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Preliminary investigation report on human rights violations and violence perpetrated during demonstrations in Kinshasa between 19 and 21 September 2016

(updated on 7 October 2016)

Summary

This report of the United Nations Joint Human Rights Office (UNJHRO) addresses human rights violations and abuses committed between 19 and 21 September 2016 in Kinshasa and other circumstances relevant to understand the overall environment of the demonstrations organized by the opposition platform *Rassemblement des forces politiques et sociales acquises au changement*, calling for the respect of constitutional timelines for holding national elections.

Between 19 and 21 September 2016, the UNJHRO documented over 422 victims of human rights violations in Kinshasa by State agents. In total, the UNJHRO was able to confirm that at least 53 persons, including seven women, two children, and four police agents, were killed. Forty-eight were killed by State actors, while the rest of the perpetrators were not clearly identified. One hundred and forty-three persons, including 13 women and 11 children were injured, of which 75 by State actors and 68 by unidentified perpetrators; and more than 299 people were unlawfully arrested and detained. Violations of the right to freedom of the press, including the arrest of eight journalists, as well as destruction of property including premises belonging to political parties, police stations and shops, have also been documented. These violations resulted in further restricting the enjoyment of civil and political rights in the country.

The figures presented in this report are not final, as the UNJHRO has received numerous allegations that are pending confirmation due to access restrictions. Notably, UNJHRO teams have been denied access to some detention centres on the instructions of senior officials as well as to official records of some morgues and public hospitals, from 21 September to date.

The report concludes with a series of recommendations taking fully into account the State's obligations under international human rights law and the Congolese constitution. The implementation of these recommendations by the Congolese authorities, all political actors, the media and the international community, is essential to ensure respect for fundamental freedoms, including guaranteeing an open democratic space that allows inclusive, credible and transparent electoral process and national dialogue.

I. Introduction

1. As the Democratic Republic of Congo (DRC) enters its critical electoral cycle, the United Nations Joint Human Rights Office (UNJHRO) has documented a significant deterioration of the situation of civil and political rights across the country since January 2015. This manifested itself in the violence which characterised the events which took place in Kinshasa from 19 to 21 September 2016. This report presents the preliminary findings of ongoing investigations by the UNJHRO on human rights violations and abuses perpetrated during and after the demonstrations of 19 September 2016 in Kinshasa.
2. Although a significant number of allegations remain unconfirmed, the UNJHRO has documented significant instances of human rights violations allegedly perpetrated by defence and security forces, and, to a lesser extent, violence by demonstrators. Notably, the number of persons killed attributable to State agents exceeds those documented by the UNJHRO during the whole 2011 electoral process¹. The actual number could be much higher, as the UNJHRO faced several restrictions during its investigations, including denials of access to places of detention and sources of information.
3. The information collected shows that agents of the *Police Nationale Congolaise* (PNC), together with soldiers of the *Forces armées de la République démocratique du Congo* (FARDC) and the Republican Guard (GR) were the main perpetrators of the human rights violations documented by the UNJHRO. Notably, these included violations of the right to life by excessive use of force and widespread use of lethal weapons in crowd control. Defence and security forces were used to cordon demonstrators.
4. The UNJHRO also documented violence, ransacking and destruction of property, including those of pro-government parties and police stations, and the killing of four police agents attributable to unidentified demonstrators.
5. This report does not claim to be exhaustive by documenting all relevant incidents that occurred before, during and after the demonstrations. Nevertheless, the UNJHRO considers that the report illustrates the main patterns of violations perpetrated by State agents and criminal acts by others.

II. Methodology and constraints

6. From 19 September 2016 onwards, the UNJHRO conducted investigations in various neighbourhoods of Kinshasa, including the communes of Lemba, Limete, Ndjili, Ngaliema, Funa, Lingwala, Ma Campagne, Kimbanseke, Nsele, Maluku, Bandalungwa, Gombe, Kasa-Vubu, Kisenso, Makala, Mungafula, Ngiri-Ngiri, Selembao, Masina and Kalamu.

¹ In the scope of the 2011 electoral cycle, the UNJHRO had documented at least 41 victims of arbitrary killings, over 168 victims of violations to the right of physical integrity and over 400 victims of violations to the right of liberty and security of the person. The main perpetrators were agents of the Congolese national police and of the Presidential Guard. To date, no progress was registered in the investigation open by the Congolese authorities in this respect.

