



Freedom from Torture



A TOOL TO SILENCE:

TORTURE TO CRUSH DISSENT IN

THE DEMOCRATIC REPUBLIC OF CONGO

November 2018



DEMOCRATIC
REPUBLIC OF
CONGO

FREEDOM FROM TORTURE

Freedom from Torture is the only UK-based human rights organisation dedicated to the treatment and rehabilitation of torture survivors. We offer services across England and Scotland to around 1,000 torture survivors a year, including psychological and physical therapies, forensic documentation of torture, legal and welfare advice and creative projects.

We are one of the world's largest treatment centres, and since our establishment in 1985, more than 60,000 survivors of torture have been referred to us. Medico-legal reports prepared by our expert clinicians are used as evidence in torture survivors' claims for international protection, and form the basis of research reports such as this, aimed at holding torturing states to account.

Through our Torture Accountability Programme, we work to expose torture in support of efforts to strengthen prevention, secure justice and ensure international protection for survivors of torture. Survivor voices and expertise are at the heart of this work.

We are the only human rights organisation that systematically uses evidence from our in-house expert clinicians, and the torture survivors with whom we work, to work towards a world free from torture.

SURVIVORS SPEAK OUT NETWORK

Survivors Speak OUT (SSO) is the UK's only torture survivor-led activist network and is actively engaged in speaking out against torture and about its impacts. Set up by and for survivors of torture, SSO uses first-hand experience to speak with authority for the rights of torture survivors. The network is supported and facilitated by Freedom from Torture and all network members are former Freedom from Torture clients.

To find out more about Freedom from Torture and Survivors Speak OUT network please visit www.freedomfromtorture.org

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I KNOW

I KNOW HALF A LOAF IS BETTER THAN NOTHING

BUT

SOMETIMES A WHOLE LOAF WOULD BE NICE

I KNOW PEACE IS BETTER THAN WAR

BUT

WHY THEN IS THERE WAR ALL OVER THE WORLD?

I KNOW THINGS WILL NOT ALWAYS LOOK ROSY

BUT

IT WOULD BE GOOD IF THEY DID

I KNOW LIFE IS A JOURNEY

BUT

IT CAN BE TIRING, TO TRAVEL ALL THE TIME

I KNOW THAT HOPE LIKE A BLAZING CANDLE CAN BE

PUT OUT IN A MOMENT

BUT

I ALSO KNOW THAT HOPE, LIKE CANDLELIGHT

CAN LEAD THROUGH DARK MOMENTS

I KNOW THINGS CAN FALL APART

BUT

THEY CAN ALSO COME TOGETHER

I KNOW WE SHALL OVERCOME SOME DAY

BUT

IT WILL TAKE A LOT OF WORK...

TIM MALMO

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ABBREVIATIONS AND ACRONYMS

“African Commission’s Fair Trial Principles” – African Commission’s Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa

AMP – Alliance of the Presidential Majority (*Alliance pour la majorité présidentielle*)

ANR – National Intelligence Agency (*Agence Nationale de Renseignements*)

BDK – *Bundu Dia Kongo*, a political-religious group in the DRC

DEMIAP – Military Detection of Antipatriotic Activities (*Détection Militaire des Activités Anti-Patrie*), the former name by which DRC’s military intelligence organisation was known

DRC – Democratic Republic of Congo

FARDC – Armed Forces of the DRC (*Forces Armées de la République Démocratique du Congo*)

ICRC – International Committee of the Red Cross

“Istanbul Protocol” – UN Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

MLC – Movement for the Liberation of Congo (*Mouvement de Libération du Congo*)

MONUSCO – UN Organization Stabilization Mission in the Democratic Republic of the Congo (*Mission de l’Organisation des Nations unies pour la stabilisation en République démocratique du Congo*)

“Mandela Rules” – UN Standard Minimum Rules for the Treatment of Prisoners

PNC - Congolese National Police (*Police Nationale Congolaise*)

PTSD – post-traumatic stress disorder

“Robben Island Guidelines” – Robben Island Guidelines for the Prohibition and Prevention of Torture in Africa

UDPS – Union for Democracy and Social Progress (*Union pour la Démocratie et le Progrès Social*)

KEY POINTS

Women and men who exercise their democratic and constitutional right to engage in political and human rights activism are routinely detained and tortured by state authorities in the Democratic Republic of Congo, in a context of political repression that is unrelated to armed conflict.

Torture is used predominantly as a form of punishment for political and human rights activism, and as a deterrent against future involvement.

Activists without high or public profiles are a target for repression.

People are arbitrarily detained, and held in conditions that breach all accepted norms.

Detainees are held without charge or any other of their due process rights in official and unofficial detention sites that operate under systems of complete lawlessness.

Torture, including rape, is endemic in the detention system, irrespective of the detaining authority or type of detention facility. Most of those who are detained, men and women alike, are raped, on multiple occasions and by multiple perpetrators. The rapes take place in a context of absolute impunity.

Different branches of state security – police, military and intelligence agencies – commit torture and other human rights violations from the point of arrest, and at both official and unofficial detention sites.

There is no accountability or justice for survivors.

EXECUTIVE SUMMARY

This report documents a situation of lawless and permitted horror in the Democratic Republic of Congo. Far removed from the context of conflict, political activists and those perceived to have challenged the authorities are routinely detained and tortured with impunity.

None of those targeted for repression had a high profile. They are women and men who were exercising their democratic rights and were tortured for engaging in lawful activities.

Torture appears to have been used predominantly as a form of punishment for their political and human rights activism, but also as a deterrent against future involvement.

METHODOLOGY

Our research analyses 74 medico-legal reports prepared by and on behalf of Freedom from Torture between 2013 and 2018 for Congolese nationals who had fled to the UK.¹ They had been detained and tortured by state authorities in relation to their own or a family member's actual or perceived political or human rights activity.

The report examines the profile of those tortured, the nature and circumstances of their arrest, the conditions of detention and torture they suffered, and the physical and psychological impact of their treatment.

This report was written in collaboration with the Survivors Speak OUT network and Congolese survivors through a series of workshops to provide survivor commentary and recommendations.

WHO WAS DETAINED AND TORTURED, AND WHY

- 49 women, 25 men;
- More than a third were 25 or under; five were legally minors when detained;
- Most were living in the Congolese capital, Kinshasa, far from the conflict-affected regions;
- More than half were detained more than once, and most were tortured every time.

All were detained and tortured because of their own or others' political or human rights activity. This includes being a member or rank-and-file supporter of opposition parties, campaigning organisations and pressure groups, and other types of civil society organisation. It encompasses a wide range of forms of public expression on issues such as democracy and human rights, including women's rights.

Many people were involved in demonstrations and other protests connected with the democratic process and presidential elections, including those in 2006 and 2011 and the delayed 2016 elections. Some were involved in activism as members or supporters of political opposition parties, especially the Union for Democracy and Social Progress (UDPS, *Union pour la Démocratie et le Progrès Social*) and other political pressure groups. For some people, a single activity resulted in detention and torture, such as wearing a T-shirt bearing the name of a political opposition party or attending a single meeting or demonstration.

Others were active on human rights issues, including civil and political rights, rights of the child and access to justice. Some supported particular civil society groups and non-government organisations, such as the pro-democracy and civil society movement Filimbi and the human rights organisation Voice of the Voiceless (*Voix des sans Voix*). Some worked directly with women and girls and campaigned on women's rights issues, particularly related to sexual violence and rape.

Others were detained either because of the actual or perceived activity of a family member, or because they were wrongly judged by the authorities to have been involved in political or human rights activity.

DETENTION CONTEXT

Different branches of state security – including police, military and intelligence agencies – were involved in the detentions from the point of arrest, at detention sites (official and unofficial) and in the perpetration of torture and other human rights violations. Our evidence demonstrates appalling detention conditions in both official and unofficial sites that breach the DRC's obligations under instruments such as the UN Standard Minimum Rules for the Treatment of Prisoners and the African Commission's Fair Trial Principles. It also reveals a complete absence of due process that allows torture to be carried out unchecked and without sanction.

- More than half were detained in violent circumstances, particularly those detained from their home, or at a protest.
- All were held in arbitrary detention, in conditions that denied basic due process rights.
- Lack of sanitation, overcrowding and inadequate access to food and water were common in all detention facilities, breaching all international norms and standards.

The majority of detentions took place at sites in and around Kinshasa, although eleven people were detained in sites in seven other provinces of the DRC. More than a quarter were detained in prisons, and a similar proportion in unofficial or ad hoc detention sites, usually buildings in remote, isolated areas or hidden in scrubland or forest. The others were detained in police, military and intelligence facilities. A number of detention sites are named. These include Makala Prison, Police Camp Lufungula and Camp Kokolo, all in Kinshasa.

Most were in detention for less than six months during their most recent or only detention. The vast majority escaped, often with the assistance of a guard. Only four people said the detaining authorities released them, in all cases without warning, explanation or formal process. Most of those who escaped said that a guard had offered help because he recognised or found an affinity with them, including common ethnicity or place of origin, or a family connection.

More than three quarters fled the DRC within three months of getting out of detention. Some were told by the guards who helped them to escape that they should leave immediately or risk being killed.

EVIDENCE OF TORTURE

All 74 survivors experienced physical and/or sexual torture at the hands of Congolese state authorities during their most recent detention episode. The methods reported include:

- beatings with various instruments;
- rape, including gang rape;
- burning with heated metal or cigarettes;
- positional torture, including suspension;
- sharp force trauma such as cutting, stabbing or biting;
- being forced to stare at the sun;
- partial asphyxiation; and
- electric shocks.

Psychological torture was widespread. The most commonly cited methods were:

- verbal abuse and forced performance of humiliating acts;
- threats of death and of further torture; and
- witnessing torture and death of other detainees.

More than half also described detention conditions that constitute a form of environmental torture, including the deprivation of normal sensory stimulation through prolonged solitary confinement in darkness.

SEXUAL TORTURE

The case set shows an extremely high incidence of sexual torture. Women and men describe what appears to be an endemic and routine practice of rape in a wide range of detention facilities. Rape is carried out openly and with impunity by multiple perpetrators.

Sixty-five women and men disclosed sexual torture, all but two of whom were raped – vaginally, anally and/or orally – at least once. This represents 85% of all cases - 94% of the women and 68% of the men. More than half of those who were raped described episodes of gang-rape. Given the difficulties many survivors have in disclosing rape, the real figure may be higher. The violent, sustained and repeated nature of sexual assaults resulted in profound physical and psychological injury.

IMPACTS OF TORTURE

All survivors were found to have enduring psychological symptoms linked to their torture, with many specifically linked to their sexual torture.

The aggregation of findings cannot convey the uniqueness of each person's history, experience of detention, combination of torture methods used and the devastating short- and long-term physical and psychological impact. However, they do demonstrate extensive and systemic use of torture in the DRC.

FLAGRANT DISREGARD FOR THE LAW

The Government of the Democratic Republic of Congo has signed up to international and regional treaties that protect a wide range of human rights. The national constitution upholds the absolute ban on torture. Despite this, the widespread practice of torture and the flagrant violation of civil and political rights continue without any recourse to justice for victims or accountability for senior security personnel or government officials who allow these violations to take place. In short: the government is not only failing to prevent torture, it is tacitly or actively condoning torture. Moreover, it is failing to provide accountability for survivors.

The patterns and practices highlighted are deeply concerning, particularly as the country prepares for controversial and long-delayed elections scheduled for December 2018. People engaged in legitimate political expression are at risk of arbitrary arrest, torture and death unless the Government of the DRC significantly changes its behaviour.

RECOMMENDATIONS

Freedom from Torture is calling on the government of the Democratic Republic of Congo to:

1. Immediately end the practice of torture and ill-treatment and undertake prompt, thorough and impartial investigations into all allegations of such treatment, as well as ensuring that alleged perpetrators of and accomplices to torture are brought to justice.
2. Commit to eradicating the prevalence of sexual torture in all contexts by ensuring that perpetrators are brought to justice, irrespective of rank or position, and that safeguards exist in detention settings.
3. Ensure that detention conditions comply with the revised 2015 UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) and immediately close all unofficial detention sites.

Freedom from Torture is calling on the international community to:

1. Send a strong signal to the Government of the DRC that any form of torture or ill-treatment in the lead-up to, during and after the December 2018 elections will not be tolerated and will be condemned in the strongest possible terms.
2. Ensure that concerns about human rights abuses, including torture, are raised in all bilateral and multilateral discussions on human rights with the Government of the DRC and encourage it to fulfil its obligations under international human rights standards and the 2005 Constitution.
3. Immediately cease forced returns of Congolese nationals to the DRC in line with the international obligation of non-refoulement (non-return).²

Election observation missions for the December 2018 elections should:

1. Publicly condemn any torture and ill-treatment that is reported during the upcoming election period.
2. Ensure that any allegation of torture and ill-treatment is promptly and thoroughly investigated and documented both by the Government of the DRC and election observer missions.

SURVIVOR VOICES

The voices of survivors are central to the advocacy of Freedom from Torture to prevent torture and secure justice. In preparation for this report, we conducted focus groups and individual discussions with 30 Congolese torture survivors to discuss accountability for torture in the Democratic Republic of Congo (DRC) and what they would like to see as our advocacy priorities.

The 30 survivors, 17 men and 13 women, are either current or former therapy clients at Freedom from Torture. The discussions took place over several weeks and across Freedom from Torture centres in the UK. Most conversations were facilitated and led by Survivors Speak OUT, an activist network set up and run by and for former treatment clients of Freedom from Torture to speak out against torture and its impact. Through this report, survivors demand justice for themselves and other survivors of human rights violations and to stand up against the torturers who sought to silence their voices for all time.

“A TOOL TO SILENCE”

*“Even though you see something bad you can’t say.
You are scared because tomorrow you will disappear.”*

Congolese torture survivor

These words of one survivor reflect a point that all groups made – that the authorities use torture as “a punishment” to try to silence people. They seek to make the cost of civic involvement so high and try to instil such profound fear that no one will dare to speak out about violations in the country. One participant spoke of how university students are targeted for being a potential driving force for protest and change. *“We get to the point where young people don’t have heart any more”.*

Participants said that family members were targeted to silence activists:

“Knowing that they cannot touch me directly they might start targeting members of my family, just to silence me. Because I know that if I carry on, it might mean losing my family. It might mean losing my children.”

That fear extended to survivors who took part in the discussions in the relative safety of the United Kingdom, and even in a context of anonymity. Several said that their families would be at risk if it was known that they were participating in such a process. They said that some survivors had chosen not to attend because of the perceived risks.³ Those who did choose to participate said that they did so, despite what they saw as the risks, because of a commitment to contribute to a process that might improve the situation for people in their home country and ensure no one else would have to suffer what they endured.

“We are the witnesses;
we are
the victims
of these
abuses.”

Congolese torture
survivor

“A WAY OF LIFE”

Participants said that torture is commonplace in the DRC – “a way of life” – even though the country is supposed to be a democracy and bans torture. Described as a “system”, they reported that torture is used by:

- state agents to punish politically-involved people and human rights defenders;
- police as a common interrogation technique in criminal matters; and
- prominent and politically-connected individuals in personal or business disputes.

In particular, they said sexual torture was so common that it was “seen as normal”. In the words of one woman, “No one goes to prison for rape any more.”

Participants also spoke of security forces assaulting people in public as standard practice.

“WHEN IT IS ELECTIONS, INNOCENT PEOPLE DIE”

Another dominant theme in the focus group sessions was fear and a sense of hopelessness around the upcoming elections. None of the participants felt that the December 2018 elections were likely to be free and fair. “There will be no change” was a widely expressed view. One participant said:

“The truth is that the Congolese people have never chosen a president up to now. From 1960, the president that is chosen by the Congolese people is not the one who is leading the country...”

Many participants expressed fear. One said:

“So now we are even scared as the election is approaching and know that we only have two options – either killing or fights. Literally killings and fights.”

“CONGO: THE PLATE EVERYONE COMES TO EAT FROM”

“DRC is one of the richest countries in the world but Congo does not belong to the people, the Congolese people. Every country in the world supports [the President] because they take the riches [from] the country. Not just governments but also companies”

Congolese torture survivor

Participants repeatedly spoke of what they saw as the complicity of international actors – both governments and corporations – in maintaining a system of governance that is widely seen as ruthless and oppressive. They felt that the international community was not interested in effectively challenging human rights violations because of the economic benefits of supporting a corrupt government. Many noted that the exploitation of the country’s natural resources had been going on since colonial times and argued that only those who had “set up the system” had the power to dismantle it.

“Human rights are only for those in power... we, the citizens, do not have human rights.”

Congolese torture survivor

We heard numerous pleas to the international community (governments and businesses) to:

- be honest and fair;
- support the development of strong institutions to control resources;
- stop supporting “big men”; and
- understand that there is enough wealth in the country to share with everyone – Congolese and others.

One participant said:

“We just want a fair deal. They can’t be buying our natural resources and think we don’t see how they are exploiting us. We want a fair deal, a fair trade. That is all we want. Simple.”

Another called on all individuals to speak out about the violations in the DRC, including with reference to minerals such as coltan and cobalt, used in mobile phones:

“Everyone has Congo in their pocket. Everyone has a smartphone. Everyone needs to stand up and say something about change in that country, because if you have a phone or TV, you have part of Congo in your house.”

“SENDING US BACK TO DIE”

“They know what is going on in our country but they still don’t believe us and they are sending people back and they are dying.”

Congolese torture survivor

Participants in the discussions spoke of the difficulties they experienced when trying to claim asylum in other countries, including the United Kingdom. They felt that decision-makers were aware of the human rights violations taking place but that asylum decisions did not reflect this knowledge. Participants voiced anguish at the forced return of Congolese people to what they see as a violent and oppressive system.

“We just want
a fair deal.”

Congolese torture
survivor

They believed that the Government views people in the diaspora as having “betrayed” the country by talking about what is happening in the DRC. They said that the government views anyone returning, either voluntarily or not, as a “high-level opponent”. They feared people would be treated “without mercy” on return and probably imprisoned.

“NEW FACES”

All the 30 survivors in our focus groups said that torture is rampant and is condoned and encouraged from the very highest echelons of government. They said they wanted justice for the torture that they and others had endured. For them, this meant prosecuting senior government officials. They appealed for support in their efforts to bring democracy, justice and accountability to the country.

Freedom from Torture will continue to work with these groups to develop advocacy activities that call for greater recognition of torture patterns in the DRC and for those responsible to be held to account.

“We need your help because us Congolese we are doing our part. Every time we try, we get killed.”

Congolese torture survivor

INTRODUCTION

This report highlights the devastating violence experienced by those speaking out about the state of their society and government in the Democratic Republic of Congo. Survivor testimony and medical evidence point to systemic repression designed to silence and crush any form of dissent, including the widespread use of sexual torture and rape. Even when people engage in activities protected by the Congolese Constitution, those who question government policy or speak out about human rights violations, even in a small way, are treated ruthlessly.

Freedom from Torture has documented the use of torture in the DRC for decades, including in research reports published in 1995, 1998 and 2014. Almost 900 Congolese men, women and children have been referred to Freedom from Torture over the past 10 years, making it one of the top 10 countries of origin for survivors in that period. Torture is widespread both inside and outside conflict zones. This report focuses on the latter – the torture of perceived government critics, including those engaged in legitimate political expression or human rights activism.

This report is based on documented accounts in the medical reports of 74 women and men (the case set) who were tortured after they engaged in, or were seen to be linked to, activities interpreted to be hostile to the government. These activities include:

- membership of, or support for, political opposition parties, political campaigning organisations and pressure groups, and other types of civil society organisation;
- demonstrating against electoral delays;
- demanding justice for rape survivors; and
- wearing a political party T-shirt.

None of those targeted for repression in this case set has a high profile. They were tortured for engaging in lawful activities.

This report examines:

- the profile of those tortured;
- the nature and circumstances of their arrest;
- the conditions of their detention, including the torture suffered; and
- the physical and psychological impact of their treatment.

Our research uses medico-legal reports prepared between 2013 and 2018. By drawing on the in-depth analysis of Freedom from Torture clinicians in our Medico-Legal Report Service, we can demonstrate clear evidence of physical, sexual and psychological torture.

The patterns and practices highlighted cause deep concern, particularly as the DRC prepares for controversial and long-delayed elections in December 2018 and potentially faces disputed results or further delays to the election. People engaged in legitimate political expression are at risk of arbitrary arrest, torture and even death unless the DRC Government significantly changes its behaviour.

This report also highlights:

- the lack of access to justice, including due process;
- the absence of appropriate services for survivors of torture; and
- the impunity enjoyed by the perpetrators.

The DRC Government has signed up to international and regional treaties that protect a wide range of human rights. The country has a progressive constitution that upholds the absolute ban on torture, and legislation that criminalises torture. Yet the government continues to fall far short of its obligations and is failing its citizens. It is, however, failing to prevent torture. On the contrary, it is tacitly or actively condoning torture. It also fails to provide accountability for survivors.

RESEARCH METHODOLOGY

This research seeks to contribute to international efforts to prevent torture in the Democratic Republic of Congo and hold perpetrators to account, using the forensic evidence contained in medico-legal reports prepared by Freedom from Torture's expert doctors. The specific purpose is to examine the use of torture by state authorities in the DRC outside the context of conflict when detaining people who are, or who are perceived to be, involved in political opposition and other political and human rights activity.

