

RUHR-UNIVERSITY BOCHUM

**European Master's Programme in Human Rights and
Democratisation
A.Y. 2024/2025**

**Costly Silence: State Neglect to Mental
Health of Internally Displaced Children
Surviving Sexual Violence in Eastern D.R.
Congo**

A Socio-Legal Analysis

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Word Count Declaration: 29,039

ABSTRACT

In early 2025, the ongoing conflict in eastern Democratic Republic of the Congo escalated, resulting in mass displacement and an increase in grave violations, including sexual violence, against children. Sexual violence is the highest predictor of negative mental health in eastern DRC, with intergenerational consequences if left untreated.

Through a socio-legal analysis, this study seeks to answer whether state interventions are sufficient to meet the needs of internally displaced children who are survivors of sexual violence. Using a Human Rights-Based Approach, it explores the extent to which the state is implementing its obligations under International Human Rights Law to protect the right to mental health of these children.

In analysing relevant articles under the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the African Charter on the Rights and Welfare of the Child, the Kampala Convention and Maputo Protocol, it provides a legal framework against which the state's response can be measured. A further examination of the implementation of state policies, informed by the Capability Approach, reveals an insufficient response, amounting to state neglect. Whilst humanitarian actors are working to address this gap, several barriers hinder their response.

Thus, this study provides actionable recommendations to the state on legislative gaps and how to address barriers in policy implementation, as well as to humanitarian actors on ways to better support state interventions.

KEY WORDS

Democratic Republic of the Congo (DRC), eastern DRC, internally displaced children, sexual violence, mental health, Human Rights-Based Approach, Capability Approach

ACKNOWLEDGEMENTS

My deepest gratitude goes to my Heavenly Father, for His grace and sustenance throughout my journey. My beloved family: Mum, Declan, Granny and Dad - thank you for loving, encouraging and praying for me each day; I wouldn't be here without you. Thank you to my special EMA, NOHA and ECC friends who've been the most wonderful sources of support and joy this past year.

My heartfelt thanks are extended to my first supervisor, Dr Fiza Lee Winter, whose guidance, availability and belief in me have been my confidence. A huge thank you is shared with Professor Hans-Joachim Heintze, for his additional guidance and encouragement to apply to RUB for my second semester!

Thank you to our amazing EMA Academic Team and Children's Rights Department; your impact in this world extends far beyond this course.

DEDICATION

To the incredibly brave internally displaced children in eastern DRC: we hear you.

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LIST OF ABBREVIATIONS

ACRWC	African Charter on the Rights and Welfare of the Child
CCCM	Stratégie Nationale du Cluster de Coordination et Gestion des Sites pour la République Démocratique du Congo 2023-2024/ National Strategy of the Site Coordination and Management Cluster (CCCM) for the DRC 2023-2024
CEDAW	Convention on the Elimination of All Forms of Discrimination
CP AoR	Child Protection Area of Responsibility
CRC	Convention on the Rights of the Child
DRC	Democratic Republic of the Congo
FONAREV	Le Fonds National des Réparations des Victimes de Violences Sexuelles Liées aux Conflits et des Victimes des Crimes Contre la Paix et la Sécurité de l'Humanité/ National Fund for Reparations for Victims of Conflict-Related Sexual Violence and Victims of Crimes against the Peace and Security of Humanity
GBV	Gender-based Violence
HRBA	Human Rights-Based Approach
IDP	Internally Displaced Person
IOM	International Organisation for Migration
IPSV	Intimate Partner Sexual Violence
IPV	Intimate Partner Violence
M23	March 23 Movement
MHPSS	Mental Health and Psychosocial Support
MONUSCO	Mission de l'Organisation des Nations Unies pour la Stabilisation en République Démocratique du Congo/ United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
NHRMC	National Human Rights Monitoring Centre
NGO	Non-governmental Organisation
OCHA	(UN) Office for Humanitarian Affairs
PNSM	Programme National de Santé Mentale/ National Mental Health Program
SGBV	Sexual and Gender-based Violence

SNVBG	Stratégie Nationale de Lutte Contre les Violences Basées sur le Genre Révisée/ National Strategy to Combat Gender-based Violence
SOSAME	Soins de Sante Mentale/ Mental Health Care
UHC	Universal Health Coverage
UN	United Nations
UNICEF	United Nations Children’s Fund
WFP	World Food Programme
WHO	World Health Organisation

DEFINITION OF TERMS

Agency

In this study, agency refers to the freedom of an individual to “pursue a diversity of doings and beings”.¹

Capabilities

“Real freedoms” or the opportunities for individuals to achieve valuable functioning in life.²

Child

“Every human being below the age of 18 years.”³

Diversity

Particular to this study, “diversity” means the recognition that individuals differ in their abilities to convert rights and resources into valuable “functionings”.⁴

Gender-based Violence

“Any harmful act directed against individuals or groups of individuals on the basis of their gender. It may include sexual violence, domestic violence, trafficking, forced/early marriage and harmful traditional practices.”⁵

General Comment

“Authoritative interpretations of individual human rights obligations enshrined in Conventions.”⁶

Internally Displaced Persons (IDPs)

“Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of

¹ I. Robeyns, and M.F. Byskov, ed., *The Stanford Encyclopedia of Philosophy: The Capability Approach*, with the assistance of Edward N. Zalta and Uri Nodelman (Metaphysics Research Lab, Stanford University, 2023), accessed March 20, 2025, <https://plato.stanford.edu/archives/sum2023/entries/capability-approach/>.

² Polly Vizard, “The Capability Approach and Human Rights,” In *The Cambridge Handbook of the Capability Approach*, edited by Enrica Chiappero-Martinetti, Siddiqur Osmani and Mozaffar Qizilbash (Cambridge University Press, 2020), 624-42, <https://www.cambridge.org/core/product/68DF5764BFCD0321BA3F76C052D55FE3>.