7. Based on the standard methodology of the Office of the High-Commissioner for Human Rights (OHCHR), the UNJHRO adopted an inclusive approach to collecting and corroborating information. Information-gathering methods included: (a) interviews with more than 112 victims, witnesses and other sources, among which 11 women; (b) site-visits to specific locations where incidents had occurred; (c) *in situ* visits of 26 hospitals and health centres to consult medical reports on killed and injured persons admitted during those days and in relation to those events; d) reviews of reports from various sources and partners; (e) at least 29 meetings with various State authorities, including representatives of *Etat-Major des renseignements militaires* – former DEMIAP – (EMRM), *Agence nationale de renseignements* (ANR), FARDC, PNC, as well as judiciary and penitentiary authorities.
8. UNJHRO findings rely primarily on first-hand information collected by its human rights officers. Information from other sources, including publications, reports and other communications, was only used as means of secondary corroboration.
9. Investigations and access to information were hindered by several restrictions. Movements of UNJHRO teams were limited due to the security situation on 19 and 20 September 2016. In addition, UNJHRO teams were denied access to detention facilities upon instructions from senior Ministry of Defence officials, arguing the teams needed to seek an authorisation prior to the visit. This was notably the case of ANR detention cells as well as FARDC Kokolo Camp, where access has been denied since 21 September 2016. Most of the people arrested during the 19 September 2016 demonstrations, as well as bodies of those killed and injured victims, were reportedly taken to that camp.
10. Denial of access has therefore significantly hindered UNJHRO's work and access to information, in violation of the memorandum of understanding signed between the national authorities and OHCHR². UNJHRO teams were also denied access to official records of other morgues and public hospitals. As an illustration, on several occasions, the UNJHRO received reports that an undetermined number of victims injured by bullets were thrown into the Ndjili River by the defence and security forces. Similarly, there have been allegations of mass graves in the commune of Masina. Again, although military trucks carrying bodies were seen in the neighbourhood, difficulties in accessing morgues prevented the UNJHRO from confirming them.
11. Moreover, on 19 September 2016, on the first day of the demonstrations, security and defence forces prevented two UN vehicles from accessing the location of the events. At 11 a.m., a PNC agent shot tear gas at a UN vehicle. A few minutes later, on *Avenue Sendwe*, a sniper on top of an anti-riot PNC truck shot twice at a UN vehicle but missed its target. In the second case, it has not been possible to determine whether live ammunition or blank bullets were used. In both incidents, no material damage was reported. Investigations by MONUSCO into the incidents are underway.
12. Besides, the UNJHRO received several concordant reports about the distribution by authorities of machetes and money to approximately one hundred young men, with a view to disturbing the

² *Protocole d'accord relatif au bureau du Haut-Commissariat aux droits de l'homme en République démocratique du Congo*, signed on 3 October 2000 by the DRC Government and the Office of the High Commissioner for Human Rights

demonstration. Similar allegations had already been reported during previous demonstrations³. These men were allegedly paid to attack the private homes of members and supporters of the ruling party, the *Parti du peuple pour la reconstruction et la démocratie* (PPRD), with a view to then shift the responsibility to the supporters of the opposition. The UNJHRO was however not able to corroborate this plan of targeted attacks.

III. Legal framework

13. The right to peaceful assembly and freedom of demonstration are both guaranteed by the DRC Constitution⁴, which does not require permission nor justification prior to demonstrations. Indeed, Article 26 of the Constitution only requires that organisers of a demonstration planned to take place on public roads or in open air inform the competent authority in writing. However, in practice, the system of prior authorisation in application of law n°196 of 29 July 1999 remains in force.
14. The notification required according to Article 26 of the Constitution is envisaged to allow competent authorities to take all necessary measures to facilitate holding of demonstrations and to protect demonstrators, therefore ensuring their role in maintaining law and order. However, since January 2015, in Kinshasa, Government officials and security forces have often banned private and public meetings of political opposition parties and/or civil society organizations, arguing that they constituted threats against State security. State agents have frequently prevented opposition leaders from moving freely, fired tear gas - and sometimes even live ammunition - against peaceful protestors, and have arbitrarily arrested and detained some of them, in violation of the rights guaranteed in the DRC Constitution⁵. In contrast, gatherings organised by the Presidential majority have largely taken place without any disruption from the authorities.
15. Moreover, the Constitution states that no one is obliged to implement an order that is manifestly illegal or contrary to human rights and fundamental freedoms⁶.
16. Organic laws on the organisation and functioning of the PNC⁷ and Armed Forces⁸ provide that defence and security forces shall use force only in cases of absolute necessity and solely to achieve a legitimate goal. In accordance with international standards,⁹ the use of force and firearms should be

³ For example, on 15 September 2015, in Ndjili commune in Kinshasa, a group of unidentified men armed with clubs and wooden sticks beat up several demonstrators in order to spread fear among the crowd. These men, nicknamed the "sportifs" had allegedly received, the day before the demonstration, money and instructions on how to carry out their attack during a meeting with State officials in a military camp in Kinshasa.