As part of our approach to rehabilitation, we seek to protect and promote the rights of torture survivors by analysing and sharing evidence of torture recorded by our doctors, and by working directly with survivors. To this end we have worked with the Survivors Speak OUT network and a group of Congolese survivors who are current and former service-users at Freedom from Torture through a series of workshops. This has allowed the survivors to provide their own commentary and recommendations for this report (see *Survivor Voices*), and helped us to design and deliver our advocacy.

DATA SOURCE

Data for this report comes from individual medico-legal reports prepared by Freedom from Torture's independent Medico-Legal Report Service, for which the individuals have given consent according to our data protection and confidentiality policy. Medico-legal reports are independent expert reports commissioned by legal representatives for the purpose of an individual's asylum claim. They are prepared by Freedom from Torture doctors trained in the forensic documentation process according to standards set out in the UN Manual

on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

Each medico-legal report details an individual's history of torture and its physical and psychological consequences (*sequelae*) through a forensic process of clinical examination and assessment over three or more meetings, and is subject to a clinical and legal review process (see Appendix 1). The primary purpose of Freedom from Torture's medico-legal reports is to assist decision-makers in individual asylum applications. They are also a robust source of evidence of torture that can be used to hold states to account.

CASE SET

This report analyses the information contained in 74 medico-legal reports prepared for Congolese men and women referred to Freedom from Torture between January 2013 and July 2018. It updates and expands the evidence of torture of women presented in our 2014 report, *Rape as Torture in the DRC*, through inclusion of male and female cases.⁴ Given the specific focus of this report, as described above, criteria for inclusion were:

- i) the medico-legal report was prepared by the Medico-Legal Report Service at Freedom from Torture, from January 2013;
- ii) the person was detained and tortured by DRC state authorities in relation to their own or a family member's actual or perceived political or human rights activity (the most recent detention episode if detained more than once); and
- iii) there was consent for the medico-legal report to be used for research.

Freedom from Torture prepared 89 medico-legal reports for Congolese men and women from January 2013 to July 2018. Fifteen were excluded from this review: nine people did not give consent for their report to be used for research; six did not fit the profile defined in the criteria above (four were detained for reasons that included suspicion of extortion, embezzlement or theft of state property; and two were detained by non-state actors).

RESEARCH PROCESS

Information on the individual's profile and the reason they were detained, the detention context, forms of torture used and its physical and psychological consequences, was collected through a systematic review of the individual medico-legal reports in the identified case set, and recorded on a specially created database. The data were anonymised, aggregated and analysed. Further analysis of subsets of data was carried out where potentially relevant factors were identified. Where the person was detained more than once, information on earlier detention episodes was recorded and reviewed.

In reporting our research findings, we have included a description of anonymised, aggregated findings on:

- i) who was detained and tortured, and why;
- ii) the detention context;
- iii) the methods of torture used;
- iv) the impacts of torture.

Findings in relation to particular sub-sets of cases are included where relevant. Detailed findings on torture and the detention context described in the report relate to the most recent or the sole detention episode, unless otherwise stated.

Identifying information has been removed to protect those who have shared their reports for this research. Anonymised excerpts from medico-legal reports have been included, along with commentary from the survivor workshops described on pages 8-11.

BACKGROUND

“Our people have been suffering this situation for years and years. Since before Kabila came into power, since colonisation.”

Congolese torture survivor

LONG HISTORY OF VIOLENCE AND TORTURE

The use of torture to exert control in the Congo goes back to colonial times.

The DRC is one of the world’s richest countries in terms of its natural resources. In addition to diamonds and gold, it is a prime source of minerals that are essential to modern production, such as cobalt and coltan used in smartphones, laptops and electric cars. The DRC is also one of Africa’s largest countries, bordering nine countries, and has enormous strategic importance, both regionally and internationally.

The country has been blighted by violence, conflict and the whims of its rulers throughout modern history. Then known as the Congo Free State, it was the personal property of King Leopold II of Belgium between 1885 and 1908. Millions of Congolese people were subjected to forced labour and other atrocities to ensure compliance, including torture, death, mutilation and rape.⁵ International outrage over these abuses resulted in Belgium removing the country from King Leopold’s direct rule in 1908 by making it a Belgian colony. This ended the worst of the atrocities, but exploitation of the Congolese people continued, as much of the same administrative structure remained.⁶

After independence in 1960, the country, renamed Zaire, was beset by secession attempts and political instability before Mobutu Sese Seko seized power in a US-backed coup in 1965. Freedom from Torture documented the violent repression of political dissent during the Mobutu years in its 1998 publication, *Zaire: A Torture State*.⁷ Because of the DRC’s strategic importance during the Cold War, the international community largely ignored Mobutu’s widespread use of torture and other human rights violations.

Mobutu’s rule ended in 1997 after a military campaign involving Rwanda, Uganda and other countries, installed Laurent Kabila as President.⁸ He fell out with the governments of Rwanda and Uganda, leading to a conflict involving eight other countries that officially ended in the Pretoria Agreement, a ceasefire agreed in 2002. The International Rescue Committee calculated that the conflict directly and indirectly claimed the lives of over three million people, making it the most deadly conflict since World War II.⁹

“Our people have been suffering this situation for years and years. Since before Kabila came into power, since colonisation.”

Congolese torture survivor

A three-year UN investigation into the plunder of natural resources concluded in 2002 that the war was largely fuelled by competition to control the DRC's vast mineral wealth. The report named more than 150 individuals and companies, both Congolese and foreign, suspected of complicity in this exploitation.¹⁰

Conflict in various areas in eastern and central DRC – North and South Kivu and Kasai – continues to this day. Both the state and armed groups are still inflicting human rights violations and abuses upon the population.

In 2001, Joseph Kabila became president after the assassination of his father, Laurent Kabila. The Pretoria Agreement provided for the formation of an interim government of national unity with Joseph Kabila as interim president. In 2006 multi-party elections were held for the first time in 41 years, which Joseph Kabila won. The elections were marred by allegations of electoral fraud and violence, including torture, directed at political opponents.¹¹ Joseph Kabila won another disputed election in 2011. Freedom from Torture detailed torture of politically involved women during both elections in its 2014 report, *Rape as torture in DRC: Sexual violence beyond the conflict zone*.¹²

BEYOND THE CONSTITUTION: 2016 ONWARDS

Joseph Kabila remains head of state despite a constitutional limit of two consecutive presidential terms and the formal expiration of his second term in December 2016.

Since 2015, multiple protests against the electoral delays and calling for President Kabila to step down have been suppressed violently and lethally, with hundreds of demonstrators arbitrarily arrested.¹³

Following the failure to hold elections in 2016 and in response to the protests, negotiations between the government and the opposition under the aegis of the *Conférence Episcopale du Congo* resulted in an agreement in December 2016 that set out a power-sharing roadmap for a transition period until elections could be held in 2017. President Kabila agreed not to seek a third term and a number of measures intended to ease political tensions were agreed, including the release of political prisoners and the nomination of a member of the opposition to serve as prime minister. Many of these measures were not met, including the 2017 deadline for elections.

Elections were eventually scheduled for 23 December 2018, but violence continues. The Office of the UN High Commissioner for Human Rights reported in August 2018, "The Congolese authorities have continued to impose more and more restrictions, both disproportionate and unjustified, on public freedoms. Acts of violence, threats, harassment and intimidation against persons perceived as critical of the regime have increased."¹⁴

"The wealth of the country is the source of our misfortune."

Congolese torture survivor

PROVISIONS OF THE CONSTITUTION OF THE DEMOCRATIC REPUBLIC OF CONGO:¹⁷

ARTICLE 6

Every Congolese who enjoys his/her civil and political rights has the right to create a political party or to become a member of a political party of his/her choice.

ARTICLE 16

The individual is sacred. The State has the obligation to respect and protect him/her.

All persons have the right to life, physical integrity and to the free development of their personality, while respecting the law, public order, the rights of others and public morality.

No one may be subject to cruel, inhumane or degrading treatment.

ARTICLE 17

Criminal responsibility is individual. No one may be prosecuted, arrested, detained or sentenced for acts committed by others.

ARTICLE 18

Any person who has been arrested must be immediately informed of the reasons for his/her arrest and of any accusation made against him/her, and this in a language which he/she understands.

He/she must be immediately informed of his/her rights.

A person kept in custody has the right to immediately contact his/her family and his/her counsel.

Custody may not exceed forty-eight hours. On expiry of this period, the person in custody must be released or placed in the hands of the competent judicial authority.

Any detainee must benefit from a treatment which preserves his/her life, physical and mental health as well as his/her dignity.

ARTICLE 28

No one is obliged to execute a manifestly illegal order. Every individual, every State agent is relieved from the duty to obey if the order constitutes a manifest infringement of the respect of human rights and public liberties and morality.

ARTICLE 61

In no case, not even when the state of siege or the state of emergency has been proclaimed in accordance with Articles 87 and 88 of this Constitution, is a derogation admissible from the following rights and fundamental principles:

- The right to life;
- The prohibition of torture and of cruel, inhumane or degrading punishment or treatment;
- The right to defense and the right to a remedy;

ARTICLE 165

Without prejudice to the other provisions of the Constitution, high treason is established if the President of the Republic has deliberately violated the Constitution...

TORTURING WITH IMPUNITY

Even though torture is criminalised in the DRC, very few perpetrators have been successfully prosecuted. In its state report to the UN Human Rights Committee in July 2016, the DRC Government reported that just five members of the armed forces, one National Intelligence Agency officer and one member of an administrative authority had been convicted for having practised or encouraged torture since the law was enacted in 2011.¹⁵

In 2010, the DRC ratified the Optional Protocol to the UN Convention against Torture. This requires states to set up a “national preventive mechanism” that regularly monitors sites of detention. This is also an obligation under the Robben Island Guidelines for the Prohibition and Prevention of Torture in Africa (Robben Island Guidelines). Regular, independent monitoring visits to detention sites are meant to safeguard against torture and other violations. The DRC has yet to formally set up a national preventive mechanism. The National Human Rights Commission has access to detention facilities run by the Ministry of Interior as does the International Committee of the Red Cross (ICRC) and the UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). The US State Department reports that these monitoring bodies are “consistently denied access to facilities run by the [intelligence services] and the [Republican Guard].”¹⁶

LEGAL FRAMEWORK

The Constitution of the DRC upholds the absolute ban on torture and protects civil and political rights, including the freedoms of association and assembly. It expressly states in article 61 that the right to life, the prohibition of torture and the right to legal defence are non-derogable rights, meaning that there is no circumstance in which these rights can be ignored.

In line with international obligations, a law expressly criminalising torture has also been in effect since 2011 – the Criminalisation of Torture Act of 9 July 2011.

INTERNATIONAL OBLIGATIONS

The DRC has ratified a number of international and regional treaties that ban torture and protect civil and political rights. These include:

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture);
- Optional Protocol to the Convention against Torture;
- International Covenant on Civil and Political Rights;
- Convention on the Elimination of All Forms of Discrimination Against Women;
- Convention on the Rights of the Child;

“Our constitution is a good one but the major question is: is that constitution being respected?”

DRC torture survivor

- African Charter on Human and Peoples' Rights (Banjul Charter);
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol);
- African Charter on the Rights and Welfare of the Child.

The UN Convention against Torture directly binds state parties in relation to torture. It not only requires states to criminalise and abstain from torture. It also requires them to take positive measures to *prevent* torture.¹⁸ This can be done by putting in place effective safeguards to reduce the risks of torture and limit the circumstances in which torture can take place.

SAFEGUARDS

The risk of torture is greatest during arrest and detention. It is vital to ensure safeguards exist to reduce this risk. The DRC is a state party to a number of international instruments that detail safeguards for detainees. These include:

- the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);
- the UN Code of Conduct for Law Enforcement Officials; and
- the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.¹⁹

Furthermore, the DRC is obliged to respect the "basic procedural safeguards for those deprived of their liberty" as set out in:

- the Robben Island Guidelines; and
- the African Commission's Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (African Commission's Fair Trial Principles).²⁰

These safeguards include (but are not limited to) the prohibition of arbitrary arrest and detention; and the right to be informed in a language that the detainee understands about the reasons for their arrest and of their rights, including the right to counsel and access to medical treatment.

International law also states that anyone arrested or detained on a criminal charge should be brought promptly before a judge or other judicial officer.²¹ The Human Rights Committee has interpreted "promptly" to mean within 48 hours of arrest.²²

Independent monitoring of detention sites is another vital safeguard. As highlighted above, the DRC has yet to establish a national preventive mechanism as required by the Optional Protocol to the Convention against Torture.

"There is no such thing as human rights in Congo. It is just a name."

Congolese torture survivor

ACCOUNTABILITY

States that have ratified the Convention against Torture are also obliged to conduct prompt, impartial and effective investigations into allegations of torture and to prosecute where there is sufficient evidence. These obligations are repeated in article 5 of the African Charter on Human and Peoples' Rights as well as in the Robben Island Guidelines.²³

REDRESS

The right to redress for victims of torture is upheld in a number of international and regional human rights instruments, including the Convention against Torture, the UN International Covenant on Civil and Political Rights, the African Commission's Fair Trial Principles and the Robben Island Guidelines.²⁴

The African Commission on Human and Peoples' Rights outlines redress as "the right to an effective remedy and to adequate, effective and comprehensive reparation."²⁵ It defines reparation as "restitution, compensation, rehabilitation, satisfaction – including the right to the truth, and guarantees of non-repetition. The overarching goal of these forms of reparation is to provide healing for victims of torture and other ill-treatment ... It has physical, psychological, social, cultural and spiritual dimensions..."²⁶

The right to redress is inadequately incorporated into the domestic legislation of the DRC. Technically, it is possible for individual victims to claim compensation at the end of a criminal trial, but even if there is a criminal trial,²⁷ this is an expensive and protracted process. The only rehabilitation programmes are those provided by civil society and international organisations.²⁸

DISREGARD FOR THE LAW

In summary, the DRC has a progressive constitution and is a state party to all major international treaties that promote and protect a wide range of civil and political rights, including the absolute prohibition of torture. Despite this, the widespread practice of torture and the violation of civil and political rights continue without any recourse to justice for victims or accountability for senior security personnel or government officials who allow these violations to take place. The law is either wilfully ignored or there is ignorance of the Constitution, domestic statutes and international obligations. In both cases, the onus is on the Government to ensure that torture is prevented and survivors receive justice.

"...It has physical, psychological, social, cultural and spiritual dimensions..."

African Commission
on Human and
Peoples' Rights



NON AU VIOL

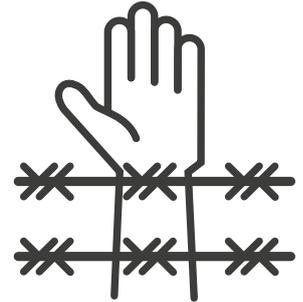
NON AU TERRORISME SEXUEL

LA PAIX NOUS MANQUE

C



1. WHO WAS DETAINED AND TORTURED, AND WHY



POLITICAL AND HUMAN RIGHTS ACTIVISTS

“In DRC there is no respect for human rights. Women have been raped and ill-treated. I felt that we have to stand up and speak or nothing will happen. I was compelled to do this, I thought they would listen when we stood up and talked.”

Survivor, medico-legal report excerpt²⁹

The evidence provided in this report indicates a situation of lawless and permitted horror in the DRC, far removed from the context of conflict, in which political activists and others perceived to have challenged the authorities are routinely detained and tortured with impunity.

The 74 women and men in our case set were arbitrarily detained and tortured because of their own or others’ political or human rights activity (see Figure 1 below). This includes being a member or low-level supporter of political opposition parties, political campaigning organisations and pressure groups, and other types of civil society organisation. It encompasses a wide range of high- to low-level activity and forms of public expression on issues such as democracy and human rights, and women’s rights.

Many people were involved in demonstrations and other protests connected with the democratic process and presidential elections, including those in 2006 and 2011 and the delayed 2016 elections. Some of these people and many others were involved in activism as members or supporters of political opposition parties, especially the Union for Democracy and Social Progress (UDPS, *Union pour la Démocratie et le Progrès Social*) and other political pressure groups.

Other people were active on human rights issues, including civil and political rights, rights of the child and access to justice. Some supported particular civil society groups and non-government organisations, such as the pro-democracy and civil society movement Filimbi and the human rights organisation Voice of the Voiceless (*Voix des sans Voix*). Some worked directly with women and girls and campaigned on women’s rights issues, particularly related to sexual violence and rape.

LAND OF ANCESTORS

BLESSED WITH RICHES
COVERED IN GREEN
BEAUTY OF YOUR FORESTS AND
MOUNTAINS
LIKE THE LILIES THAT GROW BY THE
WAY SIDE

YOUR FEEDING HANDS
PRECIOUS, GENEROUS AND KIND
LIKE A LOVING MOTHER

OH MOTHERLAND!
RIVERS AND SHOWERS OF
BLESSINGS
FROM WHENCE SUN AND RAIN
BLOSSOM

STILL WATERS
MUDDIED BY THOSE WHO HAVE
JUST DRUNK
DEFILED BY YOUR OWN LOVED
ONES
DESPISED BY YOUR GUESTS
LAUGHING STOCK OF YOUR
FRIENDS

OH PATRIMONY SO DEAR
LAND OF OKAPI
REDUCED TO ASHES

BEAUTIFUL SUN
THE CRY OF MY SOUL
NIGHTMARES OF YOUR DEAD ONES
IN THE BED OF THEIR GRAVE

SHAME OF YOUR HEROES
GOING DOWN THE DRAIN
DAY BY DAY
YOUR HOPE
SURELY REDUCED TO A WISH

YOUR CRY SO LOUD
WHY DESTROY ME, SON?

YOUR PAIN SO DEEP
WHAT HAVE I DONE TO YOU,
DAUGHTER

YOUR VOICE DISTINCT, FADING
I DESERVE TO LIVE LIKE EVERYBODY
ELSE

LAND OF ANCESTORS
FAST ASLEEP
GRAVELY WOUNDED
IN A COMA

ARISE!
ARISE!
ARISE!

MY BELOVED CONGO

TIM MALMO

“I wanted to become a human rights campaigner ... to defend the children and people who were being ill-treated ... I wanted to raise awareness of these things, but also for the perpetrators to be punished.”

Survivor, medico-legal report excerpt

The majority of these men and women were active in some way on political or human rights issues, and sometimes both, when they were detained and tortured. However, 19 people were detained either because of the actual or perceived activity of a family member, or because they were wrongly perceived by the authorities to have been involved in political or human rights activity.

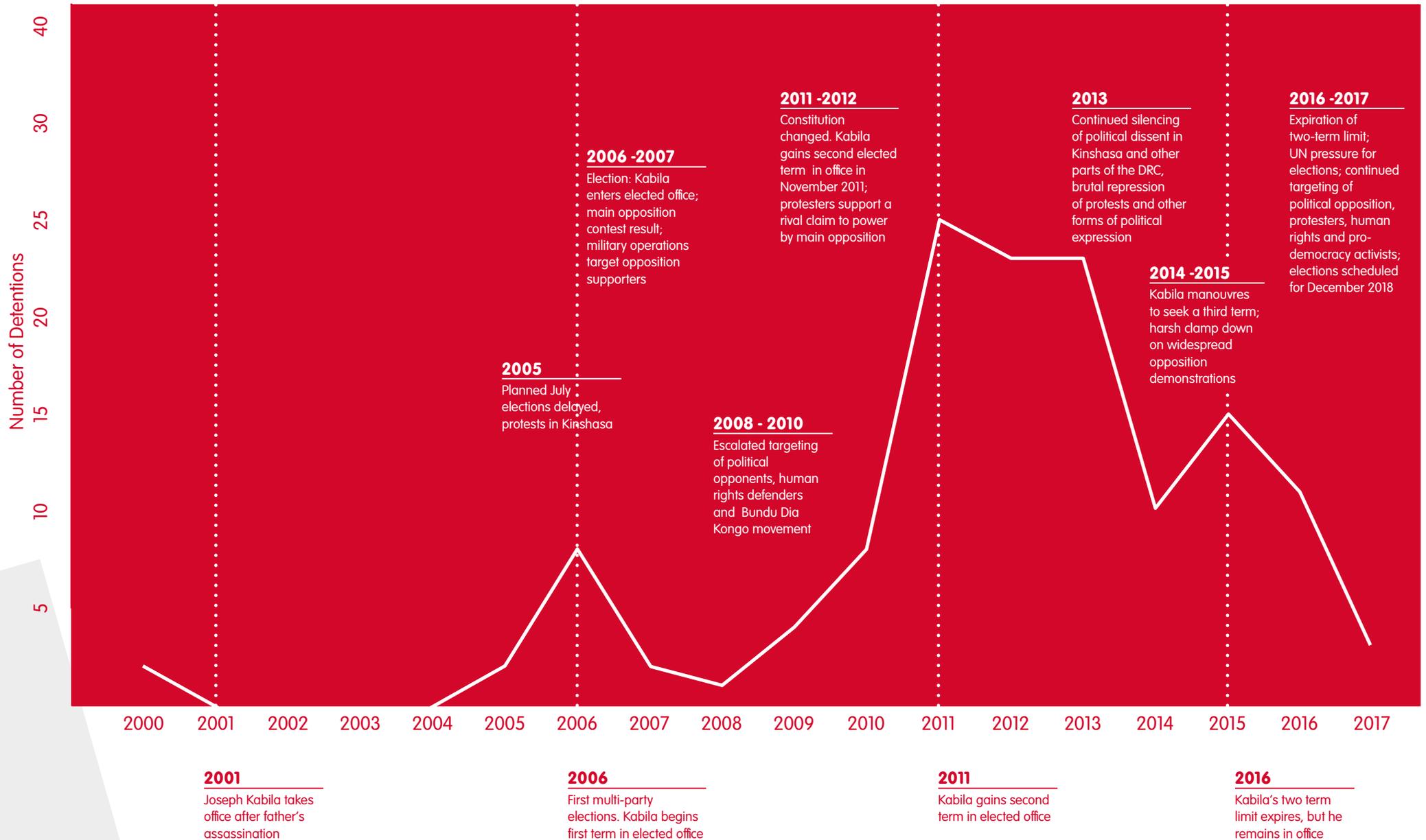
Some of the more highly-engaged activists were involved in more than one organisation and had campaigned on different issues for years. More than half of the 74 were detained by state authorities more than once, many people multiple times, and most were tortured every time they were detained. In the majority of cases, the abuse was for the same or similar activity, most often related to support for the opposition UDPS or campaigning on issues related to sexual violence and rape.