³ Convention on the Rights of the Child, CRC, United Nations. 1990, art. 1, accessed April 4, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

⁴ Amartya Sen, *Inequality Re-Examined* (Oxford: Clarendon Press, 1992), 19-21.

⁵ United Nations Office of the High Commissioner for Human Rights, “Sexual and Gender-Based Violence in the Context of Transitional Justice.” United Nations, October 2014, https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/OnePagers/Sexual_and_gender-based_violence.pdf.

⁶ United Nations Office of the High Commissioner for Human Rights, “General Comments: Treaty Bodies”, United Nations, n.d., accessed March 20 2025, <https://www.ohchr.org/en/treaty-bodies/general-comments>.

armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border.”⁷

Implementation

In this study, “implementation” can be defined as “the domestic application of treaty obligations.”⁸

Intersecting vulnerabilities

“Intersecting vulnerabilities” can be considered as “traits that differentiate within groups by making individuals belonging to a given group subject to their own unique vulnerabilities.”⁹

Justiciability

“The ability to claim a remedy before an independent and impartial body when a violation of a right has occurred or is likely to occur.”¹⁰

Legal gap

In this study, a “legal gap” is defined as “the absence of legislative provisions that would govern certain situations faced in practice, including in law enforcement.”¹¹

Non-discrimination

“All individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, colour, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.”¹²

Opinio juris

“Widespread state practice amounting to legal obligation.”¹³

⁷ United Nations, “Report of the Representative of the Secretary-General, Mr. Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39: Guiding Principles on Internal Displacement,” United Nations, November 2, 1998, <https://docs.un.org/en/E/CN.4/1998/53/Add.2>.

⁸ Julia Sloth-Nielsen, “Monitoring and Implementation of Children’s Rights,” In *International Human Rights of Children*, edited by Ursula Kilkelly and Ton Liefwaard, Springer Singapore (2019), 31-64.

⁹ Christian Henrik Alexander Kuran et al. “Vulnerability and Vulnerable Groups from an Intersectionality Perspective,” *International Journal of Disaster Risk Reduction* 50 (2020): 101826, <https://doi.org/10.1016/j.ijdrr.2020.101826>.

¹⁰ International Commission of Jurists, *Courts and the Legal Enforcement of Economic, Social and Cultural Rights: Comparative Experiences of Justiciability*, International Commission of Jurists (2008), 6.

¹¹ V. M. Marchuk, and L. V. Nikolaev, *Essays on the Theory of Law* (2004), 304.

¹² UN Sustainable Development Group. “HRBA Portal: UN Practitioners’ Portal on Human Rights Based Approaches to Programming ‘The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies’,” n.d., <https://unsdg.un.org/resources/human-rights-based-approach-development-cooperation-towards-common-understanding-among-un>.

¹³ Jonathan Law, and Elizabeth A. Martin, *A Dictionary of Law*, 7th ed. (Oxford University Press, 2014), <https://doi.org/10.1093/acref/9780199551248.001.0001>.

Post-Traumatic Stress Disorder (PTSD)

For this study, PTSD is defined as “a serious and debilitating mental disorder, which develops in survivors in the aftermath of a traumatic event.”¹⁴

Treaty body

Human rights treaty bodies are “committees of independent experts that monitor implementation of the core international human rights treaties.”¹⁵

Sexual Violence

“A form of gender-based violence and encompasses any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting.”¹⁶

Universality of Human Rights

“The idea that human beings are endowed with equal human rights simply by virtue of being human, wherever they live and whoever they are, regardless of their status or any characteristics.”¹⁷

¹⁴ Ronald C. Kessler et al., “Posttraumatic Stress Disorder in the National Comorbidity Survey,” In *Fear and Anxiety* (Routledge, 2013), 22-34.

¹⁵ United Nations Office of the High Commissioner for Human Rights. “Treaty Bodies: What Are the Treaty Bodies?,” United Nations, n.d., <https://www.ohchr.org/en/treaty-bodies>.

¹⁶ United Nations Office of the High Commissioner for Human Rights, “Sexual and Gender-Based Violence in the Context of Transitional Justice,” 1.

¹⁷ UN Special Rapporteur in the Field of Cultural Rights. “Universality, Cultural Diversity and Cultural Rights,” United Nations (July 2018), 4, <https://docs.un.org/en/A/73/227>.

1. INTRODUCTION

1.1 Background

The displacement crisis in the Democratic Republic of the Congo (DRC) is the second largest in Africa and third largest in the world.¹⁸ As defined in the Guiding Principles on Internal Displacement, internally displaced persons (IDPs) are “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border”.¹⁹ As of April 2025, 7.8 million people were displaced,²⁰ of whom over three million were anticipated to be children.²¹

Situated in Central Africa, the DRC shares its borders with nine countries, including: Angola, Republic of Congo, Central African Republic, South Sudan, Uganda, Rwanda, Burundi, Tanzania and Zambia,²² and is home to nearly 110 million people.²³ A former colony of Belgium, the DRC has endured internal conflict for nearly 30 years,²⁴ largely driven by regional tensions amongst armed groups to control mineral assets such as diamonds, cobalt and copper, ethnic tensions, and region political dynamics.²⁵

Since the resurgence of the March 23 Movement (M23), an allegedly Rwandan-backed armed group in late 2021,²⁶ and the subsequent escalation of violence, new displacements were

¹⁸ Danish Refugee Council, “Global Displacement Forecast 2025: Using Data Modelling to Predict Displacement Crises,” Danish Refugee Council, March 2025, <https://reliefweb.int/report/sudan/global-displacement-forecast-report-2025#:~:text=The%20Global%20Displacement%20Forecast%20Report%202025%20published%20today,in%20search%20of%20safety%20and%20protection%20in%202026>.

¹⁹ United Nations, “Report of the Representative of the Secretary-General, Mr. Francis M. Deng”.