⁴ DRC Constitution, Art. 25 and 26.

⁵ The relevant provisions of the DRC Constitution protecting human rights are enshrined in the Title II (civil and political rights: art. 11 to 33; economic, social and cultural rights; art. 34 to 49 and collective rights: art. 50 to 61).

⁶ DRC Constitution, art. 28.

⁷ Organic Law n° 11/013 of 11 August 2011 on the organization and functioning of the PNC, Art. 8 and 9.

⁸ Organic law n° 11/012 of 11 August 2011, on the organization and functioning of the Armed Forces.

⁹ See Code of Conduct of the United Nations for Law Enforcement Officials, adopted by the United Nations General Assembly on 11 December 1979 (Resolution 34/169), as well as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana (Cuba), from 27 August to 7 September 1990. In particular, see Basic Principle 9: "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a

exceptional, and when unavoidable, must be proportionate. If the use of force is necessary for maintaining law and order, it must respect the above-mentioned principles.

17. Finally, the DRC is party to many international human rights instruments guaranteeing freedom of association and the right to peaceful assembly, including the International Covenant on Civil and Political Rights (ICCPR)¹⁰ and the International Covenant on Economic, Social and Cultural Rights (ICESCR). National authorities are therefore obliged to respect, protect and fulfil those rights and to prevent their violations. Any allegation of human rights violations or abuses must be promptly, thoroughly, impartially and independently investigated and those found responsible must be brought to justice.

IV. Context

18. Prior to the demonstrations, in Kinshasa, leaders of the main opposition parties, namely *Forces novatrices pour l'union et la solidarité* (FONUS) and *Union pour la Démocratie et le Progrès Social* (UDPS), as well as representatives of the civil society organization *Association Africaine des Droits de l'Homme* (ASADHO), mobilised the population, with calls for the organization of national elections and for respect of the Constitution.
19. Leaders of the political platform *Rassemblement des forces politiques et sociales acquises au changement* (“*Rassemblement*”) - organisers of the 19 September demonstration - held three meetings with the Governor of Kinshasa to agree on an itinerary for those demonstrations. Organisers and authorities agreed that the event would start from *Echangeur* of Limete and that, in the afternoon, a delegation of 35 members of the *Rassemblement* would file a memorandum to CENI, in the Gombe commune.
20. In the evening of 18 September, the night before the demonstration, radio and television programs, including State-controlled media, broadcast erroneous information on the approved itinerary. This may have contributed to subsequent mismanagement of the demonstration the next day. The PNC Spokesperson also informed the media of a different route from that agreed upon by the competent authorities. Around 6 p.m., on 18 September, the same Spokesperson stated that the PNC would closely monitor one of the demonstration’s assembly points, between *Avenue de l'enseignement* and *Stade des Martyrs*. Furthermore, media channels such as *Radio-télévision nationale congolaise* (RTNC), *Télé 50* and *RTNC 2*, broadcast messages from the main majority party, the PPRD, calling pro-Kabila supporters to defend the President’s mandate and to support the national dialogue. Reports indicate that flyers in Lingala were distributed to the population with the writing: “*Ekoyinda le 19 Septembre 2016*” (“It will blow out on 19 September 2016”).

danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, international lethal use of firearms may only be made when strictly unavoidable in order to protect life.”

¹⁰ Articles 6, 9, 18, 19 and 25, protect respectively the right to life, the right to liberty and security of person, the right to peaceful assembly, the right to freedom of opinion and expression and the right to participation to public affairs.

21. A National Operations Center, as a central command, was activated for managing temporary incidents. The Center was integrated by commanding officers of EMRM, FARDC, ANR and PNC.
22. Also, from 14 to 18 September 2016, in several districts of Kinshasa, PNC agents conducted a major operation, reportedly to prevent any political meeting from taking place, during which they arrested in various circumstances, leaders and organisers of political and advocacy activities. On 15 September 2016, 15 people who had participated in a sensitization meeting on the involvement of youth in the electoral process were arrested without warrant by PNC and ANR agents. On 16 September 2016, at approximately 4 a.m., PNC and ANR agents surrounded the house of the President of the NGO *Union des Jeunes Congolais pour le Changement* (UJCC), arrested him without a warrant and took him to ANR facilities, where he is allegedly still being held at the time of writing this report.
23. On 15 September 2016, PNC agents conducted a cordon-search operation in Mombele, Limete commune, which is known as a UDPS stronghold. According to the PNC, the operation was launched following allegations that ammunition, firearms (AK-47 and pistols), machetes, Molotov cocktails and other craft weapons hidden by the population were being distributed in order to be used during the demonstrations. According to information made available to the UNJHRO, during that operation no weapon has been seized. During this operation, PNC agents arrested more than 23 people, including six minors.