However, the levels of activism reported among the 74 survivors ranged from highly-engaged to casual or incidental support for an issue or organisation. For some people, a single activity resulted in detention and torture, such as wearing a T-shirt bearing the name of a political opposition party or attending a single meeting or demonstration.

For some people, a single activity resulted in detention and torture

TIMELINE OF DETENTIONS

FIGURE 1: TIMELINE SHOWING NUMBER OF DETENTIONS, 74 PEOPLE, ALL DETENTIONS³⁰



PEOPLE PROTESTING ABOUT THE DEMOCRATIC PROCESS

“Congolese people are willing to do something in order for Congo to change but we lack power – whenever we try to protest people get killed...”

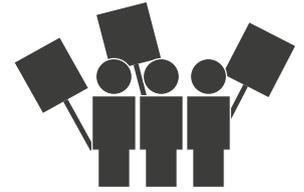
Congolese torture survivor

She had been invited to speak at the meeting ... She exhorted women not to accept the proposed changes to the electoral law ... and a meeting and demonstration were called ... Even before the march had left the university campus, the police arrived and started dispersing the demonstrators. They were firing guns at people. People all around her were trying to run and escape.

Medico-legal report excerpt

Nearly a quarter of the survivors were detained by state authorities during or following demonstrations and other political protests linked to presidential elections and the electoral process. Most were women and all lived in the capital, Kinshasa, where they were most recently detained. Most of these detentions were related to the delay of the scheduled 2016 presidential election and the extension of President Kabila’s term of office in 2016 (see Figure 2 below).

The majority were members or supporters of the opposition UDPS, or a civil society organisation, and were involved in demonstrations and other protests in this capacity. Some were not associated with any particular organisation, and two were not directly involved in the protests, though they were detained on the assumption that they had been.



“When it is an election, we are scared because the innocent will die.”

Congolese torture survivor

DATE OF DETENTION INCIDENTS	CONTEXT
2007 - March	Military operations in Kinshasa by President Kabila's forces against the opposition leader and presidential candidate Jean-Pierre Bemba and his supporters, who did not accept the outcome of the 2006 election.
2011 - November and December	Protests against President Kabila's declaration of victory in the presidential election. Protesters supported a rival claim to power by his main challenger, then leader of the UDPS, Etienne Tshisekedi. The UN reported numerous cases of arbitrary arrest and ill-treatment, particularly among supporters of the opposition.
2013 - April and November	Attacks on opposition party activists and peaceful demonstrators who were critical of President Kabila and his government throughout 2013.
2014 - March and April	With Presidential Kabila's second presidential term set to expire in 2016, his parliamentary coalition, the Alliance of the Presidential Majority (AMP), sought to amend the Constitution to allow him to seek a third term. The possibility of a referendum to change the Constitution was widely reported.
2015 - January and September	Attempts by the AMP to amend electoral law were perceived as a move to extend President Kabila's tenure despite a two-term constitutional limit. The UN and Human Rights Watch reported on the use of "disproportionate force", the death of numerous demonstrators, and other alleged human rights violations by state security agents in Kinshasa.
2016 - February, May, September and December	Constitutionally mandated national elections were not held, and President Kabila overstayed his term limit. The UN, human rights organisations and media sources reported a government crackdown on President Kabila's political opponents and anti-government demonstrators.

FIGURE 2: CHART ILLUSTRATING DATES OF DETENTIONS AND CONTEXT

Eight of those arrested had been detained on several occasions between 2006 and 2015 before their most recent detention, which precipitated their final departure from the DRC. Previous detentions were related to their actual or perceived anti-government profile, and at least eight previous detention episodes were connected to attendance at demonstrations related to the election process.

GOVERNMENT OPPONENTS

He became convinced that their policies on such topics as human rights, democracy and education would benefit the country ... He became very active ... distributing leaflets and using a megaphone in the streets. He constantly kept on the move for fear of otherwise being "targeted" by soldiers who would try to deter such opposition activity.

Medico-legal report excerpt

"We don't have freedom of expression because we are in fear..."

Congolese torture survivor

Nearly two-thirds of people in the case set had expressed opposition to the government of President Kabila, and to the President himself. This took a variety of forms, but most were members or supporters of political opposition parties, especially the UDPS. Most lived and were detained in Kinshasa, though five people lived and were detained in different provinces across the country.

Many were involved in mainstream political work such as canvassing and recruiting new members, organising and publicising public meetings and protests, and encouraging people to attend these events. Others, including both members and supporters of the organisation, described more casual involvement, such as occasional attendance at meetings and rallies and distributing leaflets and other publicity materials. None of them held a senior position in the party.

From her mid-teens she was active ... After meetings she would spread any news, aiming to show the bad side of the government and to convince her friends to fight for a better future for their children.

Medico-legal report excerpt

The largest number of detentions associated with UDPS membership or activism took place between 2011 and 2013, and the most recent were in 2017. The majority of those involved with UDPS were detained more than once, some as many as five times between 2005 and 2017, before finally escaping detention and leaving the country. Many described ongoing harassment by the authorities between arrests, especially by the police. People were given verbal warnings and subjected to other pressure to stop their activities. This included regular visits by security agents, reporting restrictions, raids on their own or family members' homes, and sexual and other assaults of their family and peers.

A small number of people were members or supporters of other political opposition groups, including the Movement for the Liberation of the Congo (MLC, Mouvement de Libération du Congo), all of whom were detained in connection with their actual or perceived support for these organisations.

Not all of those involved in opposing the government were associated with a political party. Some were involved in other types of organisation through which they expressed their opposition to the government and President. Others were not involved in an organisation and were detained solely for having attended a demonstration or other event, and a few people were merely perceived to have expressed, acted on or encouraged oppositional or anti-government sentiments through something they said or did in public.

WOMEN'S RIGHTS ACTIVISTS

"They don't want to recognise women's rights and they don't want leaders of these organisations to fight for their rights. It's a way to silence women as well."

Congolese torture survivor

She spoke about women's role in society and rape in the DRC at meetings, seminars and rallies. She did not see her role as political, but rather to offer help to women.

Medico-legal report excerpt

Twelve people were detained and tortured due to their involvement in activism or work on women's rights issues, including sexual violence and rape. All were subsequently raped, among other forms of torture, when detained.

Although most recently detained and tortured between 2012 and 2016, nine of the 12 had been detained before, up to four times in some cases. Between them, they experienced 32 episodes of detention spanning 2005 to 2016, all linked to the same cause of women's rights. All but two lived and were detained in Kinshasa.

The organisations with which they were involved provide services to women and children, including those who have been raped, women who have been abandoned by their families due to rape, single mothers, widows and orphans. These organisations engage in political lobbying, advocacy and public campaigning on women's rights issues, including through public meetings, rallies and demonstrations. Among other things, they protested against the failure of the government to enact and/or effectively implement policies that would promote women's rights, prevent sexual violence and other abuses, and hold perpetrators to account.



[The organisation she joined] ... aims to empower women in Congo to live in respect and peace, and fight against the degrading and humiliating treatment of women. Despite being detained for her actions she continued her involvement.

Medico-legal report excerpt

While most were members of organisations, others provided support without becoming a member. A few held positions of responsibility and relative prominence, for example as a founder member of an organisation or president of a local section. Between them they described being involved in a wide range of activities at very different levels, some attracting a public profile and others not. The activities included:

- organising, attending and/or speaking at meetings, conferences, rallies and demonstrations;
- advocacy and lobbying work;
- public education, media work and awareness raising;
- leafleting and other public campaigning;
- recruiting new members and supporters;
- providing direct services and other support to women and children.

Most were arrested while attending public events such as demonstrations, public meetings or conferences. Others were arrested in their homes, while holding private meetings or preparing with others for events, or at night after attending a public event.

OTHER HUMAN RIGHTS ACTIVISTS

As a patriot, he was worried about the way things were run in the DRC: the lack of transparency and information; the corruption and poor administration...

Medico-legal report excerpt



Eleven people were actively engaged on a range of other human rights and civil liberties issues. These included:

- civil and political rights, especially freedom of expression and political opinion;
- access to justice for victims of rape and other abuses;
- land rights, specifically resisting compulsory requisition of community land for use by international mineral extraction industries; and
- rights of children, in relation to sexual violence and child trafficking.

Some of the organisations with which they were associated provide services such as legal help to seek justice and redress. Others, such as Filimbi and Voice of the Voiceless, focus on awareness-raising and campaigning. These survivors described how they worked to expose and hold the government to account for failures in the democratic process and abuses of human rights; or campaigned for good governance and democracy, freedom of political expression and opinion; or raised awareness about the risk to children of sexual violence and trafficking. One person defended his community land from forced appropriation by a mining company.

“Every time they discover a new commodity somewhere they have to try to move everybody – the mother, the babies and their families, they move them out of that place – they are telling you Congo is rich but you are not going to get anything.”

Congolese torture survivor

The 11 were all detained at some point between 2010 and 2017, most in Kinshasa. Seven had been detained before, up to four times in one case, with a total of 22 detention episodes between them, all related to political and human rights activism.

Some were active members or supporters of organisations, organising meetings and protests, campaigning and recruiting new members, or supporting beneficiary groups. Others were less involved, perhaps only attending a demonstration or handing out leaflets.

She was arrested whilst distributing leaflets ... The leaflets said “wake up and know your rights” and were distributed to markets, schools and shops. They called for the government to release prisoners that had been arrested and kept without charge.

Medico-legal report excerpt

Two people were filmmakers who focused on exposing the difficulties in people’s daily lives and their attempts to take political action, and documented demonstrations and other protests.

IMPUTED POLITICAL OPINION

FAMILY MEMBERS OF ACTIVISTS

Twelve people were tortured because of the actual or perceived political or human rights activities of a family member. They were either detained in place of a family member who was wanted by the authorities, or as punishment for the actual or perceived activities of a family member, or because they were wrongly accused of being involved in the same activities as their family member. Seven of these were women and three were minors, aged under 18 when detained.

PEOPLE WRONGLY ACCUSED

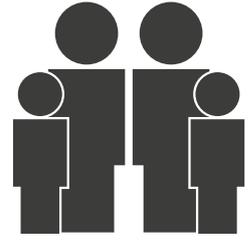
Seven people were detained because they were wrongly perceived by the authorities to have been involved in political or human rights activity. This included being wrongly accused of a political affiliation or opinion or of having attended a demonstration or other political event. Some of these were simply in the wrong place at the wrong time. Others attended a political event to accompany a friend or family member, without themselves having an interest in the political content.

SURVIVOR PROFILE

The common profile factor of the 74 people whose torture is documented in this report is actual or perceived involvement in political or human rights activity and/or association with political and civil society organisations. Demographic factors including sex, age, ethnicity, religion and occupation do not appear to be a strong factor in determining detention and torture in these cases.

SEX

Forty-nine of the survivors are women. There is a high degree of similarity in the profile and reasons for detention between the women and men, though proportionately more women were detained as a result of the actions of a family member than men. Eleven women were pregnant when they were detained and tortured, during their most recent or an earlier detention.



Eleven women were pregnant when they were detained and tortured

AGE

The average age in the case set at the time of the most recent or only detention was 32, with a range of 16 to 59 years old. While nearly a quarter were in their 40s and 50s when detained, more than a third were under 25, five of whom were legally minors, aged 16 to 17. A further four people were minors at the time of an earlier detention episode. This younger age cohort has a similar profile to the wider group in terms of their activism, political engagement and reasons for detention, although the minors were proportionately more likely to be detained because of the activities of a family member.

ETHNICITY

Seventeen ethnicities were cited, and no particular ethnic group stood out or formed a majority. In general, ethnicity does not appear to have been a significant independent profile factor leading to targeting by the authorities, with the exception of three people living in the conflict-affected provinces of North and South Kivu who reported Tutsi or part-Tutsi ethnicity. They were all perceived to have links with a rebel group, at least in part because of their ethnicity, though none was directly involved with a group.

RELIGION

Almost all those in the case set described themselves as Christian. Most were Catholics; the others were members of Protestant, including Pentecostal, churches. In general, religious affiliation did not give rise to targeting by the authorities, with the exception of a small number of people who were members of the political-religious group Bundu Dia Kongo (BDK).³¹

LOCATION

As highlighted in Figure 3, the large majority – 63 of the 74 – were living in Kinshasa when they were last detained, far from the conflict in the east and centre of the country. The others were detained in seven provinces across the DRC, including five people in the conflict-affected provinces of North and South Kivu and Kasai, and six in the provinces of Bas-Congo, Haut-Katanga, Maniema, Tshopo and Kongo Central.

Those detained outside Kinshasa are similar in their profile to those detained in the capital, with the exception of the three living in North and South Kivu who were detained because of a perceived association with a rebel group. These findings indicate that the apparently routine use of torture in state detention facilities in Kinshasa extends to other parts of the country that are not directly involved in conflict, while also illustrating the more widely-reported use of torture in the context of conflict against those who are perceived to be involved with rebel groups.



FIGURE 3: CHOROPLETH MAP SHOWING LOCATIONS WHERE PEOPLE WERE DETAINED

OCCUPATION

The occupational profile is varied. More than half owned small businesses, were traders or provided services such as hairdressing and dressmaking. Others were professionals, including in the fields of medicine, education and law, or were civil servants, students or employees of a non-governmental organisation.

Three people were detained directly or indirectly in connection with their occupation, when they were perceived to have exposed government abuses of power or human rights violations. Six others were detained in connection with the occupation and activities of a close family member who was perceived to be oppositionist or anti-state, including two whose husbands worked for state authorities.

RETURNEES FROM ABROAD

Seven people had travelled outside the DRC for work or leisure or to seek asylum. Five of them were detained on their return at the airport or from home, for reasons directly related to their visit or residence abroad.

Four of the seven had travelled to the UK prior to their most recent detention in the DRC. One had made an unsuccessful claim of asylum and was forcibly removed to the DRC by the UK authorities. The National Intelligence Agency (ANR, *Agence Nationale de Renseignements*) questioned him on arrival at the airport and released him on the basis that he report to them a month later. When he reported they detained him, having first shown him a photograph depicting him attending a protest against the government of President Kabila while in the UK. He was taken to prison, tortured and interrogated about dissidents and contacts in the UK. When eventually released without charge, he became involved with a political opposition party. He was then detained and tortured for a third time, prompting flight to the UK and this time a successful asylum claim. Another person was detained at the airport in Kinshasa when it was wrongly alleged that she had met with government officials in the UK to publicise the human rights work of the non-governmental organisation she worked for.

Three of the seven people had travelled to or lived in countries in Africa and Europe prior to their most recent detention, two of whom were detained at the airport on return to the DRC and one of who was seized at home. One had been deported from a neighbouring country having made an unsuccessful asylum claim there some years earlier, following repeated detention in the DRC for political opposition activities. He described being detained as part of a "round-up of dissenters" and deported directly into the hands of the Congolese authorities, who then detained him. Two had travelled to or were living in Europe and were detained on return to the DRC, one at the airport and one from home, on the basis of allegations that they had met or had assisted dissident members of the Congolese diaspora opposed to the government of President Kabila.

SURVIVOR STORY



"A"* did well at school, and began studying at university in Kinshasa. The conditions in the university were very poor. There were not enough desks, no books and few teaching staff. She became interested in politics when talking with her fellow students. One day in 2013, they organised a meeting to discuss their opposition to the President's plans for a third term in office. On their way home, they were surrounded by men in plainclothes. She suspected that someone had told the authorities of their meeting. They were accused of insulting the President. "A" and the others were violently arrested.

They were taken to a prison, where "A" was stripped of all her possessions, including her phone and money. She was separated from her friends, and taken to a small, dark cell in the basement with no furniture. Initially, she was given no food, and following that, only one meal of boiled corn each day. She had no contact with the outside world as no visitors were permitted. Every day she was tortured. Guards mocked "A" for daring to speak against the President. They beat and raped her, and told her that she would die there. Whenever she heard the lock in the door, she would dread what was going to happen.

After a month, guards came and took her out of the cell. She thought that she might be killed, but instead they released her along with her university friends, without explanation and without ever being charged. "A" felt angrier after what had happened, and continued to be involved in politics. Soon friends warned her that the authorities were looking for her, so she left the DRC and sought protection in the UK. With the support of Freedom from Torture, "A" is rebuilding her life in the UK.

* "A" is a pseudonym used in order to protect the individual's anonymity.

2. DETENTION CONTEXT

Different branches of state security – police, military and intelligence agencies – were involved in the detentions from the point of arrest, at detention sites (official and unofficial) and in the perpetration of torture and other human rights violations.

This evidence offers a first-hand insight into appalling detention conditions in both official and unofficial sites that breach the DRC's obligations under instruments such as the UN Standard Minimum Rules for the Treatment of Prisoners and the African Commission's Fair Trial Principles. It also reveals an absence of due process that allows torture to be carried out unchecked and without sanction.

Specific information related to the detention experiences of all the survivors, and evidence of the culpability of the DRC Government for torture described in this report, are derived from accounts of their most recent, or only detention episode, although more than half had been detained before in similar circumstances.

ARBITRARY DETENTION

According to the consistent accounts given, all survivors were held in arbitrary detention without full observance of legal due process. It was in this context that torture took place.

Due process includes a formal charge, registration of detention and access to legal counsel, a hearing before a judicial authority and access to an independent medical practitioner. This can provide essential safeguards for people who are detained. The overwhelming majority of the 74 survivors did not report any observance of due process when they were arrested or throughout detention. They were not formally charged, had no access to legal counsel or any form of legal process. There was no indication that detainees had routine access to independent medical practitioners in any of the detention sites (see Figure 4 below).

Torture took place while people were held incommunicado in detention facilities and other detention sites, with the exception of three who were tortured outside detention facilities.^{32,33} Although family members and others had often witnessed people being arrested, they were not informed about where they were detained. As a result, these cases may amount to enforced disappearance.

Evidence of the culpability of the DRC Government for torture

DUE PROCESS	LEGAL FRAMEWORKS APPLICABLE IN THE DRC	EVIDENCE
Formal charge, access to legal counsel	Article 19 of the DRC Constitution guarantees detainees access to counsel of their choosing at all stages of a criminal procedure. ³⁴	No one reported awareness of a formal charge against them, any form of criminal procedure or access to legal counsel.
Registration at the detention facility	Article 6 of the African Commission's Fair Trial Principles ensures that records of arrest and detention are kept, and made available to relevant persons. ³⁵	Only two survivors reported awareness of any formal record of their detention, including being photographed and fingerprinted.
Hearing before a judicial authority	DRC laws specify that individuals who have been detained must be taken before a judicial authority within a specified timeframe, or released. ³⁶	No one had their case heard before a judicial authority; one person was sentenced without trial to a prison term.
Medical attention	Article 20 of the Robben Island Guidelines states that people deprived of their liberty must have access to medical services. ³⁷	Some survivors said they received some medical attention during their detention to treat injuries arising from torture, including sexual torture, beatings and burns. Seven were treated in medical facilities outside detention, most of whom were helped to escape by a sympathetic nurse or guard or family member; four were treated by a medic in detention, though no action was taken by them to prevent further torture.

FIGURE 4: EVIDENCE OF OBSERVANCE OF DUE PROCESS

VIOLENCE AT THE POINT OF ARREST

Violations of human rights began in many cases at the point of arrest. More than half of the survivors reported high levels of violence during arrest, particularly those detained from their home or at a demonstration.

Nearly a third were arrested in their home or at the home of a friend. These arrests took place amid extraordinary levels of physical violence in most cases, ranging from rough handling and beatings, to sexual assault, rape and shooting. Some reported that their partner or children witnessed their ill-treatment, including rape, causing high levels of distress. A small number described family members being seriously injured or killed, including by machete and gunfire, as they tried to intervene.

More than a quarter were arrested at demonstrations amid high levels of violence in all cases. Some were beaten with truncheons or rifle butts; others reported that the authorities released teargas, or fired on demonstrators. Some said they witnessed a fellow demonstrator being killed.