²⁰ World Food Programme, “Democratic Republic of Congo: Country Brief,” United Nations, March 2025, https://docs.wfp.org/api/documents/WFP-0000165998/download/?_ga=2.47731567.979855144.1749717912-201726676.1745313972.

²¹ United Nations Children's Fund, “Democratic Republic of the Congo Appeal: Humanitarian Action for Children,” United Nations, 2025, <https://www.unicef.org/appeals/drc>.

²² Refer to Annex 1 for a map of the DRC.

²³ Dennis D. Cordell, and Payanzo Ntsomo, “Democratic Republic of the Congo: Capital at Kinshasa,” last modified April 7, 2025, <https://www.britannica.com/place/Democratic-Republic-of-the-Congo>.

²⁴ Ibid.

²⁵ Physicians for Human Rights, “‘Massive Influx of Cases’: Health Worker Perspectives on Conflict-Related Sexual Violence in Eastern Democratic Republic of the Congo,” October 22, 2024, 8, <https://phr.org/wp-content/uploads/2024/10/PHR-REPORT-DRC-MASSIVE-INFLUX-OF-CASES-2024.pdf>.

²⁶ Group of Experts on the Democratic Republic of the Congo, “Final Report of the Group of Experts on the Democratic Republic of the Congo,” (United Nations, New York, 13 June 2023), 1, <https://prod.cdn-medias.theafricareport.com/medias/2023/06/22/un-drc-report-final.pdf>.

triggered in eastern DRC.²⁷ The further advancement of M23 in early 2025 resulted in an acute rise in conflict-related sexual violence, including against children.²⁸ Between 24th January 2025 and 26th February 2025, the United Nations Children’s Fund (UNICEF) reported that the number of grave violations against children tripled,²⁹ with children accounting for nearly 45 percent of the 10,000 cases of rape and sexual violence documented during that period.³⁰ At the height of the violence, this equated to *one child being raped every half hour*.³¹

Research suggests that sexual violence is the highest predictor of “debilitating” mental illnesses such as Post-Traumatic Stress Disorder (PTSD) in populations in eastern DRC.³² Furthermore, experiencing violence in childhood has been linked to committing child abuse or experiencing further abuse in adulthood.³³

Although the DRC and Rwanda have recently signed a peace agreement to end hostilities in the region,³⁴ internally displaced children remain vulnerable to sexual violence and its mental harms.³⁵ Thus, there is a need to assess the extent to which internally displaced children in eastern DRC are being protected by the state from the mental harms of sexual violence.

Additionally, whilst there is much literature on the impact of armed conflict on children in eastern DRC, few studies adopt a legal approach or HRBA to explore children’s rights, including the impact of sexual violence on the mental health of internally displaced children.

²⁷ International Organisation for Migration, “Rapid Displacement Analysis #24: North Kivu & South Kivu, Democratic Republic of the Congo,” United Nations, March 2025, <https://dtm.iom.int/reports/drc-rapid-displacement-analysis-north-kivu-and-south-kivu-3-11-march-2025>.

²⁸ Vibhu, Mishra, “DR Congo Crisis: Children Subjected to Deliberate, Systemic Sexual Violence,” accessed April 30, 2025, <https://news.un.org/en/story/2025/04/1162156>.

²⁹ United Nations Children's Fund, “Reports of Grave Violations Against Children in Eastern Democratic Republic of the Congo Tripled in Last Month – UNICEF,” News release, 26 February 2025, accessed April 30, 2025, <https://www.unicef.org/press-releases/reports-grave-violations-against-children-eastern-democratic-republic-congo-tripled>.

³⁰ Vibhu Mishru. “DR Congo Crisis: Children Subjected to Deliberate, Systemic Sexual Violence.”

³¹ Ibid.

³² Kamalini Lokuge et al., “Mental Health Services for Children Exposed to Armed Conflict: Medecins Sans Frontieres' Experience in the Democratic Republic of Congo, Iraq and the Occupied Palestinian Territory,” *Paediatrics and international child health* 33 (2013), 269, <https://doi.org/10.1179/2046905513Y.0000000098>.

³³ Alessandra Guedes et al., “Bridging the Gaps: A Global Review of Intersections of Violence Against Women and Violence Against Children,” *Global health action* 9 (2016), 31516, <https://doi.org/10.3402/gha.v9.31516>.

³⁴ Office of the United Nations High Commissioner for Human Rights, “News Comment: UNHCHR Welcomes DRC-Rwanda Peace Agreement as Opportunity to End Cycles of Displacement,” News release, June 8 2025, accessed July 1, 2025, <https://www.unhcr.org/us/news/press-releases/news-comment-unhcr-welcomes-drc-rwanda-peace-agreement-opportunity-end-cycles>.

³⁵ United Nations, “DR Congo: Despite Efforts Towards a Political Solution, Violence Still Rages in the East,” accessed June 30, 2025, <https://news.un.org/en/story/2025/06/1165056#:~:text=As%20the%20Foreign%20Ministers%20of%20Rwanda%20and%20the.tensions%20and%20violence%20continue%20to%20grip%20eastern%20DRC.>

1.2 Research Question

This study therefore seeks to address this gap by asking the *main research question*: “Are state interventions sufficient to meet the mental health needs of internally displaced children who are survivors of sexual violence?”

1.2.1 Research Aims and Objectives

Therefore, the aim of this research, which will be undertaken as a socio-legal analysis, is to establish the extent to which the state is protecting and fulfilling the right to mental health of internally displaced children impacted by sexual violence in the eastern provinces of the DRC.

1.2.2 Research Questions

To answer the main research question, this study poses additional sub-questions which have been used to guide this study’s argument, including:

1. What are the state’s legal obligations under International and Regional Human Rights Law towards internally displaced children impacted by sexual violence?
 - i. How has the state translated these legal obligations into domestic law?
2. What is the impact of sexual violence on internally displaced children’s mental health in eastern DRC?
 - i. Why are internally displaced children at-risk?
3. What policies is the state implementing to address this issue?
 - i. What barriers exist in their implementation?
4. How are humanitarian actors supporting state interventions?
 - i. What barriers hinder this support?
5. How can the state better fulfil its obligations, with the support of humanitarian actors, towards the mental health of internally displaced children impacted by sexual violence in eastern DRC?