V. Human rights violations and other findings

24. The UNJHRO documented cases of more than 422 victims of human rights violations attributable to the State during the events related to the opposition demonstration of 19 September 2016 in Kinshasa. In total, the UNJHRO was able to confirm that at least 53 persons, including seven women, two children, and four police agents, were killed. Forty-eight were killed by State actors, while the rest of the perpetrators were not clearly identified. One hundred and forty-three persons, including 13 women and 11 children were injured, of which 75 by State actors and 68 by unidentified perpetrators; and more than 299 people were unlawfully arrested and detained. Violations of the rights to life, to physical integrity and to the liberty and security of the person were committed with an aim to further restrict the freedom of expression and right to peaceful assembly, raising concerns about significant restrictions of the democratic space.

i. Freedom of peaceful assembly

25. The first violations of the right to peaceful assembly took place in the morning of 19 September 2016, around 7.30 a.m., when PNC agents started to disperse gatherings with tear gas and arrested eight people in the Lemba commune. PNC agents also blocked protestors and attempted to disperse them while they were heading towards assembly points in Tchangu (Kimbanseke commune), Kinkole (Maluku commune), Funa (Makala commune) and the Moulart roundabout (Bandalungwa commune), as per the route agreed upon the day before. Around 9.30 a.m. the National Operations Centre reportedly decided to prohibit the demonstrations without informing the organisers, and military reinforcement composed of FARDC and GR soldiers were called upon.

26. Between 11 a.m. and 3 p.m., the anti-riot police built barricades and cordoned the area between *Lumumba* and *Sendwe Boulevards*, and between *Boulevard Triomphal* and *Avenue de l'Enseignement*. FARDC and GR soldiers were positioned at several strategic points, and shots were fired at demonstrators, both tear gas and live ammunition. Moreover, from 3 p.m. onwards, military elements of GR and FARDC and PNC agents restricted movements in certain areas, including for ambulances and medical personnel trying to evacuate the wounded.

27. All the violations of human rights by defence and security forces from 19 to 21 September 2016, either the killings, people injured or people arrested, are the result of the violation of the freedom of peaceful assembly. Indeed, those violations were committed with the aim and/or with the consequence that the victims were impeded from peacefully exercising their freedom of assembly and demonstration.

ii. Right to life

28. The UNJHRO documented the killing of at least 53 persons, including seven women and two children. At least 48 of those individuals were killed by State agents, including at least 18 by PNC agents, 10 by GR soldiers and eight by FARDC soldiers. For the other 12 victims, all shot dead, the UNJHRO could not determine accurately which specific State agents were responsible because they were killed during operations involving different forces that acted jointly. In most cases, the deaths were caused by an excessive use of force against the protestors not in a way that can be assessed as “strictly unavoidable in order to protect life”¹¹.

29. Among the victims, 38 were killed by bullet, including 16 by PNC agents, eight by FARDC soldiers and two by GR soldiers. At least 11 victims were hit by bullet on the upper parts of the body, namely in the head, chest and back, including a five-year old girl. The first victim to be killed received two bullets in the chest shot by an unidentified State agent around 9.30 a.m. on 19 September on *Avenue de l'Université* in the commune of Limete. He died on the spot.

30. Seven people whose body were burned were killed by GR soldiers -including during an attack against UDPS headquarters -, and one woman was killed with a machete by GR soldiers. Moreover, it should be noted that several bodies of victims of GR soldiers showed signs of injuries caused by machetes.

31. Information collected shows that PNC agents beat a man to death and stabbed to death another man in Limete commune.

32. A forty-ninth victim was documented, but information is not available to the UNJHRO as to the identity of the perpetrator. The victim, a 33 year-old woman, was in a TRANSCO bus when an altercation between PNC agents and protestors broke outside. According to several sources, stones were thrown from both sides, one of them hitting the woman on the head and causing her death.

¹¹ Basic principles on the use of force and firearms by law enforcement officials, principle 9.

