankunde hospital, the UNJHRO established that at least one of those who received the messages had resigned.

2. Analysis of cases as per the alleged perpetrator

53. As for the instigators of the proven cases of speeches and messages inciting hostility, 6% were from the diaspora, armed groups, or were religious actors. For example, in March 2020 the UNJHRO documented the dissemination through social media, and in particular the messaging application WhatsApp, of a song by a Bafuliru Mayi-Mayi commander and singer calling on the Bafuliiru, Babembe, and Banyindu communities to persecute the Banyamulenge by driving them off their land and even exterminating them. Some

religious leaders used language that incited hostility in sermons on the political and security situation.

54. In 12% of the cases, the perpetrators were from civil society. For example, a declaration on 31 October 2019 by the association of Babembe in Kinshasa called for war, displacement, and persecution of the Banyamulenge from the high plateaux of Fizi and Itombwe. A press release issued by members of the Babembe community during an inter-community forum held in Uvira from 2 to 4 March 2020 addressed to regional, national, and provincial authorities demanded that the "so-called Banyarwanda Banyamulenge" be stripped of their Congolese nationality and considered as Rwandan refugees.
55. However, most perpetrators (43%) were political actors. Thus, speeches inciting hostility by two national and provincial elected representatives from the Nyunzu territory (Tanganyika province) against the Twa communities, uttered publicly on 14 January 2020 and disseminated through the media, aggravated the outbreak of inter-communal violence in Nyunzu. On 27 January 2020, in reaction to the abduction and assassination of Chief Mukimbo an influential Bantu leader in the region, 10 days earlier and galvanized by hate speech uttered by the two elected officials, a crowd of individuals, including members of "Elements," a Bantu self-defence militia, tracked down and attacked people from the Twa community in Nyunzu. The crowd also broke into the local headquarters of the World Food Program (WFP) and the Food and Agriculture Organisation of the United Nations (FAO), looking for a WFP employee of Twa origin whom they accused of supporting Twa self-defence groups in Nyunzu territory.
56. This led to the deaths of at least 11 people (including four people of Twa origin and seven people of Bantu origin) and injury of at least 22 people (including one Twa person). At least two women from the Bantu community disappeared. The conflict around Nyunzu has displaced more than 41,071 persons of Bantu origin since 2014.

3. Analysis of cases according to the identity of the victims

57. At least 12% of cases of incitement to hostility were linked to gender identity. For example, in September 2020 the UNJHRO obtained a video of an alleged *Union pour la Démocratie et le Progrès Social* (UDPS) activist in which he addresses fellow UDPS activists, calling for the rape of women of a particular tribe. However, most of cases (80%) were related to ethnic identity. The Luba and Banyamulenge were targeted by this type of discourse in 37% and 31% of cases documented by UNJHRO. Other ethnic groups targeted were Nande, Tetela, Mongo and Ngala.
58. The UNJHRO documented several speeches and messages inciting hostility in South Kivu - on 24 November 2019, 30 November 2019, 17 January 2020 and 2 April 2020. The messages came from influential personalities, including a provincial deputy, the president of a civil society organisation, a former national minister and the president of a youth organisation. Between November 2019 and 22 January 2020, the UNJHRO also documented several anonymous voice or video messages from the diaspora from different communities in the province inciting hostility. One of these messages, dated 20 January 2020, incited "the Congolese people to equip themselves with machetes and spears to chase Banyamulenge foreigners so that they return home to Rwanda."

59. In early October 2020, the UNJHRO reported several speeches and messages inciting hostility disseminated through the media, social media, press releases from political and religious actors, and the mobilisation of the civilian population to protest against the installation of the mayor of the rural municipality of Minembwe in South Kivu³⁷. The hate speech rejected the recognition of a rural commune with a majority Banyamulenge population, who are accused of being "immigrants" who came from Rwanda during the colonial era. These speeches added fuel to an already precarious situation. Between May 2019 and September 2020, the UNJHRO documented several cases of human rights abuses by armed groups from all sides in the context of the communal conflict in this area, including 78 cases of violations of the right to life, the burning of 80 villages and the looting of several hundred cows.