1.3 Methodology

Through an interdisciplinary socio-legal analysis, this study uses the Human Rights-Based Approach³⁶ to assess the extent to which the state has fulfilled its obligations under International Human Rights Law on the right to mental health of internally displaced children

³⁶ Social Protection and Human Rights, “Introduction to a Rights-Based Approach,” accessed March 20, 2025, <https://socialprotection-humanrights.org/introduction-to-a-rights-based-approach/>.

impacted by sexual violence. In providing a normative legal framework against which this assessment can be made, it uses qualitative research methods, including through the application of the Capability Approach,³⁷ to examine the implementation of state policies which protect the mental health of internally displaced children impacted by sexual violence in eastern DRC. The legal and qualitative findings are triangulated in a discussion and set of recommendations.

1.4 Theoretical Framework

Sen and Nussbaum's Capability Approach is used as a theoretical framework throughout this study. Highlighting that "real freedoms" are an issue of what people can do and become, as opposed to "formal freedoms" provided under the law, the principles of "agency" and "diversity" have been used to guide the development of this research.³⁸

Thus, this study emphasizes what internally displaced children impacted by sexual violence can do and become, considering the current protections provided by the state, with the support of humanitarian actors.

1.5 Thesis Structure

Following the provision in Chapter One of background information to the conflict in eastern DRC, as well as its impact on the mental health of internally displaced children who are survivors of sexual violence, Chapter Two explores the Methodology and Research Design of this study by detailing the theoretical framework, research paradigm, guiding theory and research methods used.

Presented as a state of the art, Chapter Three uses the HRBA to examine the DRC's legal obligations under relevant international and regional human rights instruments to the mental health of internally displaced children impacted by sexual violence in eastern DRC. It further analyses the extent to which these obligations are translated into domestic law.

Chapter Four uses qualitative research methods, informed by the principles of HRBA and the Capability Approach, to explore the displacement crisis in eastern DRC and resultant vulnerability of internally displaced children. It discusses the high prevalence of sexual violence and its impact on the mental health of internally displaced children. Policy interventions by the government and barriers are then examined in Chapter Five, as well as the supportive role of humanitarian actors and additional barriers that hinder the effectivity of this coordinated response.

³⁷ Amartya Sen, *Inequality Re-Examined*, 19-21.

³⁸ Polly Vizard, "The Capability Approach and Human Rights," 624-42.

Chapter Six presents the findings, whilst Chapter Seven adopts relevant principles of the HRBA and the Capability Approach to discuss both the legal and qualitative findings in a coherent manner to enhance the practicality of this study. Furthermore, Chapter Eight provides a set of 11 recommendations for state legislators and policymakers, as well as humanitarian actors on how to improve efforts to realise the right to mental health of internally displaced children who are survivors of sexual violence in eastern DRC.

The study closes with its final chapter as a Conclusion, which summarises the significance of the study's main findings, its limitations, implications and recommendations for further research.

2. METHODOLOGY AND RESEARCH DESIGN

2.1 Introduction

Chapter Two seeks to explain how this research has been conducted, including why certain research methods have been adopted and how data was gathered, analysed, presented and triangulated. The study's theoretical framework is discussed, as well as the research paradigm used to guide the development of this study. Additionally, it clarifies ethical considerations, research limitations and the position of the researcher.

2.2 A Socio-Legal Analysis

Given the recent increase in acts of sexual violence committed against internally displaced children in eastern DRC, and their resultant risk of developing debilitating mental illnesses such as PTSD, this study aims to explore the extent to which their right to mental health is protected by the state through an inter-disciplinary socio-legal analysis. Human rights can be defined as “ethical standards for how governments should behave towards citizens,” providing a means for critique of a state's practice.³⁹ Legal analyses therefore serve as an appropriate approach to examine the extent to which states are respecting human rights, and in turn, identify a legal solution to the issue.

However, a legal analysis alone cannot provide a holistic examination and solution to a human rights issue, as historical background, regional geopolitics, and economic and development concerns are significant contributing factors to human rights violations. Furthermore, “conflict” and “state institutions” have been identified amongst scholars as the highest “motivators” of human rights abuse, highlighting the need to understand the complexities behind state behaviour.⁴⁰ As the DRC experienced an escalation in conflict and human rights abuses in early 2025, socio factors will therefore be considered in analysing state practice.

Thus, an interdisciplinary socio-legal analysis will be undertaken to examine how the state of the DRC can better fulfil its legal obligations, with the support of humanitarian actors. In this context, according to Article 1 of the Convention on the Rights of the Child (CRC), a child is defined as “every human being below the age of 18 years unless under the law

³⁹ Kjersti Skarstad, “Critical Human Rights Research,” *Journal of Human Rights* 23, no. 3 (2024), 297-313, <https://doi.org/10.1080/14754835.2024.2354173>.

⁴⁰ Emilie Hafner-Burton, “A Social Science of Human Rights,” *Journal of Peace Research* 51 (2014), 273-86, <https://doi.org/10.1177/0022343313516822>.

applicable to the child, majority is attained earlier”.⁴¹ This definition will be adopted throughout this study.

2.3 Theoretical Framework and Research Paradigm

The UN emphasizes that the universality of human rights is one of the most significant principles enshrined in modern international law.⁴² A foundational concept to the Universal Declaration of Human Rights, it serves as the central idea “of the entire human rights system”.⁴³ Defining the universality of human rights as the idea that “human beings are endowed with equal human rights simply by virtue of being human, wherever they live and whoever they are, regardless of their status or any characteristics,” the UN states that universality must be understood in close relation with the principles of interdependence, indivisibility, equality and dignity.⁴⁴

Thus, the Capability Approach has been adopted as a theoretical framework throughout this study, which highlights that the liberty to achieve well-being, or equal rights in this instance, is ultimately an issue of what people can do and become, and in turn, the life that they can live.⁴⁵ Developed by economist-philosopher, Amartya Sen, and philosopher, Martha Nussbaum, who criticize traditional economic models and evaluations for their narrow information bases, “capabilities” as opposed to “formal freedoms” are considered “real freedoms”. These freedoms enable people to reach their full potential as they have both the means and opportunities to do so.