33. In addition, the killings of four PNC agents on 19 September were documented. One PNC officer was killed in the commune of Limete. Protesters reportedly beat him before burning him alive and grabbing his service weapon. Another one was beaten to death in front of Kisenso police station. Two others, including a woman police officer, were also beaten to death in commune of Kimbanseke.
34. Finally, the UNJHRO documented several cases in which by-standers were indirectly affected by the violence, the demonstrations and the road blockades limiting the movements of ambulances. For example, on 20 September 2016, a pregnant woman died right upon arrival at the hospital. She had reportedly tried to reach Malamu, but could not get there on time because the road was blocked.

iii. Right to physical integrity

35. The UNJHRO documented at least 143 persons, including 13 women and 11 children, who were injured during the violence of 19, 20 and 21 September 2016. At least 75 persons, including 10 women and 11 children, were injured by State agents. For 16 of them, the UNJHRO was able to identify the perpetrators: 10 by PNC agents and six by soldiers (including three by FARDC and three by GR soldiers). Other 59 people (out of the 75 by State agents) were also victims of State agents, but the UNJHRO could not accurately determine which, as different groups of State agents were acting together. For the remaining 68, the UNJHRO was not able to determine the identity of the alleged perpetrators (either State agents or not).
36. Out of the 75 victims of State agents, a total of 61 people, including nine women and nine children, were injured by bullets. In most cases, the injuries were the result of excessive use of force against demonstrators during joint operations and not carried out in self-defence. In the cases of 57 persons out of the 61 injured by bullets, the UNJHRO could not accurately determine which State agents had shot them. The UNJHRO could however verify that one man was injured by a PNC officer, another man by a GR soldier, and two persons – including a child – by FARDC soldiers. Among those injured by bullets, six were hit on the upper part of their body, including the head, the chest and the back.
37. With regard to the remaining 14 victims out of the 75 injured by State agents, ten suffered injuries resulting from the use of tear gas fired against the crowd by State agents. Among them, nine were directly hit in the abdomen or chest, including eight by PNC agents. Finally, two people were burned in the second and third degrees by GR soldiers, one victim was injured by machete by a PNC officer, and one woman was hit on the head with a rifle butt by a FARDC soldier.
38. Furthermore, the UNJHRO has also documented 68 other individuals injured, including 41 by bullet and 27 by stones thrown at them. The UNJHRO could however not verify information about the perpetrators. Indeed, it should be noted that a large number of those wounded by bullet were directly transferred to the FARDC Kokolo Camp hospital, where access has been denied to the UNJHRO since 21 September 2016.
39. The road blockades prevented the evacuation of the wounded to hospitals. For example, on 20 September 2016, MONUSCO had to escort an ambulance transporting a five-year old child shot and

wounded in the back. The ambulance had been blocked in the commune of Lemba by PNC agents, but was later able to reach the hospital thanks to MONUSCO's escort.

iv. Right to liberty and security of person

40. At least 299 people, including at least six children and two women, were arrested between 19 and 21 September 2016 during the demonstrations in Kinshasa. On 19 September 2016, hundreds of people were arrested and taken to various police sub-stations, before being transferred to the FARDC Kokolo Camp, on the orders of the National Operations Centre, also ordering that all so-called "political cases" (those concerning the representatives of political parties and other public figures) were in turn transferred to the ANR.
41. Moreover, in violation to the freedom of the press, journalists covering the events *in situ* were targeted by security forces, arbitrarily arrested between 11.30 a.m. and 4 p.m. and unlawfully detained with the aim to prevent them from informing on events on the ground. PNC agents harassed and arrested those using video cameras, photo cameras or other recording devices such as mobile phones during the demonstrations. Eight journalists and other workers from international media such as *Radio France Internationale* (RFI), *Agence France Presse* (AFP), TV 5, as well as from national media such as *Canal Télévision Congo* (CCTV), the daily newspaper *La prospérité*, and the magazine *Takomi Wapi*, were harassed and arbitrarily detained by security forces during the demonstrations. The eight journalists were harassed, robbed, beaten and detained for several hours before being released. Three of them were taken to FARDC Kokolo Camp and released following the intervention of the UNJHRO and others.
42. On 20 and 21 September 2016, PNC agents and GR soldiers conducted raids including at night in several districts of the city, such as Limete, Lemba, Matete, Ndjili and Masina, in targeted search of opposition sympathisers previously identified in a list, and broke into houses with no judicial warrants.
43. On 29 September 2016, 103 individual cases¹² concerning those arrested were transferred to different *Parquets*. The judicial authorities issued 53 judgments and other decisions in *flagrante delicto* hearings. In total, 25 people were sentenced to prison terms ranging from one month to two years for conspiracy, rebellion, malicious destruction and/or voluntary arson. In addition, 20 people were acquitted for lack of evidence. In eight cases, the courts declined to hear the cases, either because of territorial (five cases) or personal (three children) lack of jurisdiction. Those three cases were referred to the Juvenile Court of Ndjili. Furthermore, according to information received by the UNJHRO from the tribunal, 50 cases still remain pending.

v. Destruction, looting of property and attacks against political parties' premises and public and private properties

¹² According to available information, 174 people were prosecuted, out of which 93 were sentenced to prison and 81 released.