4. Analysis of the cases with respect to the mode of dissemination

60. The analysis shows that 50% of the confirmed cases of incitement to hostility were initially disseminated through the social media. For example, in September 2020, a video of an unknown man making sexist and degrading remarks to alleged UDPS supporters about Jeanine Mabunda Lioko, then Speaker of the National Assembly, was widely relayed on social media. The message was also hateful in terms of ethnic identity as it accused the Speaker of the National Assembly of being "a Rwandan" and "an infiltrator."

61. In response, a video was posted on social media referring to the Luba as "foreigners" and calling on people originating from the Equateur region to support Ms. Mabunda. It should be noted that several cases of attacks and assaults against Luba have been documented in the context of elections. During the proclamation of the 2018 election results, cases of aggression and attacks against people from the Kasai region were recorded in several neighbourhoods in Kinshasa.

5. Analysis of cases based on probability, including imminence, of harm

62. In 62% of the cases, the probability, including the imminence, of actual harm to the target group was judged to be either high or very high. For example, the release in September 2020 of a video by a national member of parliament and senior *Front commun pour le Congo* (FCC) executive stating that "everyone has a home. Katanga is Joseph Kabila Kabange's home" raised concerns about the protection of people of Kasaïan origin in the territory, given the tense political context, the spread of false information and rumours on social media, but also the history of anti-Kasaïan pogroms in Katanga during the years 1992-1993. According to some sources, the violence of 1992-1993 caused between 50,000 and 100,000 deaths. Between 600,000 and 800,000 people of Kasaïan were then expelled from the province.

63. In the same vein, the UNJHRO documented speeches and messages inciting hostility in South Kivu province by influential public figures in November 2019 that had a negative impact. For example, when a provincial member of parliament called for the local population to attack "non-natives" during an impromptu meeting in downtown Baraka, South Kivu province, on 30 November 2019, because he said they were usurping the

³⁷ This municipality, located in the highlands of South Kivu, was created by decree in 2013.

advantages reserved to "native Congolese", the crowd made threatening remarks against the Banyamulenge.

64. These speeches and messages have had an impact on the right to life and the right to physical integrity. Then, on 14 January 2020, a Banyamulenge man selling cows was stripped naked and tortured in Kigongo, Uvira territory, by Mayi-Mayi combatants. According to the victim, the assailants stated in the Fuliuro language that "We are going to exterminate this breed up until the last ones still in the bellies".
65. On 12 April 2020, Ne Muanda Nsemi, the leader of the politico-spiritual movement Bundu Dia Kongo (BDK) published a leaflet demanding the departure of "foreigners" and non-natives from the province of Kongo Central. The message was particularly aimed at communities of Baluba, Bangala and Baswahili origin. The call soon had an impact. On 13 April 2020, followers of the movement, estimated at several hundred, erected barricades on the public highway at several locations in the province of Kongo Central, namely the city of Boma (Muanda territory), Lemba municipality (Lukula territory), in Sona-Bata (Kasangulu territory), in Kisantu (Madimba territory) and in Songololo (Songololo territory). Several violations of the right to life and physical integrity against these communities were documented by the UNJHRO following physical altercations.

V. Reaction of the authorities

66. Overall, Congolese authorities have denounced hate speech and incitement to hostility, regularly pointing to the threat that such speech poses to the country. Thus, during her speech at the opening of the ordinary session of the National Assembly on 15 September 2020, the Speaker of the National Assembly denounced "*a wave of intolerance and violence generated by hatred*".
67. The Presidency of the Republic is collaborating with MONUSCO, the African Union, the United Nations Regional Office for Central Africa (UNOCA) and civil society organizations to organize a two-day national conference in Kinshasa on hate speech and incitement to hostility. Initially scheduled for April 2020 but postponed due to the COVID-19 pandemic, the conference planned to bring together different sectors of Congolese society and experts in the field of hate speech with the objectives of taking stock of the current state of affairs regarding hate speech and incitement to hostility; analysing the roles and responsibilities of key actors, with a particular focus on the media; and establishing a roadmap on how to strengthen peaceful coexistence in the Democratic Republic of Congo³⁸.
68. In September 2020, the High Council for Audio-visual and Communication (CSAC) issued a communiqué condemning the dissemination of hate speech in the media and threatening to ban the instigators hate speech "*from public appearance in the media (...) by an embargo decision*".

³⁸ This roadmap will include activities to strengthen the capacities of the actors concerned to promote peaceful coexistence. It will facilitate awareness-raising work aimed at countering hate speech and messages.