As a normative framework, the Capability Approach provides a different means to evaluate well-being for welfare economic purposes, by focusing on the individual’s ability to “achieve valuable functioning in life”.⁴⁶ In the case of this research, ethical principles such as “agency”, “dignity” and “diversity” are used to assess state practice towards internally displaced children’s mental health in eastern DRC, shifting the focus from legal protections and the provision of resources to what children can do and become regarding their mental health. Furthermore, framed under the right to health, recommendations provided will focus on opportunities to enable effective mental health provisions for children to achieve well-being.

⁴¹ CRC, art. 1.

⁴² UN Special Rapporteur in the Field of Cultural Rights. “Universality, Cultural Diversity and Cultural Rights,” 4.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Robeyns and Byskov, ed., *The Stanford Encyclopedia of Philosophy: The Capability Approach*.

⁴⁶ P. M. Mitchell et al., “Applications of the Capability Approach in the Health Field: A Literature Review,” *Social Indicators Research* 133, no. 1 (2017), 345-71, <https://doi.org/10.1007/s11205-016-1356-8>.

Additionally, the critical theory paradigm has been applied to this research, with an understanding that social science research can never be objective or value-free due to the nature of knowledge-availability.⁴⁷

2.4 A Human Rights-Based Approach (HRBA) to Children’s Right to Health

2.4.1 Legal Analysis

Using the HRBA, the third chapter of this research sets out a normative legal framework against which the state’s protection of the right to mental health of internally displaced children impacted by sexual violence can be measured.

The HRBA is a conceptual framework that is generally based on international human rights standards, with an aim to promote and protect human rights. Seeking to analyse obligations, inequalities and vulnerabilities, the HRBA “identifies rights-holders and their entitlements and corresponding duty-bearers and their obligations,” ultimately enabling the strengthening of processes and informing policies.⁴⁸ Relevant to this chapter, the framework explains essential principles and instruments required by law when adopting the HRBA to social protection, enabling informed discussion on the implementation of such principles and instruments.

Whilst there is no definition of an HRBA, it is often adopted in an inter-disciplinary manner, with a primary audience of human rights scholars and advocates.⁴⁹ A lack of definition allows the HRBA to be interpreted from different disciplinary perspectives, albeit that the legal implications of the framework are clarified. In this instance, international human rights instruments including the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination (CEDAW), as well as regional instruments such as the African Charter on the Rights and Welfare of the Child (ACRWC), the Kampala Convention and Maputo Protocol, serve as the framework against which the legal implications on the right to mental health for internally displaced children impacted by sexual violence are assessed. Guided by the World Health Organisation’s (WHO) fact sheet on HRBA on the right to health, ethical principles such as non-discrimination and equality, participation and accountability are considered to ensure a holistic socio-legal analysis.⁵⁰

⁴⁷ H. Nel, “The Nature and Elements of Research Paradigms: Critical Theory,” 2018.

⁴⁸ Social Protection and Human Rights, “Introduction to a Rights-Based Approach”.

⁴⁹ D. Patterson, “Human Rights-Based Approaches and the Right to Health: A Systematic Literature Review,” *Journal of Human Rights Practice* 16, no. 2 (2024), 603-23, <https://doi.org/10.1093/jhuman/huad063>.

⁵⁰ World Health Organisation, “Human Rights Fact Sheet,” United Nations, 2023, <https://www.who.int/en/news-room/fact-sheets/detail/human-rights-and-health>.

2.4.2 Qualitative Analysis

Chapters Four and Five are conducted from a social science perspective, and are informed by the HRBA principles of universality, non-discrimination, participation and accountability, as well as the Capability Approach.

Both Sen and Nussbaum have discussed that assessing human rights and making evaluations requires considering more than a person's "formal" protections and freedoms under the law, and interferences to these freedoms, but an examination of the "results" of what they can achieve and become. This focus on results or "capabilities" therefore proves valuable⁵¹ in the qualitative analysis of this study.

Evaluating human rights therefore requires "supplementing information" about whether human rights are formally recognised in international treaties and constitutions and whether duty-bearers refrain from violating these rights, with information on measures taken by duty-bearers to respect, protect and fulfil human rights, and the "substantive freedoms of individuals or groups".⁵²

Thus, Chapter Four explores the impact of displacement and sexual violence on children's mental health, as well as factors contributing to the high prevalence of sexual violence. Additionally, it explores "inter-generational trauma" as a consequence of sexual violence on internally displaced children's mental health, highlighting that their "substantive freedom" to mental health is severely constrained.

Chapter Five furthers this argument by examining the extent to which the government has implemented policies on mental health targeting internally displaced children and survivors of sexual violence. It further considers the role of humanitarian actors in supporting these interventions to ensure a full analysis of the state's response.

Whilst the Capability Approach suggests an inverted order of these chapters, it was felt necessary to explain the realities of the right to mental health of internally displaced children who are survivors of sexual violence before addressing gaps in policy and interventions, highlighting the complexities of the conflict in the DRC.

2.5 Data Collection and Analysis

Following considerations of the usefulness of the study and the limitations of time with which to conduct it, a qualitative approach was adopted to inform the state of the art, particularly due to the "exploratory" nature of the study.

⁵¹ Polly Vizard, "The Capability Approach and Human Rights," 624-42.

⁵² Ibid.