44. On 20 September 2016, the UNJHRO documented cases of destruction of property, including attacks against the headquarters of five opposition political parties, UDPS, FONUS, *Mouvement lumumbiste progressiste* (MLP), *Parti démocrate chrétien* (PDC), and *Mouvement des Démocrates Congolais* (MDCO), allegedly attributable to State agents either directly (by being themselves the perpetrators of the violation) or indirectly (by being present at the scene without intervening and/or denying access to people trying to extinguish the fire or to rescue victims). All those headquarters of opposition political parties, located in the commune of Limete, were set on fire.
45. The headquarter of the human rights NGO *Gouvernance plus*, which is near the MLP headquarters, was also attacked and burned on the same day. The UNJHRO could however not determine whether it was a targeted attack or collateral damage.
46. The attacks described in paragraph 44 were allegedly perpetrated following a similar *modus operandi* from 2 to 4 a.m. They have been carried out by a group of twenty men, some of whom were dressed in GR uniforms, some in civilian clothes and others partially in military uniforms. The men arrived on board of two pickup-type white jeeps. Most of them were hooded and all were speaking in various languages possibly English, Swahili and Lingala.
47. The FONUS headquarter was attacked at around 4 a.m. Men in civilian attire reportedly arrived in two above-mentioned white jeeps and tried to force the entrance gate. FONUS activists, who had remained in the office for the night, retaliated with stones. Then, GR soldiers allegedly threw a grenade at the FONUS headquarters, forcing activists to escape to neighbouring plots by climbing the fence walls. The GR soldiers reportedly managed to enter the headquarters, where they opened the doors, broke the building's windows and poured gasoline before exiting. Then, five GR soldiers allegedly set the building ablaze. The soldiers then went back to the two vehicles and drove away. Allegedly, when FONUS activists and neighbours tried to extinguish the fire, PNC agents in three vehicles blocked the road and chased them.
48. Around 3.30 a.m., two jeeps arrived at the UDPS headquarter. Persons wearing civilian clothes and other persons wearing GR uniforms tried to break in. Then, they reportedly pulled away and threw tear gas grenades inside the compound. More than twenty UDPS activists were inside at the time. While some activists managed to escape by climbing the walls, others were attacked with machetes by the perpetrators. In addition, five UDPS members were forcibly detained and beaten by alleged GR soldiers. The attackers set the building on fire using petrol, and threw these five UDPS members inside the flames, before fleeing the area. At the time of the attack, PNC agents were reportedly near the scene and did not intervene. They cordoned off the area shortly after the fire was set, preventing also the arrival of ambulances and the evacuation of the wounded. A total of five people were killed, fifteen wounded, including by machetes, and nine missing, all as a result of the incident.
49. In addition to the attacks against party headquarters, several private goods were also seized by State agents. For example, 40 motorcycles were confiscated by PNC agents on 19 September 2016 in Matete. This incident reportedly triggered violence, with demonstrators setting three buildings on fire before recovering the motorcycles. PNC agents were also involved in looting. An agency of the

Banque internationale pour l'Afrique au Congo (BIAC) was looted by PNC agents, including a PNC major who was subsequently arrested for those acts.

50. Finally, cases of extortion were reported. On 20 September 2016, an unknown number of people were arbitrarily arrested by PNC agents in the areas of Mokali, Pascal and Kimbanseke, and taken to the commune of Ndjili, where policemen allegedly demanded payment of 100,000 Congolese Francs per person for their release.

vi. Victims' profiles

51. As a result of excessive and disproportionate use of force by State agents as well as the violence used by demonstrators, victims come from different groups. They include opposition sympathisers, police agents as well as by-standers notably women and children. Additionally, international and national journalists and human rights defenders were targeted. Health workers and human rights defenders continued to be threatened for reporting on the events.

VI. Alleged perpetrators

52. The majority of the documented human rights violations were perpetrated by PNC agents and FARDC and GR soldiers. Thus, at least 422 individuals were victims of human rights violations perpetrated by State agents. Information collected by the UNJHRO shows that PNC agents were responsible for the extrajudicial killings of at least 18 persons, including 16 shot dead, the wounding of at least 10 others, as well as the majority of the 299 unlawful and/or arbitrary arrests. FARDC soldiers are responsible for the death of at least eight individuals and for violations of the right to physical integrity of three others. Moreover, they were involved in the unlawful detention of the majority of those arrested in the Kokolo military camp. GR soldiers are responsible for at least 10 summary executions, including seven people burned, and three violations of the right to physical integrity.