69. Finally, on 2 July 2020, representatives of five religious groups (the Islamic Community, *Église de Réveil du Congo*, Orthodox Church, *Armée du Salut et Union des Eglises Indépendantes du Congo*) expressed their concern about the "return of *“crusading evangelists” and the rise of hate speech from the pulpit of truth*" in a joint statement.
70. However, beyond these declarations, the Congolese authorities are struggling to take concrete action in response to the specific cases reported by the UNJHRO. In some cases, the UNJHRO, noted inaction, complacency and a lack of collaboration on the part of some authorities in following up on speeches and messages inciting hostility documented in January 2020 in South Kivu province.
71. In September 2020, MP Gary Sakata (FCC) developed a draft bill against tribalism, racism and xenophobia. It proposes substantial changes to the existing legal framework³⁹, including the prohibition of discrimination based on nationality, ancestry, ethnic and tribal origin, linguistic, cultural, religious, or political affiliation, health status, disability, gender, and age. It also envisages the prohibition of incitement to ethnic, tribal, racial or religious hatred. Similarly, it aims to prohibit propaganda and organizations that promote racism, ethnicism, tribalism and xenophobia as well as incitement. Finally, it provides for the establishment of a permanent specialized body, co-directed with civil society, whose mission would be to litigate on behalf of a victim; combat discrimination through education and the promotion of equality; monitor the implementation of anti-discrimination measures; and submit annual reports to the National Assembly, the Senate, and the Prime Minister prior to a hearing by both Houses of Parliament.

VI. Follow-up actions by the UNJHRO and MONUSCO

72. MONUSCO has taken general and specific measures to help combat incitement to hostility. In terms of general measures, the UNJHRO, pursuant to the UN Strategy and Action Plan on Hate Speech, developed a comprehensive action plan for MONUSCO in early 2020. The objective was to foster a common understanding of the root causes, drivers and actors and establish a common framework for action across the Mission.
73. In addition, a working group on hate speech has being established under the leadership of the UNJHRO. In addition to the UNJHRO, the working group includes the Office of the Special Representative of the Secretary-General and Head of MONUSCO, the Political Affairs Division, the Public Information Division, the Joint Mission Analysis Cell, the Legal Affairs Division, the United Nations Police, the Force and the Protection of Civilians Adviser.
74. Systematic monitoring of incitement to hostility by the UNJHRO began in May 2020. This work is based on a template devised specifically for monitoring hate speech in accordance with the norms and standards of international human rights law, as well as a database of the cases reported to the UNJHRO. In addition, the UNJHRO has organized training sessions for its staff to better equip them to address this issue and thus increase the documentation of cases in a systematic manner.

³⁹ See section C above, "National legal framework".

75. Finally, the UNJHRO continues to collaborate with MONUSCO's Public Information Division and Civil Affairs Section to provide support to national actors in organizing a national conference on incitement to hostility.
76. In terms of specific measures, the UNJHRO, in close collaboration with other MONUSCO Sections, undertook several follow-up actions following allegations of speeches and messages inciting to hostility. For example, on 29 July 2020, the UNJHRO field office in Uvira (South Kivu) undertook a Joint Assessment Mission (JAM) to Kipupu following a declaration by the Babembe community of Kinshasa (EMO' YA MBONDO) targeting the Banyamulenge populations of the Fizi highlands, Itombwe sector. A JAM was also organized between 17 and 20 September 2020 in Tchabi (Ituri) in response to communal violence between the Banyabwisha and the Nyali. Similarly, the UNJHRO participated in a JAM in the chiefdoms of Andisoma, Mobala, and Bahema Irumu, Irumu territory, Ituri province, from 24 to 26 November 2020. The objective was to assess inter-community tensions between the Bira and Hema communities and to verify allegations of human rights abuses and violations, including the dissemination of several messages inciting hostility within the Evangelical Medical Centre of Nyankunde. During each of the JAMs, MONUSCO's Civil Affairs Section passed on messages aimed at promoting peace and peaceful coexistence to the notables and representatives of the different communities. Finally, from 3 to 7 February 2020, the UNJHRO conducted a fact-finding mission following the resurgence of the communal conflict between Twa and Bantu in Nyunzu, Nyunzu territory (Tanganyika province).
77. In August 2020, the UNJHRO published an analytical note on the human rights situation in the highlands of the Mwenga, Fizi, and Uvira territories between February 2019 and June 2020. In the note, the UNJHRO expressed alarm at the involvement of the Congolese diaspora and the use of hate speech by community leaders and politicians to fuel conflict in the province.
78. In September and November 2020, the UNJHRO published messages on social media condemning hate speech that followed the release of a video of a national deputy containing discriminatory messages against non-natives in Haut-Katanga and the dissemination of "inflammatory comments" by a senior political executive. The UNJHRO's messages recalled that *"the conditions for exercising the right to freedom of expression are based on the pursuit of peace and respect for human dignity"*.
79. On 10 December 2020, the UNJHRO conducted an awareness raising activity for 73 people in Bunia (Ituri province) on hate speech during the celebration of International Human Rights Day. Participants included the Governor of Ituri, the Minister of Human Rights of Ituri, the MONUSCO Head of Office, the Provincial Security Committee, human rights NGOs, the local press, representatives of the different ethnic communities and school children.
80. Finally, on 18 December 2020, UNJHRO-Ituri, in partnership with MONUSCO's Public Information Division, organised a half-day training session for 22 people on hate speech and incitement to hostility. Eleven of the participants were journalists, some from Congolese National Radio and Television (RTNC). The others were from MONUSCO (Civil Affairs, Public Information, Justice Support, Radio Okapi, and UNJHRO). This