Others who were arrested in a variety of circumstances from the street or other public places, including when attending meetings of political opposition groups or civil society organisations, described being beaten with a rifle butt, cut with a bayonet and forcefully restrained during arrest.

DETAINING AUTHORITIES

State agents were responsible for the arrest, detention and torture of all cases in this report. As shown in Figure 5, according to the evidence of survivors, most were arrested by the military or police, and a smaller number by intelligence agents. A review of profiles of those detained by each type of authority did not reveal any particular pattern.

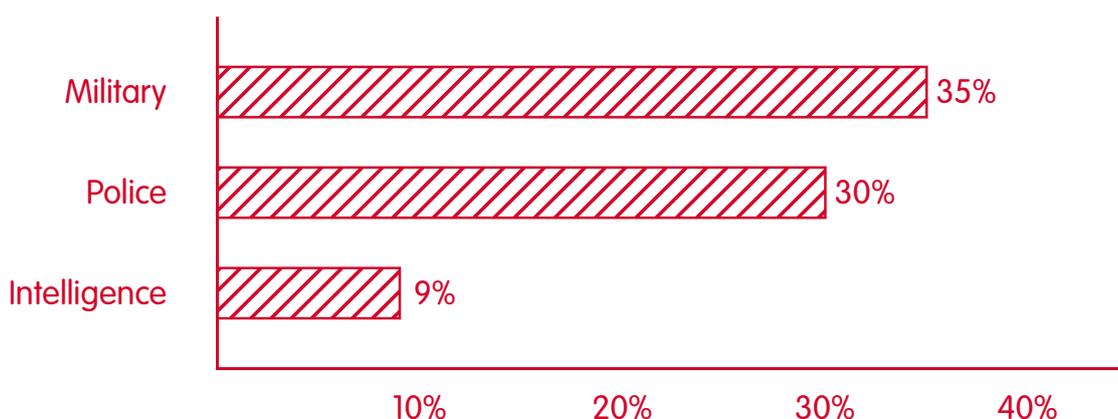


FIGURE 5: ARRESTS BY DETAINING AUTHORITY, 74 PEOPLE, WHERE INFORMATION ON SPECIFIC AUTHORITY WAS AVAILABLE

In some cases, specific information on the detaining authority was not available in the medico-legal report. The interchangeability of words commonly used for “soldier” and “police” in the commonly used Lingala language, and the use of generic terms such as “the authorities”, means that it is not always possible to identify the specific state agency responsible for arrest or torture. Survivors involved in workshops to discuss our findings said that in practice it can be difficult to identify accurately different state authorities in the DRC since they often work closely together and may adopt different uniforms in different contexts, including to avoid accountability for their actions.

People commonly described being dragged and thrown into vehicles and stamped on “like animals”.

MILITARY

More than a third of the survivors said they were arrested by the military. The majority of these arrests took place in Kinshasa, in people's homes and in public places such as demonstrations and public meetings. Most did not name a specific military authority, referring only to "soldiers" or "military men". However, the following specific military authorities were named by some people:

- the armed forces (FARDC, *Forces Armées de la République Démocratique du Congo*);
- the Republican Guard (*Garde Républicaine*);
- the military intelligence agency, (DEMIAP, *Détection Militaire des Activités Anti-Patrie*).³⁸

People arrested by the military were detained in military and other types of detention facility, including unofficial detention sites, prisons, police stations and intelligence facilities. Six of those arrested by the military were transferred to several facilities run by different authorities during their detention. All but one reported being tortured in each of these detention sites.

POLICE

Just under a third were arrested by the police. A few named the specific police authority as:

- Congolese National Police (PNC, *Police Nationale Congolaise*);
- Rapid Intervention Police (PIR, *Police d'intervention rapide*).

These arrests took place in Kinshasa and elsewhere. The police used a range of facilities to detain people, including prisons, unofficial detention sites, police stations, and in one case an intelligence facility. Four people were transferred to different facilities during their detention, two of whom described being tortured in both places, while the other two were tortured in either the first or second detention site only.

INTELLIGENCE AGENCY

Seven people were arrested by intelligence agents, all of whom were assumed to be from the National Intelligence Agency (ANR).

Most were detained and tortured in intelligence facilities, though two were taken directly to a prison and a police station. Two others were transferred from an intelligence detention site to another type of facility, including one person who was initially detained in an intelligence facility where torture did not occur, and then transferred to a prison where they were tortured.

DETENTION FACILITIES

The majority of the survivors gave specific information about where they were detained. This makes clear that more than a quarter were detained in prisons, and a similar proportion in unofficial or ad hoc detention sites. The others were detained in police, military and intelligence facilities (see Figure 6). Some were able to name specific detention sites (see Figure 7). A review of the profile of those detained and dates of detention for each type of facility did not reveal any particular pattern.

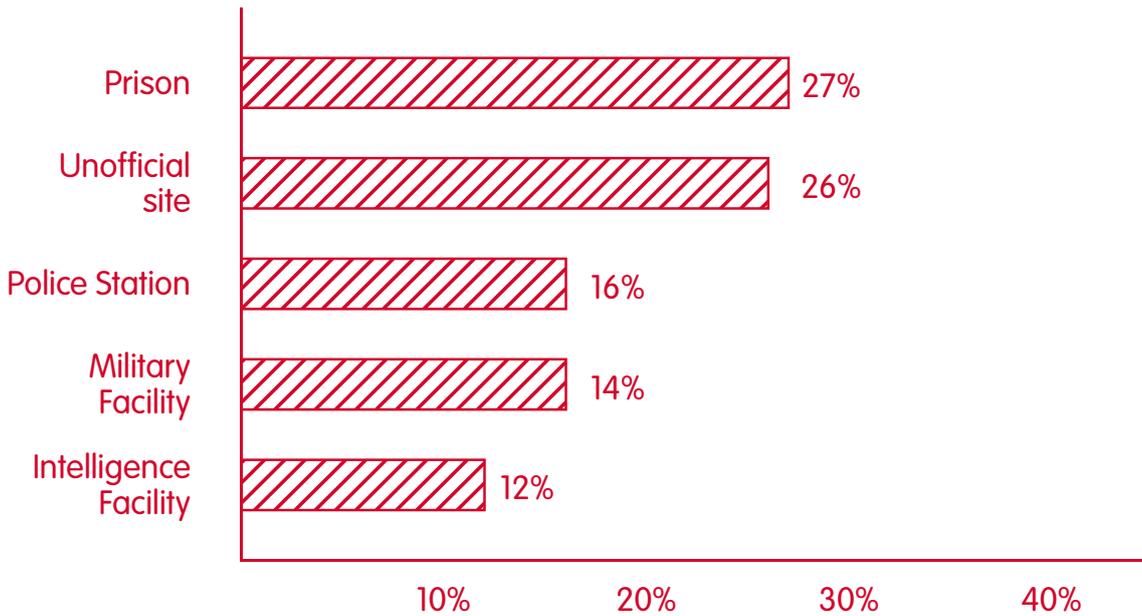


FIGURE 6: DETENTIONS BY TYPE OF DETENTION FACILITY, 74 PEOPLE, WHERE INFORMATION ON TYPE OF FACILITY WAS AVAILABLE

Thirteen people were detained in more than one site and type of detention facility during their most recent episode of detention, indicating that different state authorities were working together. The majority were tortured wherever they were detained, with forms of ill-treatment becoming generally more severe with every transfer.

Lack of sanitation, overcrowding and inadequate access to food and water featured in all detention facilities, breaching all international norms and standards that exist to safeguard detainees.

OFFICIAL FACILITIES

A number of official detention sites were named, with Makala prison being the most commonly cited.

TYPE OF FACILITY	OFFICIAL OVERSIGHT ³⁹	EVIDENCE, NAMED SITES
Prison	Ministry of Justice	<p>Twenty people were held in prison at some point during their detention.</p> <ul style="list-style-type: none"> - Makala prison, Kinshasa - Ndolo (military) prison, Kinshasa - Kasapa prison, Lubumbashi - Luzumu prison, Bas-Congo - Buluwo prison, Katanga
Police facilities	Ministry of the Interior	<p>Twelve people were held in police facilities at some point during their detention.</p> <ul style="list-style-type: none"> - Police Camp Lufungula, Kinshasa - Kin-Mazière Police Headquarters, Kinshasa - Kasa-Vubu police station, Kinshasa - Police d'intervention rapide (PIR), Kinshasa - Police Inspectorate of Kinshasa (<i>L'inspection provinciale de la police de Kinshasa</i>) - Tshimbulu police station, Kasai-Central
Military facilities	Ministry of Defence	<p>Ten were held in military facilities at some point during their detention.</p> <ul style="list-style-type: none"> - Camp Kokolo, Kinshasa - CIRCO (the precursor of the IPK) military prison, Kinshasa - Tshatshi Camp, Kinshasa - DEMIAP (military intelligence) facility, Kinshasa
Intelligence facilities	Office of the President ⁴⁰	<p>Nine people were detained in ANR facilities.</p> <ul style="list-style-type: none"> - ANR facility in Gombe, Kinshasa

FIGURE 7: NAMED DETENTION SITES AND RESPONSIBLE STATE AUTHORITIES

CONDITIONS OF DETENTION

“Because there were so many of us we arranged a way to lie down. One would sit against the wall, spreading her legs, and another would lie between her legs.” The toilet, used by so many women, made the cell smell very bad ... Food was brought once a day in the evening; it was inadequate and barely edible, consisting mostly of boiled beans. Water was not provided by the prison authorities ... [she] was often thirsty.

Medico-legal report excerpt referring to conditions in Makala prison

Detention conditions in each type of facility were universally extremely poor. Overcrowding was commonplace in prisons, police, military and intelligence facilities. Confined spaces forced people to stay standing, sitting or squatting, making it difficult if not impossible to lie down and sleep. Darkness, lack of ventilation, terrible smells and overwhelming heat were commonly described.

Access to toilet facilities was usually restricted or non-existent, with some commenting that access was dependent on the whim of the guards. The majority of detainees were forced to urinate or defecate in their cells, which were consequently soiled and foul-smelling. Some women described a lack of access to adequate sanitary protection during menstruation. Highly unsanitary conditions led some to develop skin rashes and infections.

Access to food and water was infrequent, inadequate and, in a small number of cases, only provided in exchange for sexual acts. The food described was of poor quality, sometimes inadequately cooked, usually offered in small amounts and infrequently. For instance, one person describes receiving food only twice a week. Examples of food provided include beans, corn, rice, maize, and cassava.

UNOFFICIAL SITES

He was taken to a cell with approximately 60 other people. This is where "I felt death coming" ... Other people around him said "they brought you here too? Here it is death. Every day one or two people are taken out and killed" ... This was "when I realised things were getting serious. This is the end."

Medico-legal report excerpt

More than a quarter of the 74 survivors were detained and tortured in unofficial and ad hoc detention sites, despite a government commitment in 2006 to ensure that these no longer operated.⁴¹ Most people were taken directly to these sites by agents of the police or military, though a few were transferred from an official detention facility. Fifteen of those held in these sites were women.

People held in unofficial detention sites described buildings in remote, isolated areas or hidden in scrubland or forest. The buildings included residential houses, compounds and other complexes in various states of abandon. Only two of these detention sites were referred to by name. One was "Maluku", said to be hidden in the bush close to Kinshasa, and described by one person as a site where people were known to have been killed.⁴² The other was the "marble palace", referred to as the former residence of Laurent Kabila.

"Here it is death. Every day one or two people are taken out and killed"

Survivor, medico-legal report excerpt

CONDITIONS OF DETENTION

The cell was about two to three metres square with more than 10 women in it ... Occasional food was given ... along with dirty, smelly water to drink. The women fell sick with rashes and diarrhoea ... There were no toilet facilities inside the cell and guards would take the women out to a dirty area near the river for this. This was terrifying as the women worried about their safety, knowing the reputation of this place, and that often bodies were seen floating in this river.

Medico-legal report excerpt

All those detained in unofficial sites described horrific conditions. The majority were kept in overcrowded spaces, ranging from small groups to up to 60 people in the same room or cell. Some were tied up or manacled; others were squashed up against other detainees in extremely cramped conditions. Cells were commonly described as dark, with some reporting uneven or broken cement floors that were so uncomfortable that it was difficult to sleep.

The police raped women indiscriminately inside their detention room ... although the room was in darkness, by the sound of her fellow prisoners' screams, she understood others were being raped around her.

Medico-legal report excerpt

Most said that there were no sanitary facilities, so that people were forced to urinate and defecate on the floor of shared cells in front of other detainees. The rooms or cells were not cleaned and smells were referred to as "unbearable". Some said that if they asked to go to the toilet, the guards would take them out into the bush and watch them, or rape them.

There were few opportunities to wash; one person was allowed to wash herself only before being raped. Some described being kept in the same clothes throughout their detention, with little opportunity to wash them. Others were kept naked or semi-naked.

The provision of food and water was infrequent and of poor quality, in some cases uncooked or rotting, causing illness. Detainees were given small amounts of bread, beans (often raw or undercooked), maize, cassava and rice. One said a woman in her cell was raped by a guard in return for food, which was then shared between the women in the cell.

Most said that the water provided was too little, sometimes contaminated, and in some cases only just enough to survive. Others said that water rationing forced people to fight for a share, or that guards arbitrarily decided whether or not to give water when it was requested.

END OF DETENTION

Most people were in detention for less than six months during their most recent or only detention. Nearly a third were detained for one to three months and just over a fifth for less than a month. However, a small number were detained for between seven months and two years. Many believed that they would not survive if they did not escape. The torture and other ill-treatment they suffered and witnessed undoubtedly informed this belief.

The vast majority escaped, often with the assistance of a guard. Only four people said the detaining authorities released them, in all cases without warning, explanation or formal process. The accounts of these survivors reveal a lawless and corrupt system in the DRC, in which arbitrary circumstances appear to determine whether someone survives.

Guards told some people that their name was on a “kill list” or a “list to disappear”. They told others more informally that they would be killed if they did not escape. People described feeling certain that they were being led to their death right up to the moment when they were delivered to a place of safety.

He told her, “You are on the list to disappear. As you are from my province I cannot let you die like this.”

Medico-legal report excerpt

Most of those who escaped said that a guard recognised or found an affinity with them, including common ethnicity or place of origin, or a family connection and offered to help. A small number escaped from a clinic or hospital. A third of survivors arranged a bribe to escape, though not everyone may have reported this detail. One person commented that guards are very poorly paid in the DRC, making them potentially susceptible to bribery.

FLIGHT FROM THE DRC

More than three quarters fled the DRC within three months of getting out of detention, some having been told by the guards who helped them to escape that they should leave the country immediately or risk being killed. Some of these people and their families were harassed by the authorities, including being subjected to sexual assault and the suspected murder of a family member. Some reported ongoing harassment and threats directed at family and friends after they had fled the DRC, mostly for the purpose of discovering their whereabouts.

Eleven people left the DRC more than three months after escape or release from detention, and only three report being in DRC for more than a year before finally leaving the country. Of the 11, five reported ongoing harassment by the authorities, including in the most extreme cases, the brutal murder of a family member and another whose family member was disappeared after a raid on their home. Most of the 11 had tried to resume their lives, including continuing their political or civil society activities, but were forced to flee due to ongoing attention from the authorities.

“You are lucky, today was your day to die ... if they catch you, you are dead.”

Words of a torturer recalled by a survivor, medico-legal report excerpt

SURVIVOR STORY



"B"* grew up in a provincial city. A good student, science was her strong subject, and she went on to train in medicine. She was politically active and joined an opposition party at university. After graduating, she moved with her family to Kinshasa to work. One night, without warning, her husband was arrested and detained without trial. She campaigned for his release, but became the authorities' next target, when they came to her house during the night and forced their way in. She tried to protest, but they beat her so that she could no longer resist.

"B" lost consciousness, and woke in a prison cell. The cell was cramped, with only just enough space for a thin mattress. She was not allowed to use the toilet when she needed it, while guards allowed her toilet access only once a day. The authorities accused her husband of plotting against the President and she believed she was tortured as punishment. They told her that he would die in prison, and so would she. One high-ranking guard targeted her in particular. He raped her many times, often assaulting her before the rape. Sometimes he beat her with his fists or with a baton; other times he tied her up. She was told that her husband had died.

"B" thought she would die there, but after several years in detention, a guard helped her to escape. He gave her a disguise and a sum of money and took her to another town. From there, she found help to escape from the DRC. "B" arrived in the UK and claimed asylum, but the Home Office rejected her claim. She lodged an appeal, which included a medico-legal report prepared for her by Freedom from Torture, and was eventually granted refugee status in 2017.

* "B" is a pseudonym used to protect the individual's identity.

3. EVIDENCE OF TORTURE

“They are using torture as a tool to silence people and to oppress them so that they cannot express themselves.”

Congolese torture survivor

Forensic medical reports for all the women and men in this study document forms of violence and ill-treatment defined as torture, violating their fundamental human rights and in contravention of the Congolese Constitution and international law.

The aggregated findings cannot convey the uniqueness of each person’s suffering - the experience of detention, the combination of torture methods used and the devastating short- and long-term physical and psychological impact. The findings do, however, demonstrate extensive and systemic use of torture in the DRC.

The 74 survivors all experienced physical and/or sexual torture by Congolese state officials during their most recent detention episode (see Figure 8). The methods reported, in order of prevalence, were:

- beatings with various instruments;
- rape;
- burning with heated metal or cigarettes;
- positional torture, including suspension;
- sharp force trauma such as cutting, stabbing or biting;
- being forced to stare at the sun;
- partial asphyxiation; and
- electric shocks.

“We got you.
You will
suffer. You
will be killed
like those in
your leaflets.”

Words of the torturer
recalled by a survivor,
medico-legal
report excerpt

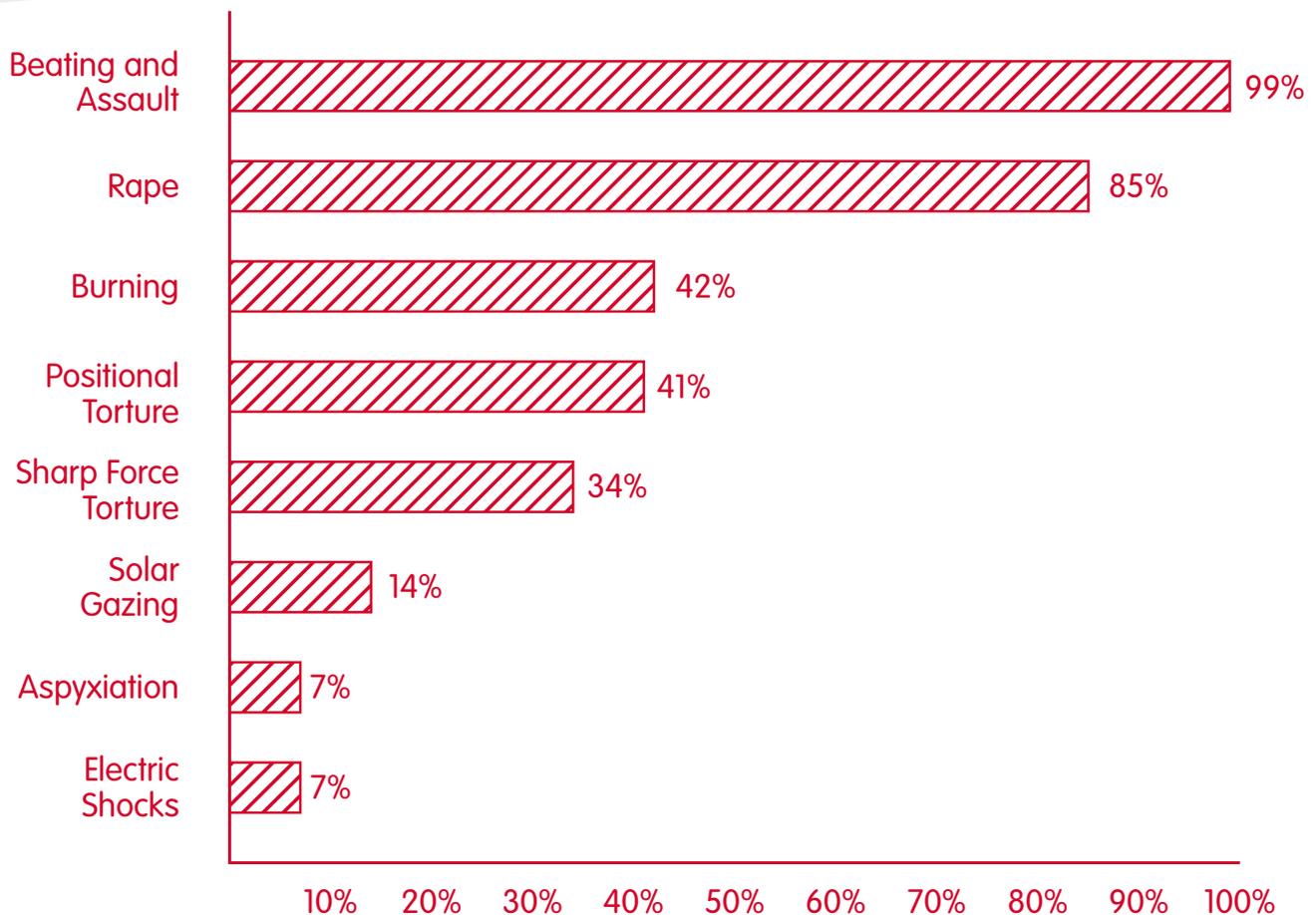


FIGURE 8: INCIDENCE OF RAPE AND OTHER PHYSICAL TORTURE IN THE CASE SET

Psychological torture was widespread. The most commonly cited methods were:

- deliberate humiliation, including verbal abuse and forced performance of humiliating acts (additional to sexual torture);
- threats of death and of further torture; and
- witnessing torture and even death of other detainees.