Due to the study's reliance on secondary sources, the methodology adopted proved a significant predictor of the quality of research and data gathered, and ultimately, the practicality of this study. Quality and free online literature databases including ERIC, Google Scholar, PubMed, Web of Science, EBSCO, ProQuest, Scopus, DOAJ, Springer Nature Link and JSTOR, as well as key word searches on the Google search engine were used to identify appropriate sources.

Key words such as "children", "children's rights", "internally displaced", "eastern Democratic Republic of the Congo", "conflict", "mental health", "sexual violence", "trauma-informed interventions", "state obligations", "international human rights law" and "African regional law" were used in various combinations to gather the initial list of sources.

A total of 190 sources were gathered during pre-research to inform the extended literature review and state of the art. Separated according to their usefulness, with 101 'useful' sources identified, these sources were further quality-assessed by considering author credentials, article accessibility and neutrality of data, summarizing each article to understand the 'larger' and 'narrower' issues of the research question. These 'useful' sources were then narrowed down to 37 'essential' sources which serve as the basis of this study. All essential sources were then allocated to each research question in a hand-drawn literature map. It was deemed necessary to consider a wide range of literature sources from numerous literature databases to ensure the accuracy, relevance and practicality of this study.

Only full-text copies of journal articles, publications, reports and books from the last ten years were considered, to ensure the relevance of the study. However, this period of data collection was expanded to 15 years, from 2010 to 2025, due to the plethora of quality studies that emerged during and after 2010, highlighting the need to conduct up-to-date research on the mental health needs of children in eastern DRC.

Primary legal sources including treaties, conventions, legislation and legal principles, as well as secondary legal sources such as case-law, journal articles, non-governmental organisation (NGO) reports and General Comments of treaty bodies were consulted in the legal analysis, during the period 1986 to 2025, following the DRC's ratification of CEDAW. These legal sources were identified by their contribution to the protection of children's right to mental health, protection from sexual violence and in turn, the protection of internally displaced children. Thus, the CRC, CEDAW, ACRWC, the Kampala Convention and Maputo Protocol were therefore identified and assessed according to their relevant provisions. In addition, domestic laws including the state's Constitution, Law on the Protection of the Child and Penal

Code were examined to assess the extent to which the DRC's laws align with international and regional standards.

Throughout the socio-analysis, relevant national policies including the Programme National de Santé Mentale (PNSM)/ National Mental Health Program and the Stratégie Nationale de Lutte Contre les Violences Basées sur le Genre Révisée or National Strategy for Combatting Gender-based Violence (SNVBG)/ National Strategy to Combat Gender-based Violence; stakeholder and policy analyses; United Nations (UN), NGO and cluster reports, strategies and press releases; UN Security Council Resolutions; General Comments by relevant treaty bodies and academic journals were consulted.

The state of the art was therefore designed to move from larger to narrower issues by analysing state obligations, both internationally and regionally, to children's mental health including internally displaced children; the impact of sexual violence on internally displaced children's mental health; and state and humanitarian interventions in response to the issue.

2.6 Triangulation of Data from Legal and Socio-Analysis

Having undertaken separate legal and social science analyses of the research question to ensure accuracy, connections and interpretations were drawn from the main findings. Chapter Seven thus triangulates the legal and qualitative findings in a discussion, seeking to present a “full picture” of the extent to which the state is responding to its obligations towards the mental health of internally displaced children impacted by sexual violence. Through a thematic analysis, the chapter applies the principles of the Capability Approach and the HRBA extensively to assess the degree to which internally displaced children can “convert” their “formal freedoms” into “real freedoms”. Discussed under the principles of “agency” and “diversity” as emerging themes, parallels are drawn between the principles of the Capability Approach and the HRBA. In this instance, “agency” refers to the freedom of an individual to “pursue a diversity of doings and beings,”⁵³ whilst “diversity” means the recognition that individuals differ in their abilities to convert rights and resources into valuable “functionings”.⁵⁴

Demonstrating institutional failures through critical “legal gaps” and the absence of resources to ensure the justiciability and realisation of the right to mental health for internally displaced children who are survivors of sexual violence, this discussion explores both the limitations and strengths of the Capability Approach when applied in conjunction with the

⁵³ Robeyns and Byskov, ed., *The Stanford Encyclopedia of Philosophy: The Capability Approach*.

⁵⁴ Amartya Sen, *Inequality Re-Examined*, 19-21.

HRBA. According to Marchuk, a “legal gap” is the absence of legislative provisions that would “govern certain situations faced in practice,” including in law enforcement.⁵⁵ Although there exist different definitions of a legal gap,⁵⁶ Marchuk’s definition has been adopted in this study.

2.7 Data Presentation

As this research aims to provide an actionable set of recommendations for state legislators and policymakers, as well as humanitarian actors and donors on how to better support state interventions to protect the right to mental health of internally displaced children who are survivors of sexual violence, Chapter Eight provides a set of 11 recommendations in a table format to improve clarity and enhance policy and programme decision-making.

Additionally, Chapter Six presents the main research findings as a separate chapter to contribute to this clarity and enhancement.

2.8 Ethical Considerations

Although this research relies on secondary sources and does not include data acquired from interviews with children or stakeholders, much care has been given to ensure that the material discussed is done so in a respectful, sensitive and ethical manner. Furthermore, children are referred to as “survivors” as opposed to “victims” to ensure that they are empowered as opposed to victimized throughout this study.

2.9 Limitations of the Research

This research was limited by a significant gap in literature as no studies were identified on the right to mental health of internally displaced children from a human rights perspective, including those impacted by sexual violence. Only one study conducted in 2015 considered the DRC’s obligations under the CRC to enable children access to justice. This study, however, did not consider regional obligations. Additionally, few studies considered the realities of the implementation of the DRC’s national policies on health and sexual violence. This resulted in a heavy reliance on two studies, and UN and NGO reports, with few peer-reviewed articles to support or contradict the findings.

⁵⁵ Marchuk, and Nikolaev, *Essays on the Theory of Law*, 304.