training's objective was to foster a better understanding of hate speech, its root causes, the danger it poses to peace and peaceful cohabitation, the international and national legal framework, and the roles and responsibilities of MONUSCO and media professionals. In addition to a presentation and interactive exchanges with participants, the UNJHRO also distributed printed versions of the 2019 UN Strategy and Plan of Action on Hate Speech and the Code of Ethics and Professional Conduct for Congolese Journalists of 4 March 2004.

VII. Conclusion

81. Hate speech has taken many forms in the Democratic Republic of the Congo and has affected at least 15 provinces in the country, including those where there is armed conflict. Several factors have contributed to the spread of hate speech throughout the country and made its persistence a threat to the country's social cohesion, peace, and stability, given the fragility (including political, social, economic and health) and history marked by episodes of inter-community violence. The cases analysed in this report demonstrate that hate speech has consequences for the population's security, physical protection and lives. Both in provinces not affected by conflict (for example, Kongo Central Province, which saw clashes orchestrated by Bundu Dia Kongo followers in April 2020) and in areas where armed groups clash with each other and with the defense and security forces, hate speech has been at the origin of acts of violence against civilians that have resulted in deaths, looting, attacks against physical integrity, including sexual violence, and displacement of populations. In some instances, these acts may constitute crimes against humanity or war crimes.
82. Hate speech has targeted individuals and groups based on their gender, ethnicity, or social background, particularly in the context of contesting the Congolese citizenship of certain ethnic groups. Political competition, access to land, and armed conflict have all significantly fuelled the spread of hate speech.
83. While the hate speech analysed in the context of this report was issued during private or public meetings and during interviews in the traditional press, it is through the social media that these messages are widely exchanged and discussed. Most perpetrators of hate speech are political actors, followed by members of civil society organisations and the diaspora. One reason for this is the relative impunity they enjoy.
84. Political actors, community leaders, civil society actors, and national authorities all need to play a more significant role and take proactive, effective and efficient measures to prevent and counter hate speech.

VIII. Recommendations

To the Government

85. Strengthen its active fight against stereotypes and discrimination against individuals and communities based on their ethnic, religious, gender or other identity. These efforts should include the promotion of a culture of peace, tolerance and peaceful coexistence; education to foster mutual respect and tolerance among population groups; training and sensitization of personnel involved in the administration of justice; the adoption of

comprehensive anti-discrimination laws and policies that include both preventive and remedial measures and the strengthening of bodies and institutions aimed at ensuring equality and non-discrimination.

86. Fight against impunity for human rights violations and abuses by all communities and strengthen judicial institutions and mechanisms tasked with the peaceful management of conflicts, of which first and foremost judicial institutions; strengthen financial and human resources; the independence of judges; encourage professionalism and independence of the private legal profession; the publication and computerisation of judgments.
87. Pay special attention to minorities and to groups that are vulnerable due to the entrenched or historic stigmatisation, exclusion and marginalisation in political, economic and social life of society from which these groups suffer.