53. Furthermore, in several documented cases, information collected shows that persons in civilian clothing acted jointly with defence and security forces, or with their acquiescence or complicity, to perpetrate human rights violations. This was for example the case during the attack against UDPS headquarter.

54. Reportedly, bodies of the deceased victims, as well as several wounded persons, were taken away by the authorities, often rapidly and sometimes by force and against the will of the victims' families. The UNJHRO got reports of military and police trucks retrieving corpses of demonstrators shot on 19 September in various communes of the city.

55. Finally, as of the morning of 19 September 2016, a National Operations Centre was used as a central command centre. This integrated cell was jointly managed by senior FARDC, PNC and ANR agents. On 19 September 2016, at around 9:30 am, it was reportedly this cell that decided to prohibit the event without informing the organisers. It also reportedly radioed orders to PNC agents, asking them to put an end to the demonstration and informing them of the imminent arrival of military

reinforcements. The National Operations Centre reportedly authorized the use of force including fire arms against demonstrators.¹³

VII. Violence by demonstrators

56. The UNJHRO, during its investigation, was informed of many cases of violence by demonstrators. The killings of four PNC agents on 19 September were documented. One PNC agent was killed in the commune of Limete. Protesters reportedly beat him before burning him alive and grabbing his service weapon. Another one was beaten to death in front of Kisenso police station. Two others, including a woman police officer, were also beaten to death in commune of Kimbanseke. The DRC Government declared that four PNC agents were killed during the demonstrations.
57. Demonstrators also erected barricades, including by burning tires, during the day of 19 September 2016, reportedly. During clashes with defence and security forces, they allegedly threw stones and also destroyed and looted the headquarters of three political parties linked to the presidential majority, namely the PPRD, the *Alliance des travaillistes congolais pour le développement* (ATCD) and the *Convention nationale congolaise* (CNC).
58. Authorities reported that demonstrators were responsible for the destruction and looting of many public buildings and other facilities. According to information received by the UNJHRO, 28 police stations, substations and antennas as well as various tribunals¹⁴ were sacked and burned by demonstrators. Also, 30 long rifles with ammunitions were stolen, three have been recovered so far.
59. Finally, on 27 September 2016, during the presentation of the report of the United Nations High Commissioner for Human Rights at the 33rd session of the Human Rights Council, the Minister of Justice and Human Rights of DRC referred in his statement to the gang rape of an eight-year old girl, as well as to cases of beheadings and emasculations perpetrated by demonstrators. Despite seeking information from police stations, hospitals and networks combatting sexual violence as well as exchanges with other partners, the UNJHRO was unable to verify these allegations.

VIII. Actions undertaken by Congolese authorities

60. As the events unfolded, the Government announced laying charges against the organisers of the demonstration, those involved in the violence and “the intellectual authors”. The announcement also stated that the organisers would be prevented from traveling abroad, which is a restriction on the freedom of movement. On 22 September 2016, defence and security forces conducted a cordon and search operation around military camps Kokolo and Kabila aiming at retreating goods looted by Kulunas and State actors. In addition, 25 people, who were arrested during the demonstrations between 19 and 21 September 2016, were sentenced to prison terms ranging from one month to two years for conspiracy, rebellion, malicious destruction and/or arson.

¹³ Witnesses reported that they heard the following order, given in Lingala via VHF radio: "They are determined, shoot!"

¹⁴ These include the *Tribunal de Grande Instance*, the *Tribunal de paix* and the *Tribunal pour Enfants* in Ndjili, as well as Prosecutor General's office in Matete and the bar association.

61. On 21 September 2016, during a press conference, the President of the National Human Rights Commission announced the opening of an independent inquiry into the public demonstrations of 19 and 20 September in Kinshasa. The inquiry is mandated to collect information on cases of human rights violations documented during those events, and possibly, as part of the Commission's mandate, to file complaints on behalf of the victims.
62. Finally, on 22 September 2016, the Governor of Kinshasa decided to prohibit all public demonstrations until further notice. Therefore, a demonstration organised by the Presidential Majority the week after was banned to prevent further violence.