More than half also described detention conditions that constitute a form of environmental torture, including the intentional deprivation of normal sensory stimulation through prolonged solitary confinement and absence of light.

Specific information related to the torture experiences of all the survivors is derived from accounts of their most recent, or only detention episode, although more than half had been detained before in similar circumstances. In all cases, Freedom from Torture clinicians found the physical and psychological evidence to be consistent with the history of torture, assessed in accordance with Freedom from Torture's own methodology and the Istanbul Protocol guidelines. See *Impacts of Torture*, p 67

PATTERNS OF TORTURE

“Torture is to scare people, to make them not talk about what the government is doing.”

Congolese torture survivor

“This is what you get for giving people’s secrets away, and we’ll go on doing it till you die.”

Words of a torturer recalled by a survivor, medico-legal report excerpt

The patterns of torture documented in these cases strongly indicate a permissive environment for human rights violations and the routine use of torture with impunity in state detention facilities and other detention sites run by state officials. The majority of the survivors were tortured by many state officials in a wide range of state detention sites. Most people were tortured more than once, and in many cases on countless occasions, including during multiple detention episodes.

USE OF TORTURE

“Why are you against the President? ... This time you will never get away. You will die like an animal.”

Words of a torturer recalled by a survivor, medico-legal report excerpt

Torture appears to have been used predominantly as a form of punishment for political and human rights activism, but also as a deterrent against future involvement. Nearly half the survivors reported language used by perpetrators that demonstrated this intent, especially when being beaten or raped or forced to carry out humiliating tasks.

Perpetrators told one person they were being tortured “to prove what the government was capable of doing to people like me”. Another was told: “This is what you get for giving people’s secrets away, and we’ll go on doing it till you die.”

“The aim of it is to shut you down, so no one sees what happens to you.”

Congolese torture survivor

“They want to silence people. To send a message.”

Congolese torture survivor

Nearly half were also tortured during interrogation. They reported being questioned about their activities, especially involvement in the UDPS, and asked for the names of leaders and others who were involved. Interrogators demanded that people explain why they were against the government or the President, and in some cases focused questioning on specific information such as alleged anti-government plots, or the location of weapons or a family member. A small number were interrogated about their activities in other countries, including about people they associated with and information they had shared. Some reported that perpetrators threatened to harm their families if they did not answer their questions. Others were told that they would be tortured or killed regardless of the answers they gave.

THE TORTURERS

The majority of people were tortured by more than one, and in most cases many state officials. Perpetrators were most commonly described as “guards”, with some people specifying that they were from the military, or police, or less commonly from the intelligence agencies or Presidential Guard. They were not usually identifiable by name; only one person named their torturer, while a few referred to the perpetrator as “the chief”, indicating that the person was the senior ranking officer in the detention facility.

Torture was most commonly inflicted by several perpetrators and sometimes by larger groups. Some people described being targeted for torture by the same two or three guards regularly throughout their detention. Others were targeted by one perpetrator, for example men in high-ranking positions within the detention facility. Even when torture was not inflicted by a group, other people were often complicit in the act, for example by restraining a person during sexual torture, or inflicting other forms of violence.

Some said perpetrators appeared to derive sadistic pleasure from watching or inflicting torture, such as using detainees “like sex-toys”. The torturers were sometimes described as intoxicated on alcohol or cannabis.

FREQUENCY AND DURATION

Most of the survivors were tortured many times. Some appear to have been tortured at regular intervals, up to four times a day, or every night, or two to three times a week. Perpetrators referred to torture sessions as “breakfast”, “morning coffee” or “taking tea”, a powerful illustration of the routine use of torture in detention.

Many others were unable to anticipate when they would be tortured and described torture that was apparently inflicted arbitrarily, depending on who was on guard duty or the inclination of the interrogator. One person commented that it was “whenever they wanted their pleasure”.

SEXUAL TORTURE

She was raped frequently during the first days of her detention. She was raped by many different men and many times each day.

Medico-legal report excerpt

"This was more than torture. It is like I was dreaming, but it was happening in reality. I have to live with it."

Survivor, medico-legal report excerpt

Perpetrators referred to torture sessions as "breakfast", "morning coffee" or "taking tea"

One striking feature of the evidence is the extremely high incidence of sexual torture. Women and men alike describe what appears to be an endemic and routine practice of rape in a wide range of detention facilities, carried out openly and with impunity by multiple perpetrators.

Sixty-five women and men disclosed sexual torture, 63 of whom were raped – vaginally, anally and/or orally – at least once. These were 46 women and 17 men, 85% of all cases, 94% of the women and 68% of the men (see Figure 9). Given the difficulties many survivors have in disclosing rape, it is possible that the real figure is higher.

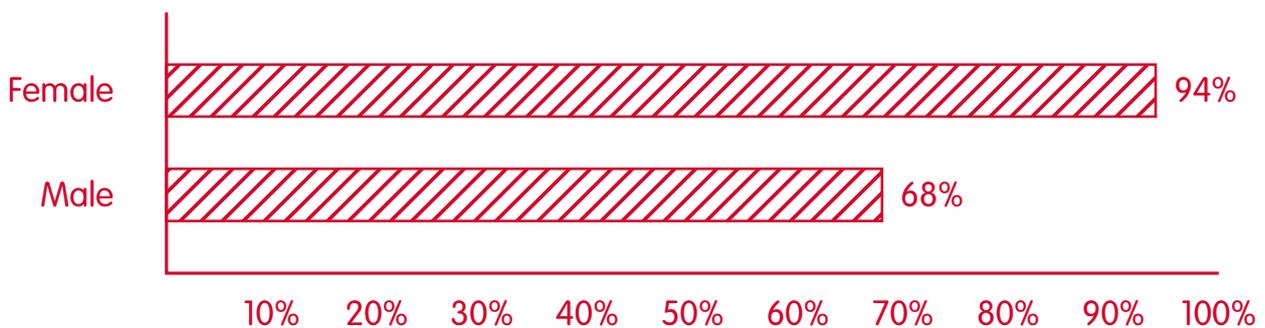


FIGURE 9: INCIDENCE OF RAPE IN THE CASE SET, DISAGGREGATED BY SEX

More than half of those who were raped described multiple assaults throughout their detention. For some, this was a daily or nightly occurrence. Others struggled to find a pattern or quantify the rapes, using terms such as "many times", "continuously" or "repeatedly".

More than half of those who were raped described episodes of gang-rape during which multiple perpetrators raped the person in turn with others watching or forcibly restraining the person, and sometimes using other forms of physical violence such as beating, burning or cutting as further “punishment” or to force compliance. Many people described intensely violent incidents where multiple perpetrators simultaneously carried out sexual assaults and different forms of rape.

Women and men reported being raped in their cells, often in front of witnesses, or being taken out of their cells to be raped elsewhere, in other cells or areas of the detention facility such as showers, or “outside”. Perpetrators were usually described as soldiers, police, or guards, although three women described being raped by a commanding officer, described as “chief”.

Her legs were bound with ropes and “strung up” and she was raped by several men at once; she recalls them saying “she is not hurting enough, perhaps we should cut her so she can learn”. She then remembers sharp pain and being cut with what she thinks were scissors, or a sharp implement, around her genitals. She recalls bleeding a lot.

Medico-legal report excerpt

Women and men described a high level of violence accompanying rape, including being stripped naked, punched and beaten, burned, bitten and cut. Some described being gagged with cloth stuffed in their mouth. Others said they were restrained by manacles or bindings fixed to the wall or floor. People also described being threatened with death if they resisted rape.

Around half described other sexual torture, including being forcibly held naked or partially naked while in detention or during torture; molestation of the breasts and/or genitals; and being forced to masturbate guards or others. The humiliation and shame of sexual torture was compounded for some people by being raped in front of witnesses and for others by being forced to witness the rape of another.

RAPE OF WOMEN

On repeated occasions, the women detainees would be taken out of the room individually, raped and then brought back. "From the first night we were the sexual toys of the military".

Medico-legal report excerpt

Most women were raped vaginally and nearly half were also raped anally, often in the same incident. More than a third said they were orally raped and a smaller number were penetrated with fingers and instruments such as sticks and batons. They described being ejaculated over and being forced to swallow semen.

A different man entered and asked: "My friend has just had his tea. How did he have his tea?" She had no idea what he meant until he asked her if she had been raped vaginally or anally. When she said vaginally, he ordered her onto all fours and raped her anally.

Medico-legal report excerpt

Over half of the women were gang-raped and most were raped many times.

Five women became pregnant as a result of rape, and two suffered miscarriages following rape and other torture, including one woman who had been obviously pregnant when detained.

RAPE OF MEN

Then one of them held his neck and others held his hands "... and the other one raped me. They all did it by turns. After that I had no strength – I just lay there... It hurts me. I can go three days without sleeping. It makes me feel I don't want to live anymore..."

Survivor, medico-legal report excerpt

Seventeen men were raped anally and a small number were also raped orally and penetrated with an instrument. Some were forced to swallow semen and others were forced to masturbate or perform masturbation and oral rape on other detainees.

Nearly half of these men were raped many times and the same proportion described being gang-raped.

"From the first night we were the sexual toys of the military"

Survivor, medico-legal report excerpt

RAPE OF MINORS

She was 16 years old when detained and “virgo intacto” before the rape. She was raped vaginally and anally every night in the first detention facility. In the second facility she was taken around three times and raped by soldiers, including vaginally, anally and with an implement.

Medico-legal report excerpt

Five of the nine people who were tortured as minors were raped, either at the time of their only or most recent detention, or during a previous detention.

OTHER TORTURE METHODS

BLUNT FORCE TRAUMA

The guards called this “tea time” ... They were taken to a separate “torture” room where they were beaten in turns. He was beaten with sticks and rubber batons. He was particularly beaten over his head “to make you crazy”. His feet were stamped on repeatedly with heavy boots. He was told they would destroy his head and his feet so that he could not continue to campaign...

Medico-legal report excerpt

Beatings and other physical assaults appear to be a routine form of torture in detention. All of the women and men reported brutal beatings and other violent physical assaults in detention. In most cases this happened on multiple occasions. Only one person was not beaten when most recently detained, though he had been beaten daily when detained a year earlier. Of the 39 people who were detained more than once, all but four described this form of torture during every one of their previous detentions.

Many people also described beatings and in some cases extreme violence involving the death of family members or others, at the point of arrest and in transit to detention facilities (see *Detention context, Violence at the point of arrest*).

He was told they would destroy his head and his feet so that he could not continue to campaign...

Medico-legal report excerpt

People described repeated and prolonged episodes of beatings and other assaults. Most were beaten all over the body, some on the soles of the feet (*falaka*), with a variety of flexible and inflexible blunt instruments. These included:

- heavy metal truncheons or batons covered in rubber, known as “*ngondo*” or “*matraque*”;
- rigid wooden batons or flexible sticks, known as “*fimbo*”;
- heavy leather whips, known as “*chicotte*”;
- rubber whips, known as “*boyau*”;
- military belts, webbing with metal buckles and hooks, known as “*cordelette*”;
- whips made from twisted rope; and
- gun butts.

Cold water was poured on the floor, and [he] was made to roll on the wet ground while being beaten with a baton and wooden stick, and whipped with a rubber rope. This was called “breakfast”...

Medico-legal report excerpt

Many women and men were beaten or otherwise assaulted concurrently with other torture, including suspension and rape, and some described being beaten more intensely if they attempted to protect themselves or to resist rape. Some people described detainees being forced to assault each other, which they found particularly distressing.

BURNING

While suspended they burned him many times with cigarettes; sometimes when burning him with cigarettes they would stuff clothing in his mouth to stop his screams.

Medico-legal report excerpt

Thirty-one people were tortured by burning, in most cases with heated metal instruments or cigarettes. Burning took place during torture sessions, sometimes in the context of interrogations, and frequently during sexual assault, especially when people attempted to resist rape.

On one occasion the soldiers brought her outside to rape her. She struggled against them and they forced her onto her knees. Near the soldiers was a charcoal fire and a blackened implement within it... As she struggled and they restrained her, she felt severe burning pain over the right side of her back as something hot was pressed onto her skin.

Medico-legal report excerpt

Heated metal rods, skewers, knives and irons were among the instruments used to burn people on their bodies, limbs and heads. Lighted cigarettes were brushed across skin, held against the body or even stubbed out on them, "as if my body was an ashtray", said one woman.

Some people described being burned with scalding liquid, including hot wax from a candle and hot water. Others were doused with a caustic liquid that burned their skin, described by one person as battery acid. Two people described being burned with flaming wood from a fire or burning charcoal.

POSITIONAL TORTURE

He was made to lie down on the floor and a thick cord was tied at his ankles. The cord was then tied to the metal bars on the ceiling and he was hoisted up by it, so that he was suspended upside-down, hanging from his ankles...

Medico-legal report excerpt

Thirty of the survivors were subjected to suspension and other forced positioning, a form of torture that can produce extreme pain and lasting trauma, but may leave little, if any, visible evidence of injury.

Some described being suspended, most by their legs which were tied at the ankles with rope to a fixed point on the ceiling or wall. Others were suspended by their arms, tied at the wrists or elbows behind their back to a fixed point on the ceiling, lifting their feet off the ground. They described intense pain and distress while held in these positions; one woman was told she would remain there until she died. Some were beaten while suspended and one person described the use of asphyxiation techniques while he was suspended upside-down.

Her arms were tied together behind her back at the elbow with a piece of electrical wire. A rope was then tied over this wire and the rope was tied to a bar on the ceiling. She was partly suspended and left there. The suspension caused severe pain in both of her shoulders. By the time she was taken down she had lost all sensation in her hands.

Medico-legal report excerpt

Many other types of stress positions were used. Women and men were tied or restrained in contorted or hyperextended positions as a form of restraint in the context of interrogation, rape and other torture, and as a means of inflicting fear, pain and humiliation.

He “woke up” to find himself tied to something like a pillar with his arms fastened behind him at the wrist and higher up at the elbows, he thinks with rope ... He could not move and just stood or hung there, very weak, in pain all over, breathless, passing urine where he was and drifting in and out of consciousness.

Medico-legal report excerpt

Some described having their hands and legs tightly bound to a chair in a hyperextended position during interrogation sessions, when they were also beaten. Others were restrained by manacles attached to their hands and/or feet and fixed to bars on their cell walls, often with other detainees, for prolonged periods. One person was manacled and forced to kneel on a concrete floor embedded with sharp objects. He was frequently raped when in this position.

Many others were held in forced positions to facilitate rape. For example, one man was forced to face the cell wall with his hands tied above his head to a fixed point and in this position he was raped anally with an instrument. Women described having their legs forced apart and bound whilst they were raped, or being held in a forced position kneeling on the floor whilst being orally raped.

SHARP FORCE TRAUMA

Sometimes the guards would announce they were tired and were going to cut, rather than beat her and then “drew” on her skin with a razor ... They would do this while she was restrained, either with her arms tied behind her back or spread-eagled on the ground.

Medico-legal report excerpt

Sometimes the guards would announce they were tired and were going to cut, rather than beat her and then “drew” on her skin with a razor ...

Medico-legal report excerpt

More than a third of the survivors were cut intentionally with a sharp implement. This invariably took place alongside other torture, especially rape. Most were cut with knives, broken glass, razor blades, barbed wire and scissors. They described incurring injuries to their fingernails, limbs, feet, face, genitals, buttocks and breasts. One perpetrator said, "I'll cut you to pieces", as he cut the woman with a knife while she was being raped. Some people were stabbed, including with a bayonet and a screwdriver, while resisting rape and other torture. A few people describe being bitten or scratched by the perpetrator, on the finger, buttock or breast, while being raped.

SOLAR GAZING

During the day the prisoners were taken out in turn, and made to lie down and look at the sun, for an estimated 30 to 40 minutes. This happened about once a week, to each of the prisoners in turn. She was held by her hands and feet, and hit or slapped if she closed her eyes.

Medico-legal report excerpt

Ten people reported being subjected to solar gazing. This involved them being restrained in a position that forced them to look directly at the sun. They were beaten, slapped, kicked, shocked with electric batons or sprayed with a noxious liquid if they looked away or closed their eyes. People estimated that this lasted for 30 to 40 minutes. Some said that all the prisoners in the detention facility were taken outside in turn, in groups or individually, on a regular basis, such as once or twice a week.

ASPHYXIATION

When he was upside-down they poured water on his face so that it went into his nostrils. At times they also put a plastic bag over his face and then poured water all over his body whilst beating him. The plastic bag made it feel difficult for him to breathe.

Medico-legal report excerpt

Five people were subjected to partial asphyxiation. One of them was suspended upside-down and beaten when water was poured on to his face. His face was then enclosed in a plastic bag. Another had his head submerged under water to the point of near suffocation. Others were partially choked by strangulation or partially smothered when their mouth was covered with cloth to prevent them screaming while being raped.

ELECTRIC SHOCK

At one point electrodes were fixed to each breast and electricity turned on ... she screamed as she was in so much pain. The men laughed at this. Then electrodes were fixed to her labia and current switched on. The pain was agonising and she thinks she became unconscious at this point.

Medico-legal report excerpt

She felt her
"soul going
away from her
at that time"

Survivor, medico-legal
report excerpt

Five people reported electric shock torture. They described the use of electrodes, electric cables and wires, jump leads and an electric baton (taser). Shocks were delivered to the genitals, hands, feet, and in the case of the taser, all over the body, sometimes many times in rapid succession. Two people said that they were tortured with electric shocks two or three times.

One woman who was given shocks to her breasts and genitals said that she found the pain agonising and that the perpetrators laughed at her evident distress. Another said that she "jumped out of her skin" and then had a feeling that she wasn't herself anymore; she felt her "soul going away from her at that time".

PSYCHOLOGICAL TORTURE

HUMILIATION

"They referred to my mother's private parts, called me a bastard, called me an animal. They were very strong insults in Lingala [language]."

Survivor, medico-legal report excerpt

Feelings of humiliation may arise from many methods of torture, sexual torture in particular. The Istanbul Protocol highlights that humiliation can be used as a method of torture in itself and points specifically to humiliating verbal abuse and forced performance of humiliating acts.⁴³

Other than the humiliation suffered by the 65 people who were sexually tortured, 27 were subjected to verbal abuse, forced humiliating acts or other forms of humiliation.

Women and men described being verbally abused alongside other torture, in particular rape. Language used was often sexually obscene, invoking intense shame, anger and distress.

During the interrogation they repeatedly called her insulting names such as “prostitute” and “daughter of a dog”. Like many interviewees who have been verbally abused she was reluctant to repeat all the insults to me, but indicated that there were others.

Medico-legal report excerpt

Many people described forced behaviours designed to humiliate, invoke disgust and degrade the person. This included being forced to:

- swallow their own or someone else’s urine or blood;
- eat or drink contaminated food or water;
- urinate or defecate on the floor of their cell in front of guards or other detainees;
- clean excrement from toilets and soiled cells with bare hands;
- dance in front of guards while naked; and
- drink from puddles or swim in a pool contaminated with urine and faeces.
- Others said guards urinated on them.

THREATS

They told her that if she did not co-operate they would “make me disappear”.

Medico-legal report excerpt

The majority of people described the widespread use of threats alongside physical torture; in most cases this meant threats of death.

People described having guns pointed at them and death threats, including being told that they would be “eliminated” and that they were “on a list” of those who would be killed in the detention facility. One person was told they would be buried alive and was taken to a prepared hole in the ground, before being helped to escape when their captor recognised them. Another was told that the blood she saw in the toilets was from those who had been killed there.

The Commandant said “minus one” to the soldiers and he was taken back to his cell. This meant death. The prisoners were killed by being put into a weighted sack at night and dropped into the Congo river.

Medico-legal report excerpt

Some were told that they would be “food for the fish” by being drowned in the nearby Congo river.

Some described threats of further torture. A few were told that their family members would be harmed: a husband was told that his wife would be raped in front of him; mothers were told that they would not see their children again or that their children would be killed. Some were threatened with prolonged imprisonment, until they cooperated or until a family member who was wanted by the authorities was found.

WITNESSING TORTURE OF OTHERS

The rapes took place in the cell and the victim was selected randomly. She witnessed other women being raped. The men in the cell were not raped but were tortured “in other ways”.

Medico-legal report excerpt

Over half of the survivors witnessed horrific violence perpetrated against others in detention, including family members, friends and fellow detainees, causing deep psychological distress.

Thirty people saw or heard others being tortured. The majority of these said they witnessed the rape of other people in their cell. One woman saw her sister being raped; another person described detainees being forced to masturbate in their shared cell or to perform oral sex on each other. Others said that they saw people being led away to be raped either in another cell or in the bush, and some reported hearing the screams of people being raped nearby.