To the Parliament

88. Ensure that any future legislation on incitement to hostility complies with the norms and standards of international human rights law in order to protect the freedoms of opinion, expression, association and peaceful assembly.
89. In practice, and given the risks that laws prohibiting incitement to hostility may be interpreted broadly and applied selectively by the authorities, it is necessary that such laws are formulated in a manner that leaves no room for ambiguity and that effective safeguards are provided to avoid abuse of the legislation. In addition, any restrictions on fundamental rights should meet the requirements of legality, necessity and proportionality.
90. Furthermore, the legal framework should clearly distinguish between expression that constitutes a criminal offence; expression that does not give rise to criminal sanctions but may justify civil proceedings or administrative sanctions; and expression that does not give rise to criminal, civil or administrative sanctions but nevertheless raises issues of tolerance, civility and respect for the rights of others. Criminal sanctions for illegal forms of expression should be considered as a measure of last resort, to be used only in fully justified situations.

To political and religious actors

91. Refrain from using messages of intolerance or expressions that may incite violence, hostility or discrimination.
92. Firmly and immediately denounce intolerance, discriminatory stereotypes and advocacy of hatred that incites violence, discrimination or hostility, including those that lead to atrocity crimes⁴⁰.
93. Affirm that violence cannot be justified by prior provocation⁴¹.

⁴⁰ A/HRC/40/58, Annex II, commitment VII.

⁴¹ A/HRC/22/17/Add.4, Appendix, para. 36.

94. Protect the rights of all persons belonging to minorities, including their right to equal and effective participation in cultural, religious, social, economic, and public life, per international human rights law⁴².
95. Adopt and implement ethical guidelines for the conduct of representatives of political parties, especially when they speak publicly, and sensitise their party members to the dangers of the dissemination of hate speech.

To media actors

96. Respect the Congolese Journalist's Code of Deontology and Ethics of March 4, 2004, Article 5 of which requires journalists to ban "*insult, defamation, slander, libel, accusations without proof, alteration of documents, distortion of facts, lies, incitement to hatred (religious, ethnic, tribal, regional or racial) as well as the apology of any negative value in the daily practice of [their] profession*".
97. Place information in context and in a factual and sensitive manner, in particular by avoiding unnecessary references to the identity of individuals.
98. Report hateful or discriminatory statements and acts to national authorities and MONUSCO.
99. Promote diversity in the media profession and the representation of the whole of Congolese society.

To courts and tribunals

100. Enforce the existing legal framework to repress incitement to hostility while ensuring the right to a fair trial.
101. Examine allegations of incitement to hostility against the standards of international human rights law, in particular the threshold developed by the Rabat Plan of Action of the Office of the United Nations High Commissioner for Human Rights.

To the High Council for Audio-visual and Communication (CSAC)

102. Take effective action against speeches and messages inciting hostility in the media, including through the imposition of administrative sanctions and the promotion of media self-regulation.

To civil society organisations

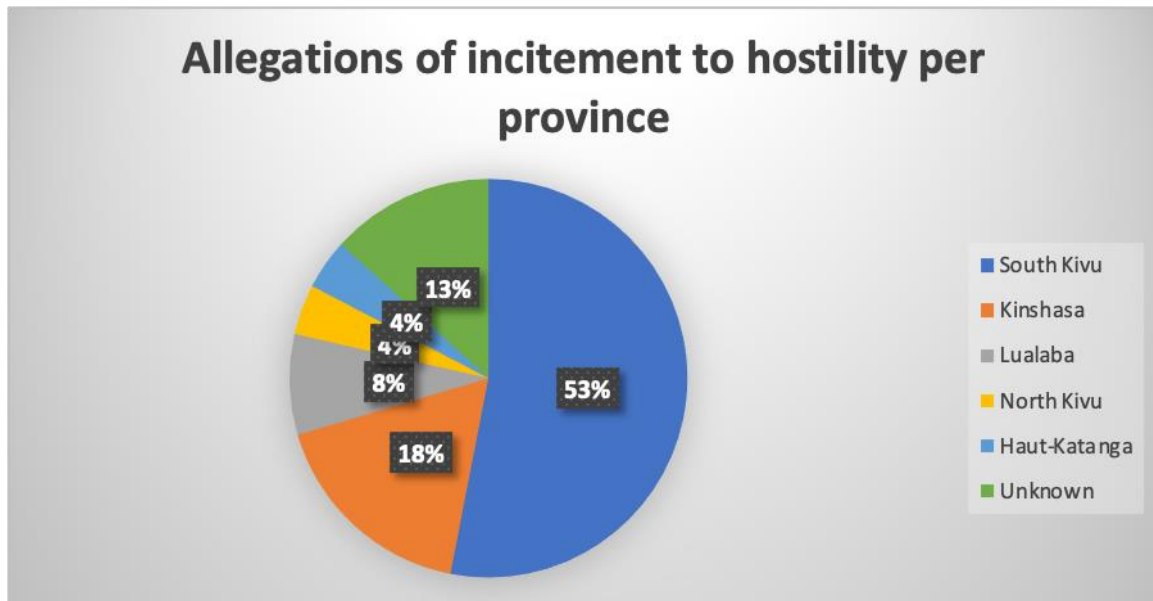
103. Refrain from using messages of intolerance or expressions that may constitute incitement to violence, hostility or discrimination.
104. Strengthen their independence and the inclusiveness and representativeness of their membership while avoiding reliance on narrow group interests.