⁵⁶ Anatoliy Kostruba et al, “Legal Gaps: Concept, Content, Problems of the Role of Legal Doctrine in Overcoming Them,” *Statute Law Review* 44, no. 2 (2023), <https://doi.org/10.1093/slr/hmac016>.

However, much literature has been conducted on the impact of sexual violence on populations in eastern DRC, although few studies directly address the impact on children. Furthermore, much of this research was conducted in 2010 and the years prior, signifying a gap in recent literature on the impact of sexual violence on children in eastern DRC. Considering the recent escalation in sexual violence against children, there is a need for this research to be undertaken. Thus, this study is limited by both the lack of legal analyses on international and regional state obligations to internally displaced children in eastern DRC, as well as the unavailability of data on state practice.

Additionally, although efforts were made to conduct interviews with nine humanitarian actors, none were available to respond to the interview requests. Thus, this research lacks in primary data to corroborate its findings.

2.10 Researcher Positionality

Notably, due to my personal connection to the research topic through field experience in the DRC, much consideration has been given to the potential of research fallacies such as confirmation bias or conducting an analysis that is ‘activist’ in nature and therefore lacking in methodological rigor and critical reflection.⁵⁷ This positionality thus informed the decision to apply critical theory as a research paradigm.

2.11 Conclusion

In conclusion, this desk-based research is conducted as a socio-analysis using the HRBA. Informed by the Capability Approach and Critical Theory as a research paradigm, this study uses largely international and regional human rights instruments, UN and NGO reports, academic literature and other sources to assess the extent to which the state’s interventions on the mental health of internally displaced children impacted by sexual violence are sufficient.

⁵⁷ Fons Coomans et al, “Methods of Human Rights Research: A Primer,” 32, no. 1 (2010), 179–86, accessed March 20, 2025, <https://dx.doi.org/10.1353/hrq.0.0127>.

3. STATE OBLIGATIONS TOWARDS INTERNALLY DISPLACED CHILDREN'S RIGHT TO MENTAL HEALTH

3.1 Introduction

States are recognised under International Human Rights Law (IHRL) as the primary duty-bearers towards the implementation of human rights obligations,⁵⁸ whilst children, as individuals, are acknowledged as rights-holders who can make a legitimate claim.⁵⁹ The protection of the mental health of internally displaced children impacted by sexual violence in eastern DRC is therefore significantly reliant on the implementation of state obligations under IHRL. Through the ratification of legal instruments, “*opinio juris*”,⁶⁰ or widespread state practice amounting to legal obligation, establishes that state obligations are both positive and negative in nature, with obligations to *respect* treaty provisions; to *protect* and *promote* the rights enshrined in treaties; and to *fulfil* the rights of rights holders.⁶¹

To ensure that states uphold their obligations and are held accountable under IHRL, treaty bodies monitor the implementation of these obligations by examining state reports, providing recommendations to states parties in the form of Concluding Observations,⁶² and publishing General Comments which interpret the provisions and principles of the treaties.⁶³ “Implementation” in this regard can be defined as “the domestic application” of these obligations.⁶⁴

This chapter therefore sets out a normative legal framework of the state’s obligations to respect, protect and fulfil the right to mental health of internally displaced children impacted by sexual violence under international and regional treaties. Using the HRBA, guided by the principles of universality and inalienability, non-discrimination and equality, participation and inclusion, and accountability and the rule of law, this chapter explores not only the state’s commitment to adhere to these obligations but evaluates the extent to which these treaties have been implemented. The “justiciability” of the right to mental health for these children, or “the ability to claim a remedy before an independent and impartial body when a violation of a right

⁵⁸ CRC, art. 4.

⁵⁹ CRC, art. 12.

⁶⁰ Law and Martin, *A Dictionary of Law*.

⁶¹ R. Wallace, and M. Ortega-Martin, *International Law*, 7th ed (Sweet and Maxwell, 2013).

⁶² United Nations Office of the High Commissioner for Human Rights, “Introduction to the Committee on the Rights of the Child,” accessed April 11, 2025, <https://www.ohchr.org/en/treaty-bodies/crc/introduction-committee>.

⁶³ Andre Viviers, “General Comments of the Committee on the Rights of the Child: A Compendium for Child Rights Advocates, Scholars and Policy Makers,” United Nations (Pretoria, 2014), <https://www.unicef.org/southafrica/reports/general-comments-committee-rights-child>.

⁶⁴ Julia Sloth-Nielsen, “Monitoring and Implementation of Children’s Rights,” 31-64.

has occurred or is likely to occur” is thus explored.⁶⁵ Notably, the legal framework will be analysed in further detail against the principles of HRBA in Chapter Seven.

3.2 International Human Rights Law

3.2.1 Internally Displaced Children’s Mental Health

The United Nations Convention on the Rights of the Child (CRC) is the first legally binding international agreement to set out the civil, political, social and cultural rights of every child, regardless of their race, religion or abilities.⁶⁶ Ratified by the DRC in September 1990,⁶⁷ the CRC requires committed states to meet the basic needs of children and help them to reach their full potential, whilst agreeing to be held accountable before the international community.⁶⁸ Established in Article 43 in the CRC, states are monitored by the Committee on the Rights of the Child; a body of 18 independent experts on child issues.

Specific to the right to health, Article 24(1) of the CRC emphasizes that states parties “shall strive to ensure that no child is deprived of his or her right of access to such healthcare services,” through several recommended interventions, including “the provision of necessary medical assistance and healthcare to all children.”⁶⁹

Whilst the CRC does not refer directly to the provision of mental health services for children, including internally displaced children, the Committee of the Rights of the Child emphasizes in General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health that “States have the obligation to provide adequate treatment and rehabilitation for children with mental health and psychosocial disorders.”⁷⁰ Additionally, the Committee continues that; “There is a need to recognize the particular challenges to children’s health for children affected by humanitarian emergencies, including those resulting in large-scale displacements due to natural or man-made disasters. All possible

⁶⁵ International Commission of Jurists, *Courts and the Legal Enforcement of Economic, Social and Cultural Rights: Comparative Experiences of Justiciability*, 6.