IX. Conclusion and recommendations

63. From 19 to 21 September 2016 in Kinshasa, the UNJHRO recorded serious human rights violations as a result of a disproportionate and excessive use of force, including lethal force, by the Congolese authorities in reaction to the demonstration organized by opposition members.
64. The UNJHRO has been able to verify that at least 53 persons were shot, burned, hacked with machetes, beaten or stoned, including at least 48 by the defence and security forces. In addition, at least 143 civilians were injured, including at least 75 by State agents, mainly PNC agents and FARDC and GR soldiers.
65. The UNJHRO also documented violence, criminal acts and destruction of property by the demonstrators including the killing of four police agents, which is contrary to principles of peaceful assembly and should be promptly, thoroughly, independently and impartially investigated and those responsible prosecuted in compliance with the DRC law.
66. At least 299 people, including members of political parties, journalists and human rights activists, were arrested by PNC agents and GR soldiers. As of 29 September 2016, the judicial authorities have convicted during *flagrante delicto* hearings 25 persons to prison sentences ranging from one month to two years for conspiracy, rebellion, malicious destruction and/or arson.
67. The headquarters of political parties, of one human rights NGO and other public and private properties were attacked by men affiliated with defence and security forces as well as by demonstrators.
68. The conclusions presented in this report only relate to the preliminary findings of the investigation by the UNJHRO. Given that a large number of allegations await verification, the information presented cannot be considered to be an exhaustive list of all human rights violations and abuses perpetrated during the Kinshasa events. Further, the UNJHRO regrets that its investigations and access to information were hindered by restrictions imposed by Congolese authorities, including access to ANR cells and to the FARDC Kokolo Camp.

69. In addition to the recommendations made in its previous reports¹⁵, the UNJHRO urges:

A. *The Congolese authorities*

- to conduct prompt, independent, thorough, credible, transparent and impartial investigations into allegations of human rights violations committed by State agents and those affiliated with the State agents in the context of the crackdown on demonstrations in Kinshasa and the rest of the country between 19 and 21 September 2016; to bring those responsible to justice, irrespective of their rank or position;
- in addition, to adopt disciplinary measures against all State agents who abused their authority;
- to conduct prompt, independent, thorough, credible, transparent and impartial investigations, in accordance with international standards, to determine those responsible for the violence during demonstrations, and unconditionally release all those arbitrarily or unlawfully arrested or against whom no charge has been retained;
- to ensure the full exercise of the right to peaceful assembly and protest, in accordance with the DRC Constitution and international obligations; and to use all appropriate means to ensure that these rights can be exercised freely and securely, including by making sure that the safety of demonstrators is guaranteed;
- to equip PNC units with adequate material means to manage situations where they must maintain or re-establish public order, to remove lethal weapons and to authorise the use of force only as a last resort and in compliance with the principles of necessity, proportionality and legality, in accordance with international standards;
- to ensure the protection of the human rights and fundamental freedoms of all persons, such as political opponents, journalists, other civil society actors, women and children; and to ensure that any restrictions on those freedoms respect the principles of legality, necessity and proportionality;
- to prevent human rights violations from being committed at future events by providing training to defence and security forces on respecting human rights norms and standards, especially in relation to the use of force;
- for the Parliament to urgently adopt the draft law setting out measures to ensure the freedom to hold demonstrations including a prior notification system for demonstrations and ensure the law's full compliance with international standards;

¹⁵ In particular, see Report of the United Nations Joint Human Rights Office on human rights and fundamental freedoms during the pre-electoral period in the Democratic Republic of Congo published on 9 November 2011; Report by the United Nations Joint Human Rights Office on the violations of human rights and fundamental freedoms committed during the electoral period in the DRC, as well as on the actions taken by Congolese authorities in response to these violations published on 11 December 2013; and Report of the United Nations Joint Human Rights Office on human rights and fundamental freedoms during the pre-electoral period in the DRC between 1 January and 30 September 2015 published on 8 December 2015.

- for the Parliament to urgently adopt the draft law on protection of human rights defenders;
- to ensure full access of UN personnel and other international monitors to the victims of the demonstrations and detention centres, especially ANR cells and the FARDC Kokolo Camp;

B. Political actors and media in the DRC

- Political actors to publically promote the rights guaranteed in the Constitution and other national laws as well as international human rights norms and standards, and abide by principles of non-violence;
- Political actors to abide by the provisions of the Code of Conduct for political parties;
- to firmly condemn the use of violence by members of political parties, and to take appropriate measures to prevent and end it;

C. The international community

- to call upon the Congolese authorities to promptly, thoroughly, independently and impartially conduct investigation into human rights allegations perpetrated in the context of the repression of the demonstrations and prosecute those responsible;
- to call upon the Congolese authorities to take preventive measures to ensure that these human rights violations will not reoccur, and to monitor measures taken by the Government in response to these violations;
- to call upon political actors to carry out their activities through peaceful means and in strict compliance with the legislation of the DRC.