People commonly witnessed others being beaten, including when detainees were forced to beat each other. One said that she and her mother were beaten in front of each other. Others witnessed people being threatened, guards urinating in people’s mouths, and detainees being given injections causing sickness or loss of consciousness.

There were two men ... who were in a “critical” condition and looked as though they had been beaten up badly ... soldiers came in and took the two men out. She heard the men crying and shouting. She heard one man say, “Do not bury me alive. You can shoot me. Do not bury me alive.” Then there was silence.

Medico-legal report excerpt

“Do not bury
me alive.
You can
shoot me.
Do not bury
me alive.”
Then there
was silence.

*Survivor, medico-legal
report excerpt*

Thirteen survivors witnessed atrocities and saw evidence of violence, including people being killed, people dying from torture injuries and the dead bodies of fellow detainees. One person witnessed detainees being shot when they tried to escape. Another saw several detainees shot when their interrogator was dissatisfied with their responses. Others described seeing fellow detainees suffer and die in their cell as a result of injuries caused by torture, having been given no medical attention. Some of the bodies were not removed for days. A small number of people saw signs of mass killings of detainees, including one who saw body bags being loaded into a lorry, and another who was led through a forested area where the ground appeared to be scattered with bones.

“Other prisoners were taken out, and did not come back. I asked where they’d gone and he said they’d all been killed. I started to question why I’d been active. I was in despair that I’d never see my family again.”

Survivor, medico-legal report excerpt

Many said that people were regularly taken from their cells, they presumed to be killed. They said that guards would enter the cell daily or weekly and call individuals by name, and then their cells would become emptier as people did not return. They were not usually told where these detainees were taken, though a few reported guards telling them that their fellow detainees had been killed. Some heard gunshots, or the cries of those who were led away eventually falling silent.

‘ENVIRONMENTAL’ TORTURE

The Istanbul Protocol includes conditions of detention and a range of environmental conditions as categories of “torture methods to consider”.⁴⁴ It is noted that an individual’s experience of torture is unique and comprises an accumulation of many forms of ill-treatment that may have physical and/or psychological impact.

In this report, conditions of detention, including lack of sanitation, overcrowded cells and inadequate access to food and water, are described in detail in *Detention context* (p 38). However, the intentional manipulation or deprivation of normal sensory stimulation such as sound, light and sense of time, as well as isolation and loss of social contact, is described here as a form of torture. More than half of the survivors said they were subjected to such conditions while detained.

More than a quarter of the survivors experienced prolonged solitary confinement, ranging from five days to several months, and a year in one case. Many said that they were kept alone and in darkness. One person said they were beaten if they tried to talk to anyone else when taken from solitary confinement into the courtyard.

Nearly half were deprived of natural light or kept in constant darkness for prolonged periods, with others or alone. People described being disorientated and unable to differentiate day from night or otherwise keep track of time. A few commented that they could not see the perpetrators who inflicted torture in the cell, or that perpetrators used torches when entering the cell.

Seven people described being hooded or blindfolded, including in transit to detention, during torture and when being taken out of their cell for interrogation.

FREEDOM

WHEN I WAS STILL CONFINED THERE,
I WAS WEIGHED DOWN WITH HOPELESS DESIRE.

I WAS A MAN WHO HAD LOST BOTH HIS FREEDOM AND
HIS IDENTITY.

MY LIFE STUNTED BY THE SPACE THAT BOXED ME IN.

SO WHAT DID THEY DO? THEY CONVINCED ME I WAS
FINISHED.

THEY MADE ME FEEL INFERIOR, LESS THAN MYSELF. NOT
AS OTHER PEOPLE ARE.

BUT NOW I AM HERE, WHERE MILK AND HONEY FLOW.
AND HOW DOES IT FEEL?

I FEEL INFERIOR, LESS THAN MYSELF.
NOT AS OTHER PEOPLE ARE.

HERE TOO I AM STUNTED.

I HAVE NO SPACE TO GROW INTO FREEDOM.
NO FREEDOM TO MOVE FORWARD INTO LIFE.

TIM MALMO

4. IMPACTS OF TORTURE

Expert clinicians documented forensic evidence attributed to the physical and/or psychological impacts of the torture described in all 74 cases. Their findings demonstrate extensive physical evidence of the most widespread forms of torture reported, including beatings and sexual torture, as well as other methods. All survivors were found to have enduring psychological symptoms linked to their torture, and many had symptoms specifically linked to their sexual torture.

The Istanbul Protocol notes: “The entire clinical picture produced by torture is much more than the simple sum of lesions produced by methods on a list.”⁴⁵ While physical, environmental and sexual torture can all give rise to physical or psychological impacts, it is not always possible to predict, or attempt to categorise, which impacts will arise from particular torture methods. This especially pertains to evaluation of the psychological impacts of torture. For more detailed information on the assessment process for a medico-legal report, see Appendix 1.

In order to illustrate as fully as possible the extent of enduring injury arising from torture , the physical and psychological impacts described in this section relate to injuries inflicted during all episodes of detention (most recent and prior).

PHYSICAL IMPACTS

Physical evidence of the torture described was found in almost all of the cases analysed.⁴⁶ Scars or other lesions arising from particular torture methods, assessed as “consistent” or higher, according to Istanbul Protocol standards, were documented in all but one case.⁴⁷ All physical assessments undertaken for the preparation of a medico-legal report adhere to Freedom from Torture’s own methodology as well as the Istanbul Protocol guidelines, which set out the internationally recognised standard on assessment of the consistency of scars or other lesions with the history of torture.⁴⁸

“I am no longer myself, the person you are seeing is not me. I don’t know who I am any more.”

Survivor, medico-legal report excerpt

EVIDENCE OF RAPE

The violent, sustained and repeated nature of sexual assaults resulted in profound physical and psychological injury. Women described suffering many immediate physical effects, including:

- prolonged bleeding;
- swelling, cuts and pain in the vaginal and anal areas;
- infection and discharge;
- pain and difficulty when emptying bowels and urinating; and
- pain in the pelvic and abdominal areas.

Five women became pregnant as a result of rape in detention, with some becoming aware of this only after their escape. Two carried to full term, one of whom commented that she had found it difficult to bond with her baby. Another was pregnant at the time of clinical examination and unsure of how she would feel when the baby arrived. A further two had terminations, one during, and another following, detention.

For men, the immediate physical affects included:

- bleeding; and
- significant discomfort following anal rape, including when opening their bowels.

The difficulty of proving the crime of rape is well known. Observable physical traces of rape may be absent as little as 72 hours after the incident, and as such, absence of physical signs of rape cannot be taken as evidence that rape did not occur.⁴⁹ While genital lesions may be few or non-existent, lesions located on other parts of the body may provide significant corroborative evidence.

Despite the difficulties, forensic examination in relation to an allegation of rape for the preparation of a medico-legal report is as rigorous as possible, taking into account the willingness of the individual to undergo intrusive examination and the risk of re-traumatisation. Though rape is generally unlikely to give rise to lasting physical traces, over half of those who disclosed rape were found to have evidence in the form of scars or other lesions, and/or other physical findings in keeping with this attribution.

SCARS AND OTHER LESIONS

Eleven women and four men had enduring physical evidence in the form of scars or other lesions assessed as consistent or higher with the attribution of rape according to Istanbul Protocol standards. The relatively high rate of physical evidence of rape in the form of scars or other lesions may be explained, at least in part, by the extreme violence and frequency of the rapes described.

CHRONIC PAIN AND GENITO-URINARY SYMPTOMS

Fifteen women and five men had chronic pain and genito-urinary symptoms. While not exclusive to rape, they are frequently associated with it. The symptoms arose after the rape and were continuing at the time of the clinical examination.

In women, the symptoms included pain in the vaginal and anal areas, pain on urination, constipation, vaginal discharge, lower abdominal pain, painful periods, and back pain. Both forced penetration and the struggle to avoid penetration may result in bleeding, bruising and pain in the vaginal or anal areas, and can cause considerable discomfort for a time after. Due to the good healing properties of the tissue in the genital and anal areas, nearly all such injuries generally resolve quickly, though harsh detention conditions, lack of appropriate medical attention and further sexual assaults are likely to delay this process.

Complaints of pain on passing urine are common in rape survivors, including the women in this case set, due to bruising of the urethral opening or the base of the bladder, which lie close to the front of the vagina.⁵⁰ If a bacterial infection develops, which is likely in unsanitary detention conditions, women may experience persisting pain when passing urine and lower abdominal pain. If these symptoms do not resolve in a matter of days, antibiotics are generally required; if the infection is not treated there is a risk of complications.⁵¹

Constipation and/or anal pain was reported by seven women who disclosed rape, three of whom reported anal rape in detention. Intense pain associated with defecation may be secondary to anal fissure caused by anal rape. However, it should be noted that constipation can cause anal fissure. Furthermore, clinical research detailed in *Rape as a Method of Torture* highlights that there may be a psychological aspect to this complaint, with some women in that study indicating that they were afraid to defecate and try to “hold it back”.⁵²

Eight women from the case set reported changes in their pattern of menstruation since rape, including heavier, longer, more irregular or absent periods. Although these changes can be linked to stress, these and other symptoms, including lower abdominal pain and vaginal discharge can also indicate pelvic inflammatory disease.⁵³

Twelve women were found to have sexually transmitted infections or symptoms suggesting a possible sexually transmitted infection. In particular, six were found to have symptoms indicating pelvic inflammatory disease. One had been diagnosed with HIV, which she attributed to the repeated rapes in detention. Three reported genital warts or blistering, two of whom had been treated for a sexually transmitted infection.

For the men in the case set who had been anally raped, ongoing pain and genito-urinary symptoms included pain and bleeding on defecation and constipation. One had been diagnosed and treated for internal haemorrhoids. One man was diagnosed with HIV which was attributed to repeated anal rape in detention. While not specific to injuries from rape, these symptoms and diagnoses can contribute to the overall clinical picture in support of the attribution of rape.

EVIDENCE OF OTHER FORMS OF TORTURE

Physical evidence attributed to other methods of torture is explored at Figure 10. The physical evidence of torture presented relates to all reported detentions, including earlier detentions.

METHOD OF TORTURE	EVIDENCE	PHYSICAL IMPACT OF TORTURE EXPLORED
<p>Beating, assault and other blunt force trauma</p>	<p>Immediate impacts described:</p> <ul style="list-style-type: none"> - intense pain - swellings and bruising - loss of consciousness - heavy bleeding - brain injury - crush injuries on parts of the body, such as the face and head, back, torso, limbs, hands and feet <p>Scars and other lesions documented: 65 had scars or other lesions attributed to and found to be consistent with this form of torture.</p> <p>Other forms of physical evidence documented:</p> <p>Musculoskeletal symptoms, such as:</p> <ul style="list-style-type: none"> - ongoing pain in the head, limbs, and back, particularly lower back pain - stiffness - limited mobility <p>Other physical findings documented:</p> <ul style="list-style-type: none"> - broken or missing teeth - brain injury 	<p>In general, blunt force trauma causes bruising and abrasions that heal without lasting physical traces. As such, this method of torture would not necessarily be expected to produce lasting physical evidence in the form of scars or other lesions. Whether it does depends on many factors, including the force of the blow, the part of the body hit, whether soft tissue or bone was hit, the length of time since infliction, whether the skin was broken and the conditions of recovery.</p> <p>Analysis: The relatively high rate of lasting physical evidence supporting the attribution of blunt force trauma found in this case set may reflect the level of brutality and frequency of the assaults described.</p>
<p>Positional torture</p>	<p>Immediate impacts described:</p> <p>Suspension:</p> <ul style="list-style-type: none"> - severe pain - feeling of numbness and paralysis - loss of consciousness <p>Prolonged binding/shackles:</p> <ul style="list-style-type: none"> - pain - chafing - bleeding - swelling <p>Stress positions:</p> <ul style="list-style-type: none"> - pain <p>Scars and other lesions documented: 10 people had scars or other lesions consistent with positional torture.</p> <p>Other physical findings documented: Five people had other forms of physical evidence congruent with positional torture, including musculoskeletal complaints, especially ongoing pain affecting the areas put under stress during positional torture.</p>	<p>Suspension and other forced positioning is a form of torture that can produce extreme pain and distress, but may leave little or no visible evidence of injury. However, as a form of torture that is focused on inducing stress in tendons, joints and muscles, it may give rise to neurological and musculoskeletal injury as well as weakness and severe pain symptoms, which can persist for years.</p> <p>Analysis: Nearly a third of those who reported positional torture had lasting physical evidence consistent with this attribution. This mostly consisted of abrasions caused by bindings, handcuffs or shackles, or from contact with rough surfaces sustained during forced positioning. Fewer were found to have other physical findings in keeping with the attribution of positional torture, including pain in joints or other areas of the body affected by positional torture.</p>

METHOD OF TORTURE	EVIDENCE	PHYSICAL IMPACT OF TORTURE EXPLORED
Burning	<p>Immediate impacts described:</p> <ul style="list-style-type: none"> - extreme pain - changes to the skin, such as darkening and blistering, discharge - infection resulting from lack of medical treatment <p>Scars and other lesions documented: 31 people had lasting physical evidence in the form of scars or other lesions consistent with the attribution of burning.</p>	<p>The Istanbul Protocol notes that burning as a form of torture is likely to leave permanent, observable changes to the skin. Full thickness burns will almost certainly produce scarring, while partial thickness burns, which are relatively superficial, may heal completely or persist only as a change in pigmentation.</p> <p>Analysis: In keeping with the expected impact of this kind of injury, the majority who disclosed torture by burning were found to have scars supporting this attribution. The small number who did not have lasting evidence described being burned with cigarettes and electric shock, both of which would not necessarily leave lasting traces if the burn was superficial.</p>
Sharp force trauma	<p>Immediate impacts described:</p> <ul style="list-style-type: none"> - pain - bleeding <p>Scars and other lesions documented: 31 people who reported sharp force trauma, including cutting, biting or puncturing, were found to have scars consistent with this attribution.</p>	<p>Sharp force trauma from cutting, stabbing, biting and puncturing typically breaks the skin. The resulting wounds usually leave scars that can be distinguished.</p> <p>Analysis: All those who disclosed this form of torture had lasting scars supporting this attribution, in keeping with the expected lasting impacts of sharp force trauma.</p>
Forced solar gazing	<p>Immediate impacts described:</p> <ul style="list-style-type: none"> - blurred vision - painful eyes <p>Ongoing physical impacts: Seven people who reported forced solar gazing were found to be experiencing ongoing physical symptoms, which are in keeping with this attribution. These included:</p> <ul style="list-style-type: none"> - reduced visual acuity - blurred vision - painful, watering, itchy or swollen eyes - general eye sensitivity <p>At least one of the seven had visible clinical signs in the retina indicating solar retinal damage (solar retinopathy).</p>	<p>Forced solar gazing is likely to cause retinal burns, and consequent reduction in visual acuity in the immediate term, the physical signs of which may be detectable through clinical examination for a short time following the injury. However, the clinical signs in the retina tend to resolve relatively quickly. There may be little visible evidence in the long-term, though there may still be permanent impairment of retinal function, and therefore of vision. Furthermore, the psychological impact can be enduring.</p> <p>Analysis: Over half of those who reported forced solar gazing had ongoing symptoms in keeping with this attribution. Whilst visual symptoms may be understood as arising from direct retinal damage, other enduring physical symptoms such as pain, sensitivity, watering, swelling and itchiness in the eyes were common findings. Symptoms arising from forced solar gazing may persist even in the absence of any physical trace of retinal damage, and may be understood, in part, as a psychosomatic response to the profound psychological impact of this form of torture.</p>

METHOD OF TORTURE	EVIDENCE	PHYSICAL IMPACT OF TORTURE EXPLORED
Electric shock	<p>Immediate impacts described:</p> <ul style="list-style-type: none"> - loss of consciousness - urinary incontinence - burns on the skin - pins and needles, and cramps <p>Scars or other lesions documented: Two people who reported electric shocks had lasting physical evidence congruent with this attribution.</p>	<p>Electric shocks often cause intense pain in the moment and may leave lasting physical evidence in the form of electrical burns on the skin. However, this method of torture does not necessarily leave lasting physical traces, especially if perpetrators used water or gel where the current was applied.</p> <p>Analysis: The fact that some, though not all of those who reported electric shocks had lasting evidence of this form of torture is in keeping with what is known of the likely lasting impacts of electric shocks.</p>
Asphyxiation	<p>Immediate impacts described:</p> <ul style="list-style-type: none"> - difficulty breathing, to the point of suffocation in some cases - loss of consciousness <p>No lasting physical evidence in keeping with asphyxiation was documented among the five who reported this form of torture.</p>	<p>Partial asphyxiation by suffocation is a method of torture that usually leaves no mark, although it may have a significant psychological impact and cause severe physical discomfort. Recovery is usually fast.</p> <p>Analysis: The lack of lasting physical evidence of asphyxiation among those in this case set who reported it is in keeping with the relatively low probability of lasting physical impacts with this form of torture.</p>

FIGURE 10: TABLE SHOWING PHYSICAL EVIDENCE, BY METHODS OF TORTURE DISCLOSED IN ALL DETENTIONS

PAIN SYMPTOMS

More than two thirds reported chronic pain associated with torture. Some had frequent headaches. Others described musculoskeletal pain in the back, especially lower back, limbs, feet, neck, face and chest. These symptoms were associated with various torture methods, including blunt force trauma and positional torture.

Torture survivors commonly experience pain symptoms that can have physical or psychological origins. Pain that has no obvious physical cause is known as somatic pain, and may be a symptom of severe psychological trauma. Somatic pain can indicate ongoing psychological distress and commonly manifests in headaches or back pain. Doctors examining torture survivors will, as far as possible, distinguish between somatic and neuropathic pain (pain due to nerve damage), as a consequence of injury to the musculoskeletal system.⁵⁴

PSYCHOLOGICAL IMPACTS

The main psychiatric disorders associated with torture are post-traumatic stress disorder (PTSD) and depression. Although present in the general population, these are much more prevalent among torture survivors. It is important to recognise that not every torture survivor develops a diagnosable illness even though many experience “profound emotional reactions and psychological symptoms”.⁵⁵

Psychological evaluation can provide valuable evidence of torture, through the assessment of “the degree of overall consistency between an individual’s account of torture and the psychological findings observed during the course of the evaluation”.⁵⁶ Freedom from Torture clinicians conduct psychological assessments in accordance with Istanbul Protocol guidelines and Freedom from Torture’s own methodology, with reference to the World Health Organisation Classification of Mental and Behaviour disorders and psychological research on memory and recall.⁵⁷ See Appendix 1 for more information on how psychological assessments are carried out.

POST-TRAUMATIC STRESS DISORDER AND DEPRESSION

Psychological evidence of torture, including symptoms of PTSD and/or depression, was documented in all 74 survivors.

Ninety-six percent had symptoms of PTSD that were directly related to their history of torture in the DRC, the majority of whom had symptoms reaching the diagnostic threshold according to the ICD-10 Classification of Mental Health and Behavioural Disorders.

Eighty-six percent had symptoms of depression that were directly related to their history of torture in the DRC, the majority of whom had symptoms reaching the diagnostic threshold according to the ICD-10 Classification of Mental Health and Behavioural Disorders.

A small number were found to have symptoms of other psychiatric disorders, in some cases reaching the diagnostic threshold, including generalised anxiety disorder, somatoform disorder and enduring personality change.⁵⁸

The most common psychological symptoms, each documented in more than half of the cases, are shown in Figure 11.⁵⁹ For the full list of the incidence of psychological symptoms in the case set, see Appendix 2.

PSYCHOLOGICAL SYMPTOM CATEGORIES	EVIDENCE: MOST COMMON SYMPTOMS
Re-experiencing trauma	Recurrent nightmares; flashbacks and reliving; recurrent intrusive recollections.
Avoidance and emotional numbing	Avoidance of thoughts, people, and activities associated with trauma.
Hypervigilance	Difficulty falling or staying asleep; difficulty concentrating; poor memory; hypervigilance, nervousness and increased watchfulness.
Depression	Low mood; loss of appetite; loss of pleasure in previously enjoyable activities.
Self-harm and suicide	Ideas of self-harm or suicide, with four reported cases of suicide attempts, and two reported cases of self-harm.

FIGURE 11: TABLE SHOWING MOST PREVALENT PSYCHOLOGICAL SYMPTOMS (REFER TO APPENDIX 2 FOR INCIDENCE OF ALL PSYCHOLOGICAL SYMPTOMS)

PSYCHOLOGICAL IMPACTS OF SEXUAL TORTURE

The psychological consequences of sexual torture and “persecutory rape” in particular,⁶⁰ are determined by many factors, which can substantially affect the capacity of the individual to cope with and adjust to the act itself, and may predispose them to longer-term psychological illness. These factors include:

- trauma of often violent arrests;
- context in which rape occurred;
- cumulative effects of rape inflicted alongside other forms of torture, including psychological torture;
- frequency of rape and whether by one or many perpetrators;
- duration of detention;
- conditions of detention.

Furthermore, the socio-political and cultural context into which a person escapes or is released can inhibit recovery. For example, the high incidence of rape in the DRC co-exists with a strong stigma associated with rape and rape victims, who have virtually no access to redress, support or medical attention. Male survivors of rape may suffer added psychological distress where the act constitutes a transgression of norms of sexual orientation.