⁴² A/HRC/40/58, Annex II, commitment VI.

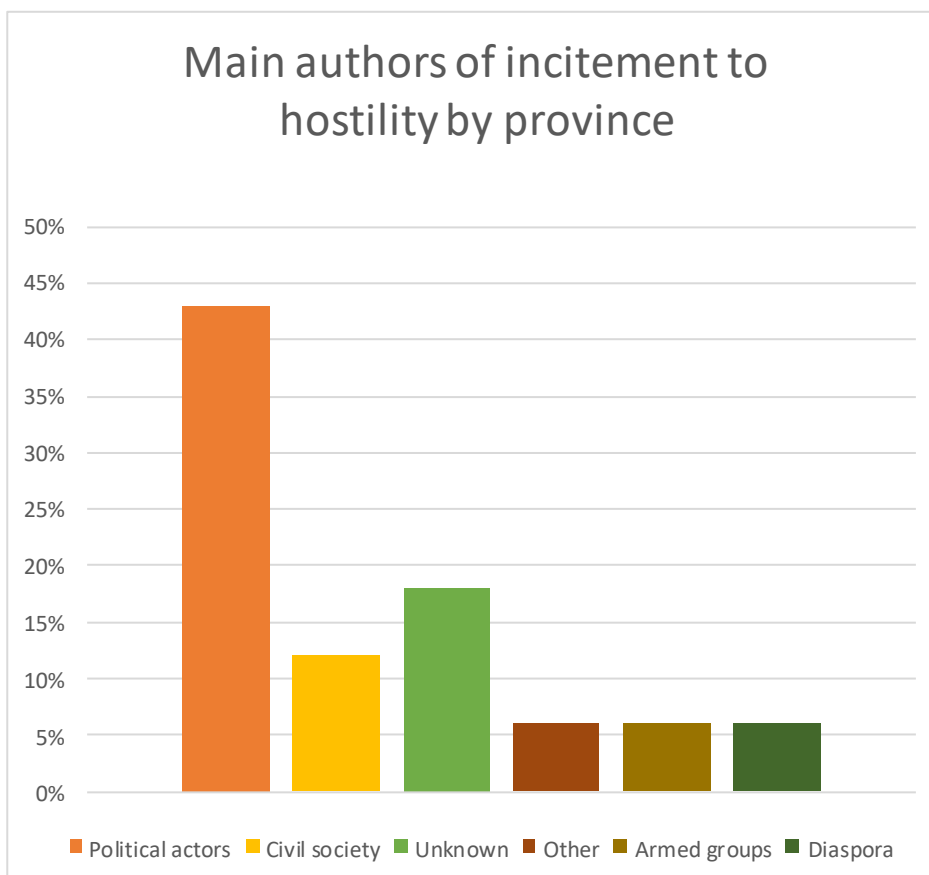
105. Establish an observatory of hate speech that brings together, in a manner representative of the diversity of Congolese society, various organizations with the aim of detecting illegal speech and messages disseminated through all media channels, particularly before, during and after major political events.

Annexes

1. Allegations of incitement to hostility by province



2. Main authors of incitement to hostility



3. Context of hate speech and incitement to hostility

CONTEXT OF HATE SPEECH AND INCITEMENT TO HOSTILITY