For those who are able to flee and seek asylum, their psychological recovery from sexual torture may be adversely affected by difficulties they encounter in adjusting to a new country. While dealing with the pain of separation from loved ones, anxiety about events back home, language barriers, and hostility or racism in their host community, they must also face barriers to the fulfilment of their most basic needs, including healthcare, welfare and legal advice. All those who were sexually tortured were found to have symptoms (often reaching the diagnostic threshold) of PTSD and/or depression, and in a small number of cases, generalised anxiety disorder. Symptoms of these psychiatric disorders were commonly found to be co-existing.

Certain psychological symptoms, some of which are associated with PTSD and/or depression, were linked by the examining clinician to the psychological impact of rape. Figure 12 describes a range of psychological symptoms associated with rape documented in men and women in this case set. The range of symptoms is similar in men and women, though some appear more common in either group.

EVIDENCE: PSYCHOLOGICAL SYMPTOMS LINKED TO THE IMPACT OF SEXUAL TORTURE	EXPLORING THE PSYCHOLOGICAL IMPACTS OF SEXUAL TORTURE ⁶¹
<p>Re-experiencing symptoms including:</p> <ul style="list-style-type: none"> - flashbacks - recurrent intrusive memories - auditory or olfactory hallucinations and nightmares <p>Some described specific triggers, such as seeing men, or specifically men in military or police uniform, who reminded them of the perpetrator.</p> <p>People also described concurrent physical symptoms, including heart palpitations, shortness of breath, tremors, sweating and headaches.</p>	<p>"... flashbacks, intrusive recollections or images usually relate to the rape or particularly salient aspects of the rape. The content of nightmares is commonly rape-related and usually recreates the affect associated with the rape, such as terror or helplessness. Almost all victims experience profound and sometimes uncontrollable distress if exposed to people or circumstances that remind them of their ordeal."</p>
<p>Sleep disturbance was commonly found to be linked to the psychological impact of rape of the men and women in this case set. This included difficulty in falling asleep and sleep being frequently disturbed by vivid nightmares in which people re-experienced the rape. Hyperarousal was also found to be linked to the psychological impact of rape in a number of cases.</p>	<p>"...ongoing sleep disturbance is virtually universal, although not pathognomonic in itself of PTSD. Symptoms of hyperarousal may manifest themselves as hypervigilance, a subjectively unpleasant watchfulness, especially toward strange men, or in circumstances or situations which act as reminders of the rape..."</p>
<p>Avoidance was commonly linked to the psychological impact of rape. In women, this included the avoidance of men, avoidance of situations that reminded them of their rape, avoidance of seeing or washing their naked body, difficulty or inability in recalling aspects of their rape. In men, avoidance symptoms included late disclosure of their rape and difficulty in discussing aspects related to the impact of this trauma.</p>	<p>"...There may be a wide range of symptoms of avoidance, from being unable to recount the rape in any detail so as to avoid experiencing distress, to a more complex symptom array, such as avoidance of looking at one's naked body either directly or in the mirror, or of clothes which may emphasise shape or sexuality, symptoms which may not be volunteered spontaneously, but which are frequently present. There may be patchy details of the event (particularly if any loss of consciousness is associated with the rape). There are likely to be strong feelings of shame or guilt."</p>

EVIDENCE: PSYCHOLOGICAL SYMPTOMS LINKED TO THE IMPACT OF SEXUAL TORTURE	EXPLORING THE PSYCHOLOGICAL IMPACTS OF SEXUAL TORTURE
<p>Dissociation was linked to the psychological impact of rape in women. In several cases, examining clinicians documented that the person appeared to lose connection with the present and the clinical assessment process at the point when they recalled their rape.</p>	<p>"[Survivors] often describe dissociation as their main coping mechanism. In other words, they learn to manage the otherwise uncontrollable distress of being repeatedly violated by 'switching off', and consciously deadening all emotional responses to the act, both during and after..."</p>
<p>Loss of trust in others, including men (in the case of female survivors), and clinical professionals (in the case of male survivors).</p>	<p>"...Depression, anxiety and an inability to trust are common ... these are common symptoms in those who have experienced torture, so it is no surprise to see them in those who have experienced rape as torture."⁶²</p>
<p>Feelings of shame, guilt and self-blame were linked to the psychological impact of rape in women and men in this case set. Some, especially women, described the particular anxiety that others would know that they had been raped. Some described feeling "unclean" or "soiled". Some reported excessive washing, especially women.</p>	<p>"...Depressive symptoms are also likely to be prominent, such as low mood, self-blame, guilt and impaired concentration. Shame is likely to be particularly prominent, as is a sense of being contaminated, dirty or despoiled. There may be compulsive washing..."</p>
<p>Sexual dysfunction in various forms was linked to the psychological impact of sexual torture in women and men. This included loss of interest in sex even with a trusted partner, loss of enjoyment in the sexual act, inability to become sexually aroused and fear of intimacy in current or future sexual relationships.</p>	<p>"...sexual dysfunction is highly prevalent, with at least one study citing around 30-40% of survivors experiencing one or more forms of dysfunction, and clinical experience suggests that, for many, sexual dysfunction is severe and long lasting, especially when the survivor is not in a well-established and caring relationship. It could be argued that sexual dysfunction is merely a symptom of an underlying disorder (for instance, it could be construed as avoidance according to PTSD criteria, or arise out of the general anergia of depression). However, it is likely to be of profound significance to the sufferer, affecting the capacity to form or maintain intimate relationships..."</p>
<p>An altered sense of self, including feelings of worthlessness and low self-esteem, were commonly linked to the psychological impact of rape on women and men. In women, these thoughts manifested, for example, in feelings that their life course had been destroyed, that rape had "ruined" them, that they had been robbed of their youth or a particular time of life, and that men would never accept them as partners. In men, this included feeling reduced to "nothing" and a sense of having lost everything.</p>	<p>"...There is likely to be persistent, unvarying low mood, accompanied by characteristic cognitive changes, i.e., changes in the ways in which the individual thinks about her or himself and the world. Most commonly there will be strong feelings of worthlessness or low self-esteem, linked to changed in self-perception, with the self viewed as 'damaged goods' – despoiled, contaminated and unworthy of love, nurture or respect."</p>
<p>Ongoing suicidal ideation was linked to the psychological impact of rape on some women and men.</p>	<p>"...in the most severe cases, there may be persistent thoughts of suicide, or actual attempts."</p>

FIGURE 12: TABLE SHOWING RANGE OF PSYCHOLOGICAL SYMPTOMS ASSOCIATED WITH SEXUAL TORTURE

RECOMMENDATIONS

The evidence of this report establishes deeply troubling trends that require urgent attention from the Government of the Democratic Republic of Congo and the international community alike. Our recommendations include:

TO THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF THE CONGO

Publicly recognise the magnitude of the problem of torture and other ill-treatment in the DRC, in particular the use of sexual torture, and send a clear message that these acts will no longer be tolerated.

TO THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF THE CONGO

With regard to its obligations under international human rights standards and domestic legislation, the government must:

1. Immediately end the practice of torture and ill-treatment and undertake prompt, thorough and impartial investigations into all allegations of such treatment, as well as ensuring that alleged perpetrators of and accomplices to torture are brought to justice.
2. Commit to eradicating the prevalence of sexual torture in all contexts by ensuring that perpetrators are brought to justice, irrespective of rank or position, and that safeguards exist in detention settings.
3. Ensure that its legal system enables survivors of torture to obtain redress, including compensation and rehabilitation.
4. Establish and adequately resource a national body for the prevention of torture and ill-treatment to undertake regular visits to detention facilities and publish recommendations for improving the protection of detainees, in line with obligations under the Optional Protocol to the Convention against Torture.

5. Ensure that detention conditions comply with the revised 2015 UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), including adequate accommodation arrangements, and access to adequate sanitary facilities, food, water and medical services. The government should also allow monitoring access by independent bodies, such as the International Committee of the Red Cross and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), to *all* detention centres, including those run by various segments of the military and intelligence services.
6. Close all unofficial detention sites immediately, in line with President Kabila's 2006 decision (see p. 45). The use of such sites should be absolutely prohibited and persons suspected of operating such facilities should be investigated and prosecuted.
7. Receive a monitoring visit by the UN Subcommittee on Prevention of Torture as soon as possible and implement any recommendations made for improving detention conditions and torture prevention initiatives in the DRC.
8. Allow citizens freedom of expression and peaceful assembly by refraining from violence and arbitrary arrest against protesters, in line with its obligations under the International Covenant on Civil and Political Rights and the 2005 Constitution.
9. Ensure no child is tortured or ill-treated in line with its obligations under the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

TO THE INTERNATIONAL COMMUNITY

Member states of the UN and, in particular, of the African Union, the European Union, the United Kingdom, the United States and other donor countries, should:

1. Send a strong signal to the Government of the DRC that any form of torture or ill-treatment in the lead-up to, during and after the December 2018 elections will not be tolerated and will be condemned in the strongest possible terms.
2. Ensure that concerns about human rights abuses, including torture, are raised in all bilateral and multilateral discussions on human rights with the Government of the DRC and encourage it to fulfil its obligations under international human rights standards and the 2005 Constitution.
3. Forced returns of Congolese nationals to the DRC should cease immediately in line with the international obligation of *non-refoulement* (non-return).
4. Ensure continued scrutiny of human rights violations in the DRC, including beyond the conflict areas, through UN and regional mechanisms and fact-finding missions.
5. Donor countries involved in initiatives supporting the reform of the justice system and the security sector should increase pressure on the DRC to prioritise torture prevention. This should include:

- (a) expeditiously complying with the country's obligations under the Optional Protocol to the Convention against Torture to establish a system of domestic and international inspections of detention facilities; and its reporting obligations under the UN Convention against Torture; and
- (b) regular invitations for visits by the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the UN Working Group on Arbitrary Detention.

Election observation missions such as those deployed by the Southern African Development Community, the African Union, the European Union and individual states for the December 2018 elections should:

1. Publicly condemn any torture and ill-treatment that is reported during the upcoming election period.
2. Ensure that any allegation of torture and ill-treatment is promptly and thoroughly investigated and documented both by the Government of the DRC and election observer missions.
3. Request access to detention centres during observation missions, including those run by security services.

TO THE GOVERNMENT OF THE UNITED KINGDOM

In addition to the above:

1. The Home Office should take note of the evidence contained in this report and update its Country Policy and Information Notes to reflect the practice of torture and ill-treatment by security agents against perceived political opponents, and the conditions of detention.
2. Home Office decision-making on asylum applications from torture survivors from the DRC, as well as other countries, should reflect the evidence presented in this report of the psychological and physical impact of torture.
3. The Foreign and Commonwealth Office should ensure that the Preventing Sexual Violence Initiative acknowledges the role of the conflict in normalising sexual violence and sexual forms of torture outside the "conflict zone" in the DRC and ensure that the initiative is not restricted to conflict areas.

SURVIVOR RECOMMENDATIONS

The following recommendations summarise what survivors have told Freedom from Torture what they believe needs to be done to prevent torture.

TO THE INTERNATIONAL COMMUNITY:

- Increase pressure on the Government of the DRC to stop torture.
- Increase pressure on the Government of the DRC to ensure the elections scheduled for December 2018 are fair, transparent and free from violence.
- Support international and domestic processes that seek accountability for human rights violations, including torture.
- Ensure that any financial support to the Government of the DRC for security sector reform is compliant with human rights standards and is properly audited.

TO THE UNITED NATIONS:

- Be more transparent and accountable about the UN's role in the DRC and communicate this effectively to the citizens of the DRC.
- Ensure that UN mechanisms and fact-finding missions continue to focus on human rights violations across the whole of the DRC, including outside conflict areas.

TO INTERNATIONAL MEDIA:

- Be more active in exposing the continuing violations and atrocities in the DRC.

TO THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF CONGO:

- Ensure people in prisons and detention sites have access to lawyers and medical treatment.
- Improve conditions in prisons and detention centres.
- Bring to justice the perpetrators of rape and torture, and hold to account those in senior positions who are ultimately responsible.
- Ensure the police and military receive training about how to treat people professionally and are clear about their role.
- Introduce a system of rehabilitation and healing in the light of so many years of war and oppression; people need to be helped to stop the cycle of violence.
- Ensure electoral processes are transparent and reflect the demands of electoral candidates, political parties and civil society so that the election is seen as credible. Elections should also be free from violence.

“We need torture to be stopped. We need human rights to be in place. We need good life. And peace. Thank you.”

Congolese torture survivor

APPENDIX 1

MEDICO-LEGAL REPORTS

The torture documentation process for a medico-legal report consists of reviewing an individual's history as presented in documents relating to the application for asylum, taking a history as narrated by the individual, and assessing it in relation to clinical findings, in accordance with the Istanbul Protocol and Freedom from Torture's own methodology.⁶³

Where there are physical and/or psychological signs of torture, full clinical examinations observe, assess and document symptoms. Physical examinations require the documentation of all lesions, and the differentiation of those attributed to torture – by the individual themselves and by the doctor – from those with a non-torture attribution, such as accidental injury, self-harm or medical intervention. Previous clinical diagnoses and treatment of physical and psychological illness arising from torture, where known, are also considered as part of the overall clinical assessment.

In all cases, clinicians will seek to establish the degree of congruence between what is reported and the clinical findings, while also considering other available evidence (such as previous diagnoses or treatment) and the possibility of fabrication.⁶⁴

The following questions, noted in the Istanbul Protocol, are addressed by clinicians in the formation of a clinical opinion for the purpose of documenting physical and psychological evidence of torture:

- Are the psychological findings consistent with the alleged torture?
- What physical conditions contribute to the clinical picture?
- Are the psychological findings expected or typical reactions to extreme stress within the cultural and social context of the individual?
- Where is the individual in the course of recovery?
- What other stressful factors are affecting the individual (e.g. ongoing persecution, forced migration, exile, loss of family and social role)? Does the clinical picture suggest a false allegation of torture?

PHYSICAL ASSESSMENT FOR A MEDICO-LEGAL REPORT

Each scar or other lesion is examined and a description of it and its attribution – whether torture or non-torture – is recorded in the medico-legal report. Our Freedom from Torture clinicians assess the scars and other lesions, taking into consideration other information, including the type of implement said to have been used (or likely to have been used if this is not known), and the position and distribution of scarring on the body. They will also consider the situation in which the injury was said to have been inflicted, other physical evidence attributed to the torture method, and the circumstances in which the injury would have healed, factoring in detention conditions and access to medical attention, for example.

The clinician will also consider the relative likelihood of other possible causes, taking into account what is known of the individual's life history and experiences. Based on this assessment, they will determine the level of consistency of the physical finding with the attributed cause based on schema set out in the Istanbul Protocol.⁶⁵ Scars or other lesions that are assessed to be at least "consistent", or at a higher degree of consistency, with the attributed method of torture according to the schema, constitute evidence of torture. As noted in our *Proving Torture* report, "even lesions that are assessed to be 'consistent' with torture according to the Istanbul Protocol schema are evidence of torture that should be given due consideration".⁶⁶

The Istanbul Protocol reminds clinicians that while the forensic documentation of torture requires that individual scars and groups of scars are assessed for their level of consistency with the attributed method of torture, "... it is the overall evaluation of all lesions and not the consistency of each lesion with a particular form of torture that is important in assessing the torture."⁶⁷

PSYCHOLOGICAL ASSESSMENT FOR A MEDICO-LEGAL REPORT

The purpose of the psychological evaluation is to "assess the degree of overall consistency between an individual's account of torture and the findings during the course of the evaluation".⁶⁸ Medico-legal reports prepared by Freedom from Torture clinicians routinely include a psychological evaluation; indeed, some medico-legal reports solely focus on the documentation of psychological evidence of torture. The psychological examination is conducted in accordance with Istanbul Protocol guidance and our own methodology, with reference to the World Health Organisation Classification of Mental and Behaviour disorders and psychological research on memory and recall.⁶⁹

In accordance with the Istanbul Protocol, clinicians carrying out a psychological examination will assess past and current health history, conduct a full mental state examination and assess social functioning. Presenting symptoms and objective signs such as the behaviours and emotional affect of the individual throughout clinical examinations are recorded and described in detail in the medico-legal report.

The individual's reported experience of torture and presentation of ongoing psychological symptoms is considered in light of their current behaviour, life circumstances and views of their past and present life and of their future. In forming a clinical impression of how psychological symptoms relate specifically to the individual's history of torture, other possible causes will be considered. Evidence of any psychiatric diagnoses made by other health care professionals, including GPs or National Health Service psychiatrists, will also be considered.

In reporting a clinical opinion, Freedom from Torture clinicians will fully explain any psychiatric diagnosis they have made, how it relates to an individual's account of torture, and/or other possible causes, while also assessing the possibility of fabrication.

LEVEL OF DETAIL AVAILABLE

The documentation of the testimony of torture, along with the forensic documentation and expert evaluation of physical and psychological impacts contained within medico-legal reports provide a rich source of information. When analysed in the aggregate, this information can build a bigger picture about who is tortured and why, how they are tortured and by whom, and in what context in a given country.

While the clinical setting, especially over several lengthy appointments, may be relatively likely to give rise to detailed disclosure, this will vary depending on many factors. The level of detail about any particular aspect of the experience of detention and torture requested by the clinician or reported by the individual during the torture documentation process will vary. This is due to the nature of torture itself and the distress a person experiences when they are asked to recall traumatic memories.

Psychological responses such as avoidance and dissociation that can occur at the time of torture or during recall, as well as the way that traumatic memories are stored and recalled, will affect a person's retelling of their experience. The nature of torture, including whether a person was subjected to forms of sensory deprivation or manipulation, or rendered unconscious at any point, will also affect their memory of key events. Current health issues, including depression, and specifically sleep deprivation and poor diet, can negatively affect a person's concentration and ability to recall.⁷⁰

APPENDIX 2

ALL PSYCHOLOGICAL SYMPTOMS DOCUMENTED

The table below shows the incidence of psychological symptoms found to be congruent with the history of torture among the 74 people in this case set. The breakdown represents the full symptom list, comprising symptoms commonly associated with PTSD and/or depression, and other common psychological symptoms arising from torture identified by highly experienced expert clinicians at Freedom from Torture. The table shows both the prevalence of symptoms and the remarkably wide range of psychological impacts found among the 74 survivors whose medico-legal reports were analysed for this report.

Psychological symptoms associated with torture	incidence	number of people
difficulty falling asleep, staying asleep, insomnia	93%	69
recurrent dreams, nightmares	88%	65
flashbacks and reliving	85%	63
depressed mood, low mood	85%	63
avoidance of thoughts, people, activities associated with trauma	69%	51
difficulty concentrating	66%	49
ideas of self-harm or suicide	66%	49
recurrent intrusive recollections	62%	46
loss of appetite, appetite disturbance	59%	44
loss of pleasure in previously enjoyable activities	54%	40
poor memory	53%	39
hypervigilance, nervousness, increased watchfulness	51%	38
intense distress at internal/external cues	49%	36
reduced activity, increased fatigue, loss of energy	49%	36
anxiety, panic attacks	47%	35
tearfulness	47%	35
exaggerated startle response, hypersensitive, easily frightened	45%	33
bleak, pessimistic view of the future	42%	31

Psychological symptoms associated with torture	incidence	number of people
headaches/pain, unexplained by organic cause	42%	31
isolating self, withdrawing from people/situations	39%	29
reduced self-esteem/confidence	38%	28
ideas of guilt, unworthiness	36%	27
limited emotional affect, numbing, restricted range of emotions	35%	26
loss of sense of self, altered self-image, fragmentation of self	35%	26
feelings of shame/humiliation	34%	25
helplessness, hopelessness, despair	30%	22
inability to recall aspects of trauma	28%	21
sexual dysfunction, sexual and relationship difficulties	28%	21
suspicion, fear, deep mistrust of others	28%	21
irritability, outburst of anger, aggression	26%	19
dissociation, dissociative reactions	22%	16
feelings/fears of rejection by others, community, society	18%	13
auditory hallucinations, hearing voices	12%	9
avoidance of crowds/enclosed spaces/public transport	11%	8
distress/fear about being naked	11%	8
slow speech/movement (psychomotor retardation)	8%	6
obsessive thoughts, compulsive behaviours	8%	6
sense of foreshortened future/life will be cut short	7%	5
suicide attempt(s)	5%	4
emotional lability, exaggerated laugh/cry reaction	4%	3
self-neglect, poor self-care	4%	3
hallucinations (visual)	4%	3
acts of self-harm	4%	3
retching/vomiting, unexplained by organic cause	1%	1
paranoid ideation, delusions	1%	1
substance misuse, drugs, alcohol	1%	1

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We would also like to acknowledge the Survivors Speak OUT Network and Congolese service users for their collaboration with Freedom from Torture on this project and in the continual innovation of survivor approaches in our research and advocacy work. For survivors the decision to work with us in this way involves weighing up the risk of potential reprisals against family members in the DRC, and impact on their own safety and well-being, with the strong motivation to speak out and affect change, so that what they endured will not happen to others.

These reports rely on the hard work of staff and volunteers from across Freedom from Torture's centres and in all departments of the organisation. We would like to thank all of those at Freedom from Torture who supported this project.

We are particularly grateful to the staff of the Medico-Legal Report Service, including our doctors who prepare the medico-legal reports, the lawyers who support them, and our interpreters.

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Drawings by DM, Congolese survivor of torture. Not to be reproduced without permission.

Poems by Tim Malmo, former member of Write to Life.

ENDNOTES

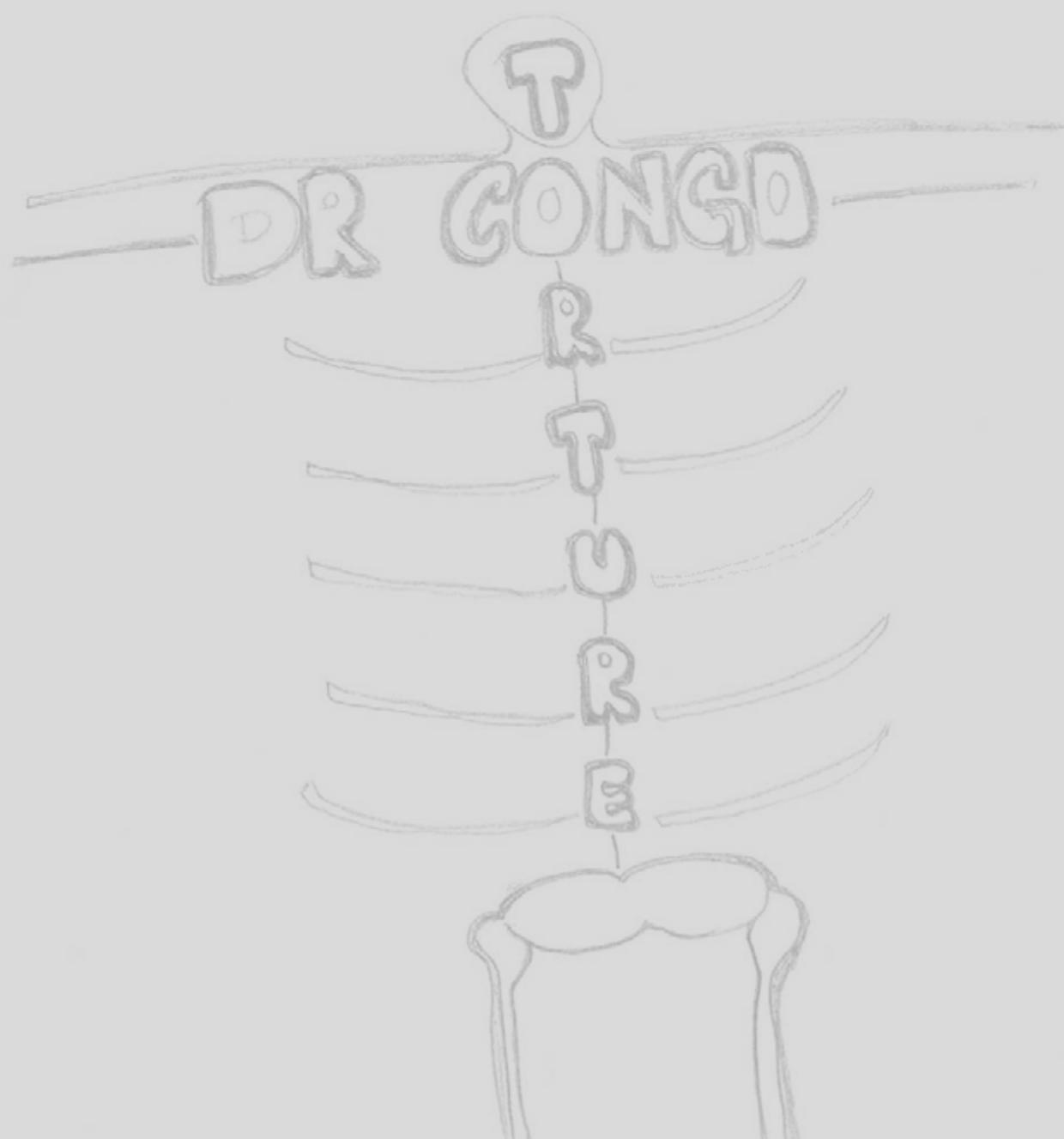
- 1 Each medico-legal report is prepared according to standards set out in the UN Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).
- 2 United Nations General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137. [Accessed 05/10/2018]. Available at: <http://www.refworld.org/docid/3be01b964.html>
- 3 All of the discussions were conducted in strict confidentiality with all contributions anonymised to minimise potential risk to participants and their families.
- 4 Freedom from Torture. Rape as Torture in the DRC: Sexual Violence beyond the Conflict Zone. [Online]. June 2014. [Accessed 05/10/2018]. Available at: https://www.freedomfromtorture.org/rape_as_torture_in_the_drc_sexual_violence_beyond_the_conflict_zone.

(Freedom from Torture, Rape as Torture in the DRC, 2014). This research was initially conducted for a submission to the UN Committee on the Elimination of Discrimination against Women for its examination of the DRC in 2013, and included information from medico-legal reports for women prepared before January 2013.
- 5 Hochschild, Adam. King Leopold's Ghost: A Story of Greed, Terror, and Heroism in Colonial Africa (1st ed.). Boston: Houghton Mifflin, 1999. p. 166. (Hochschild, A., King Leopold's Ghost, 1999)
- 6 Hochschild, A., King Leopold's Ghost, 1999. pp. 278-279.
- 7 Medical Foundation for the Care of Victims of Torture, 1998, Zaire, A Torture State, [online]. [Accessed 13/09/2018]. Available at: <https://www.freedomfromtorture.org/document/publication/5757> (Medical Foundation, Zaire, A Torture State, 1998).
- 8 Medical Foundation, Zaire, A Torture State, 1998. pp.113-114.
- 9 Coghlan, B., Brennan R.J., Ngoy P., Dofara D., Otto, B., Clements M., Stewart, T. Mortality in the Democratic Republic of Congo: A Nationwide Survey. *Lancet*. 2006, 367 (9504), pp 44-51. [Accessed 05/10/2018]. Available at: http://conflict.lshim.ac.uk/media/DRC_mort_2003_2004_Coghlan_Lancet_2006.pdf
- 10 United Nations Security Council, Overview of Sanctions Committee Document: Final Report of the Panel of Experts on the Illegal Exploitations of Natural Resources and Other Forms of Wealth of the DRC. S/2002/1146 (15 October 2002). [Online]. [Accessed 05/10/2018]. Available at: <https://www.securitycouncilreport.org/un-documents/document/DRC%20S%202002%201146.php>
- 11 Human Rights Watch, 25 November 2008, "We Will Crush You": The Restriction of Political Space in the Democratic Republic of Congo, [online]. [Accessed 30/08/18]. Available at: <https://www.hrw.org/report/2008/11/25/we-will-crush-you/restriction-political-space-democratic-republic-congo>
- 12 Freedom from Torture, Rape as Torture in the DRC, 2014
- 13 Human Rights Watch, 24 January 2015, DR Congo: Deadly Crackdown on Protests. [Online]. [Accessed 05/10/2018]. Available at: <https://www.hrw.org/news/2015/01/24/dr-congo-deadly-crackdown-protests>; United Nations, Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, section II, G. Human rights situation, para. 42, p. 9. S/2016/1130. (29 December 2016). [Online]. [Accessed 05/10/2018]. Available at: <https://monusco.unmissions.org/sites/default/files/n1646447.pdf>
- 14 United Nations General Assembly, Human Rights situation and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo: Report of the United Nations High Commissioner for Human Rights, para 11. A/HRC/39/42 (13 August 2018). [Online]. [Accessed 05/10/2018]. Available at: <http://undocs.org/A/HRC/39/42>
- 15 United Nations, Consideration of reports submitted by states parties under article 40 of the Covenant, para 105. CCPR/C/COD/4 (2 August 2016). [Online]. [Accessed 05/10/2018]. Available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FCOD%2F4&Lang=en
- 16 US Department of State, 20 April 2018, Democratic Republic of the Congo 2017 Human Rights Report, Section 1(c). [Online]. [Accessed 05/10/2018]. Available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dliid=276987>
- 17 Constitution of the Democratic Republic of Congo modified by law n° 11/002 of 20 January 2011 regarding the revision of certain articles of the Constitution of the DRC of 18 February 2006. [Online] [Accessed 05/10/2018]. Available at: https://www.constituteproject.org/constitution/Democratic_Republic_of_the_Congo_2011.pdf?lang=en

- 18 See Article 2 (1) of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which states that: "[E]ach State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction." [Online]. [Accessed 05/10/2018]. Available at: <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx> (UN Convention against Torture, 1984)
- 19 United Nations, Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), A/RES/70/175 (8 January 2016) [Online]. [Accessed 05/10/2018]. Available at: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf; United Nations, Code of Conduct for Law Enforcement Officials. (17 December 1979). A/RES/34/169 [Online]. [Accessed 05/10/2018]. Available at: <http://www.un.org/documents/ga/res/34/a34res169.pdf>; and the United Nations General Assembly, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 43/173 (9 December 1988). [Online]. 1988, A/RES/43/173. [Online]. [Accessed 05/10/2018]. Available at: <http://www.un.org/documents/ga/res/43/a43r173.htm>
- 20 African Commission on Human Rights and Peoples' Rights. Robben Island Guidelines for the Prohibition and Prevention of Torture in Africa. [Online]. 2002. [Accessed 05/10/2018]. Available at: <http://www.achpr.org/mechanisms/cpta/robben-island-guidelines/> (African Commission, Robben Island Guidelines, 2002); African Commission on Human Rights and Peoples' Rights. 2003. Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa. [Online]. [Accessed 05/10/2018]. Available at: <http://www.achpr.org/instruments/principles-guidelines-right-fair-trial/> (African Commission, Right to a Fair Trial, 2003).
- 21 See Article 9 (3) of the UN, International Covenant on Civil and Political Rights (16 December 1966). [Online]. [Accessed 05/10/2018]. Available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (UN, ICCPR, 1966).
- 22 United Nations, Human Rights Committee, International Covenant on Civil and Political Rights: General Comment No. 35, Article 9 (Liberty and security of person, para 33. (16 December 2014). CCPR/C/GC/35. [Online]. [Accessed 05/10/2018]. Available at: https://tbinet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F35&Lang=en
- 23 African Commission on Human and Peoples' Rights. Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines). [Online]. 2008. [Accessed 05/10/2018]. Available at: <http://www.achpr.org/instruments/robben-island-guidelines-2008/>
- 24 See article 14 of the United Nations Convention against Torture, 1984. [Online]; UN, ICCPR article 3, 1966. [Online]; African Commission, Right to a Fair Trial, article 50, 2003. [Online].
- 25 African Commission on Human and Peoples' Rights, 2017. General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment, Article 5 para. 8. [Online]. [Accessed 05/10/2018]. Available at: http://www.achpr.org/files/instruments/general-comment-right-to-redress/achpr_general_comment_no_4_english.pdf (African Commission, General Comment No.4, 2017).
- 26 African Commission, General Comment No.4, 2017. Article 5, para. 10.
- 27 Redress, March 2016, Legal Frameworks To Prevent Torture In Africa: Best Practices, Shortcomings and Options Going Forward, p.51. [Online]. [Accessed 05/10/2018]. Available at: <https://redress.org/wp-content/uploads/2017/12/1603anti-torture-legislative-frameworks-in-africa.pdf> (Redress, Legal Frameworks to Prevent Torture in Africa, 2016).
- 28 Redress, Legal Frameworks to Prevent Torture in Africa, 2016. p.57.
- 29 All excerpts are direct quotes from medico-legal reports prepared by Freedom from Torture clinicians and included in this review. Where necessary, potentially identifying detail has been omitted and/or wording changed to preserve anonymity. Most excerpts are information and commentary recorded by the doctor in the medico-legal report, unless it is stated that they are direct quotes from survivors or quotes of statements made by perpetrators, as recounted by survivors
- 30 Findings relating to patterns of torture in particular years are based only on the medico-legal reports in this case set. Statistical inferences cannot be drawn from this data in relation to the overall prevalence of detention in the DRC in any given year. Furthermore, where the number of detentions in a given year is low or absent in this case set, it cannot be concluded that few or no detentions occurred in the DRC. It may take many months for a survivor to flee the DRC, travel to the UK, make an application for asylum and for the legal representative to commission a medico-legal report. On the basis of continued referrals at a similar rate, it is likely that our evidence of torture in the DRC will grow.
- 31 Bundu Dia Kongo (BDK) is described by various sources as a "politico-religious sect" or a "politico-mystic-religious organisation", as well as a "secessionist" or "separatist" group, that is centred in the Kongo Central (formerly Bas-Congo) province. According to sources cited in a report from the Immigration and Refugee Board of Canada, the political agenda of the BDK is to "revive the ancient Kongo kingdom", "expel" Rwandans from the Democratic Republic of the Congo" and "oppose President Kabila staying in power". See: Immigration and Refugee Board of Canada, (20 July 2018). Democratic Republic of Congo: The Bundu dia Kongo (BDK) movement, including its political agenda, structure, offices and documents issued to members; relations with the government and with other political parties; treatment of members by the authorities (2016-July 2018). COD106125.FE. [Online]. [Accessed 14/09/2018]. Available at: <http://www.refworld.org/docid/5b9b62894.html>

- 32 A person is in incommunicado detention when they are not permitted contact with the outside world, including family, friends, independent lawyers or doctors.
- 33 Three people were tortured outside a detention facility while in the custody of state authorities, including in their home, and in a public place.
- 34 The Constitution of the Democratic Republic of the Congo, 2005. [Online]. [Accessed 05/10/2018]. Available at: <http://www.constitutionnet.org/sites/default/files/DRC%20-%20Congo%20Constitution.pdf>
- 35 African Commission, Right to a Fair Trial, 2003, Article 6. [Online]. [last accessed 18/09/2018].
- 36 Redress, Legal Frameworks to Prevent Torture in Africa, III.2 Right of access to a lawyer upon arrest, 2016. [Online]. [last accessed 10/08/2018].
- 37 African Commission, Robben Island Guidelines, 2002. [Online].
- 38 United Nations, OHCHR, The Human Rights Situation in the Democratic Republic of Congo (DRC), I: IV. (27 September 2007). [Online]. [Accessed 05/10/2018]. Available at: <https://www.ohchr.org/Documents/Countries/UNHROBiannualReport01to062007.pdf> The military intelligence agency formerly known as DEMIAP is now called l'État-Major des Renseignements Militaires (The General Staff Military Intelligence).
- 39 Information according to Canada Immigration and Refugee Board of Canada, 23 March 2007, Democratic Republic of Congo: The state security forces, including their name, mandate and organisation; whether members of these forces are involved in human rights violations (2006 - March 2007). COD102457.FE. [Online]. [Accessed 05/10/2018]. Available at: <http://www.refworld.org/docid/46fa537d28.html>
- 40 Amnesty International, 2015, Treated like criminals: DRC's race to silence dissent in the run-up to elections, p.6, Index: AFR 62/2917/2015. [Online]. [Accessed 05/10/2018]. Available at: <https://www.amnesty.org/download/Documents/AFR6229172015ENGLISH.pdf>
- 41 U.S. Department of State, 2010 Human Rights Report: Democratic Republic of the Congo, 8 April 2011. [Online]. [Accessed 05/10/2018]. Available at: <https://www.state.gov/j/drl/rls/hrrpt/2010/af/154340.htm>
- 42 Human Rights Watch, 8 June 2015, DR Congo: Exhume Mass Grave. [Online]. [Accessed 05/10/2018]. Available at: <https://www.hrw.org/news/2015/06/08/dr-congo-exhume-mass-grave>
- 43 United Nations, Istanbul Protocol, (2004), para. 145. HR/P/PT/8/Rev.1. [Online]. [Accessed 05/10/2018]. Available at: <https://www.ohchr.org/Documents/Publications/training8Rev1en.pdf> (UN, Istanbul Protocol, 2004).
- 44 UN, Istanbul Protocol, 2004, para. 145.
- 45 UN, Istanbul Protocol, 2004, para. 145.
- 46 In one case, the person did not seek to attribute any scars to their torture, and no physical examination is included in the report. However, the examining clinician found extensive psychological evidence that they assessed to be congruent with the account of torture.
- 47 See United Nations, Istanbul Protocol, 2004, para. 187, for terms designating degree of consistency between scars and other lesions and the account of torture.
- 48 For Freedom from Torture's own methodology, see Freedom from Torture (formerly Medical Foundation for the Care of Victims of Torture), June 2006, Methodology Employed in the Preparation of Medico-Legal Reports on behalf of the Medical Foundation. [Online]. [Accessed 05/10/2018]. Available at: <https://www.freedomfromtorture.org/sites/default/files/documents/methodology%20mlr.pdf>. (Freedom from Torture, Methodology, 2006).
- 49 United Nations, Istanbul Protocol, 2004, para. 220.
- 50 See Clarke, P. Women Who Are Raped. In: Peel, Dr M ed. Rape as a Method of Torture. 2004, p143. [Online]. Freedom From Torture. [Accessed 05/10/2018]. Available at: https://www.freedomfromtorture.org/sites/default/files/documents/rape_singles2.pdf (Clarke, P, In: Peel, Dr M ed. Rape as a Method of Torture 2004.)
- 51 See Clarke, P, In: Peel, Dr M ed. Rape as a Method of Torture 2004. p142
- 52 See Clarke, P, In: Peel, Dr M ed. Rape as a Method of Torture 2004 p.142
- 53 See Clarke, P, In: Peel, Dr M ed. Rape as a Method of Torture 2004 p.138
- 54 United Nations, Istanbul Protocol, 2004, para. 245.
- 55 United Nations, Istanbul Protocol, 2004, para. 236.
- 56 United Nations, Istanbul Protocol, 2004, para. 261.
- 57 United Nations, Istanbul Protocol, 2004; Freedom from Torture, Methodology, 2006; World Health Organisation, 2004, The ICD-10 Classification of Mental and Behavioural Disorders: clinical descriptions and diagnostic guidelines, Geneva: The World Health Organisation. 2004. [Online]. [Accessed 05/10/2018]. Available at: http://apps.who.int/iris/bitstream/handle/10665/37958/9241544228_eng.pdf?sequence=8&isAllowed=y (WHO, ICD-10 Classification of Mental and Behavioural Disorders, 2004)

- 58 WHO, ICD-10 Classification of Mental and Behavioural Disorders, 2004: F45. p161. [Online]. The main feature of somatoform disorder is the repeated presentation of physical symptoms, which have been shown to have no physical basis by medical professionals.
- 59 It is acknowledged that symptoms of certain psychiatric disorders, particularly PTSD and depression, can overlap.
- 60 The definition of “persecutory rape” concurs with the definition outlined in Seltzer, A. Rape and Mental Health: the psychiatric sequelae of violation as an abuse of Human Rights. In: Peel, Dr M. ed. Rape as a Method of Torture. 2004, pp.99-107, which is that persecutory rape “occurs in a context of systematic human rights abuse”.
- 61 Unless otherwise indicated, the citations in this table are taken from the following author: Seltzer A, In: Peel, Dr M. ed, Rape as a Method of Torture, 2004.
- 62 Peel, M., Smith, E., “Conclusions”, in Peel, Dr M. ed, Rape as a Method of Torture. 2004.
- 63 See United Nations, Istanbul Protocol, 2004, and Freedom from Torture, Methodology, 2006.
- 64 United Nations, Istanbul Protocol, 2004, para. 287 (vi). See also UK Home Office, Asylum Policy Instruction: Medico-Legal reports from the Helen Bamber Foundation and the Medical Foundation Medico-Legal Report Service, Version 4.0, July 2015, para. 3.3, “Foundation clinicians can be assumed to have considered the possibility of a ‘false allegation’ of torture in forming a clinical view as this is required by the Istanbul Protocol: Paras 105(f) and 287(vi) require the report writer to consider whether the clinical picture suggests a false allegation of torture.” [Accessed 05/10/2018]. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/444410/MLR_Foundation_Cases_External_v4_0.pdf. Until 2011, Freedom from Torture was known as the Medical Foundation for the Care of Victims of Torture. After this date our Medico-Legal Report Service retained “Medical Foundation” in its title due to the high level of recognition of this name among specialist legal service providers and decision-makers at the Home Office and the Tribunal.
- 65 See United Nations, Istanbul Protocol, 2004, para. 187, for terms designating degree of consistency between scars and other lesions and the account of torture.
- 66 Freedom from Torture, Proving Torture: Demanding the Impossible. Home Office mistreatment of expert medical evidence, November 2016. [Online]. [Accessed 05/10/2018]. Available at: https://www.freedomfromtorture.org/sites/default/files/documents/proving_torture_a4_final.pdf
- 67 United Nations, Istanbul Protocol, 2004, para. 188.
- 68 United Nations, Istanbul Protocol, 2004, para. 261.
- 69 United Nations, Istanbul Protocol, 2004, paras 234-315; Freedom from Torture, Methodology, 2006; also WHO, ICD-10 Classification of Mental and Behavioural Disorders, 2004.
- 70 See Freedom from Torture, The Poverty Barrier: The Right to Rehabilitation for Survivors of Torture in the UK, July 2013. [Online]. [Accessed 05/10/2018]. Available at: <https://www.freedomfromtorture.org/sites/default/files/documents/Poverty%20report%20FINAL%20a4%20web.pdf>





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