⁶⁶ Save the Children, “UN Convention on the Rights of the Child (UNCRC): An International Human Rights Agreement,” accessed April 11, 2025, <https://www.savethechildren.org.uk/what-we-do/childrens-rights/united-nations-convention-of-the-rights-of-the-child>.

⁶⁷ United Nations Office of the High Commissioner for Human Rights, “UN Treaty Body Database,” accessed October 4, 2025, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=48&Lang=en.

⁶⁸ CRC, art. 44.

⁶⁹ Ibid., art. 24(1).

⁷⁰ United Nations Committee on the Rights of the Child, *General Comment No. 15 (2013) On the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Article 24)*, March 17 2013, accessed April 10, 2025, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGC%2F15&Lang=en.

measures should be taken to ensure that children have uninterrupted access to health services, to (re)unite them with their families and to protect them not only with physical support, such as food and clean water, but also to encourage special parental or other psychosocial care to prevent or address fear and traumas.”⁷¹

Thus, according to General Comment No. 15, it can be interpreted that states are to provide health services and psychosocial support to internally displaced children impacted by sexual violence.

However, it is worth noting that General Comments are not legally binding, but they are regarded in International Law as authoritative interpretations of individual human rights obligations enshrined in Conventions, as reflected in Article 31 of the 1965 Vienna Convention on Law of Treaties.⁷² It is thus at the discretion of states as to how they implement the Comments provided by the Committee,⁷³ highlighting a limitation in international mechanisms to ensure the prioritisation and effective implementation of recommendations.

Furthermore, states are required after two years following ratification to submit an initial report to the CRC Committee after which a report must be submitted every five years.⁷⁴ Notably, the DRC has submitted three reports to the Committee since its first submission in 1998, highlighting significant delays in the reporting process, and hindering the ability of the Committee to assess progress and provide recommendations on children’s issues. However, as emphasized by Sahovic et al., state reporting is a “multi-layered” process that requires immense preparation at the national level, often involving coordination between numerous ministries, agencies, NGOs and children, in a participatory manner.⁷⁵ Thus, considering that human rights mechanisms are under-resourced in the DRC, it can be assumed that the complex and resource-heavy reporting process contributes to the lack of timely reporting by the DRC.

⁷¹ Ibid.

⁷² Vienna Convention on the Law of Treaties 1969, United Nations, 1155 331, January 1 1980, accessed May 31, 2025, https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

⁷³ M. Verheyde, and G. Goedertier, *Articles 43-45: The UN Committee on the Rights of the Child*, A Commentary on the United Nations Convention on the Rights of the Child (Martinus Nijhoff Publishers, 2006), <https://books.google.de/books?id=VedHte-e40QC>.

⁷⁴ United Nations Office of the High Commissioner for Human Rights, “Introduction to the Committee on the Rights of the Child.”

⁷⁵ N. V. Sahovic et al., “The Rights of the Child in International Law (Rights of the Child in a Nutshell and in Context: All About Children's Rights),” Bern, 2012, ed., translated by Aleksidze L., *Khutsishvili St., Tbilisi*, 2015, 341–42.

3.2.2 Sexual and Gender-based Violence

Significant to the protection of child survivors of sexual and gender-based violence (SGBV), particularly girls, the DRC ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 17th October 1986.⁷⁶ Seeking to establish equal rights for men and women, the Convention acknowledges in its Preamble that “extensive discrimination against women continues to exist,” providing in Article 1 a definition of sex-based discrimination as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women... of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”⁷⁷

Monitored by the Committee on the Elimination of Discrimination against Women, as defined in Articles 17 to 30 of the Convention, states parties are required, at least every four years, to submit a national report to the Committee on measures taken to implement the provisions of the treaty. The DRC has subsequently submitted eight reports to the Committee,⁷⁸ demonstrating a further pattern of late reporting.

A strength of the treaty, however, is its expansion in understanding, beyond the traditional wording of laws, of issues pertaining to women, notably in its recognition of discrimination against women as being rooted in culture, family and interpersonal relations.⁷⁹ Furthermore, it considers equality for women as being “substantive” in nature, in that equality is not simply about providing opportunities for women but must be fully felt and lived by women.⁸⁰ Thus, states are therefore required under CEDAW to address the root causes of sex-based discrimination.

In contrast, CEDAW does not provide a definition of “woman”, nor has the Committee provided further interpretation of its meaning. Additionally, the Convention does not refer directly to “gender-based violence” as a form of discrimination against women.⁸¹ Subsequently, the Committee, through General Recommendation No. 19 on Violence against Women,

⁷⁶ United Nations Office of the High Commissioner for Human Rights, “UN Treaty Database: Ratification Status for Democratic Republic of the Congo,” accessed May 31, 2025, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=48&Lang=en.

⁷⁷ Convention on the Elimination of All Forms of Discrimination against Women, CEDAW, United Nations (September 3, 1981), art. 1, accessed June 18, 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

⁷⁸ United Nations Office of the High Commissioner for Human Rights, “UN Treaty Database: Ratification Status for Democratic Republic of the Congo”.

⁷⁹ UN Women, “Frequently Asked Questions (FAQ) About CEDAW,” United Nations, 2025, <https://asiapacific.unwomen.org/en/focus-areas/cedaw-human-rights/faq#howcedawdifferent>.

⁸⁰ Ibid.

⁸¹ CEDAW.

officially recognised GBV as a form of discrimination against women under the Convention.⁸² This can be understood as a weakness of the treaty, particularly in its application to girl survivors of sexual violence,⁸³ and thus, its relevance to this study.

3.3 Regional Human Rights Law

3.3.1 Internally Displaced Children's Mental Health

Relevant to provisions under Regional Human Rights Law, the DRC ratified the African Charter on the Rights and Welfare of the Child (ACRWC)⁸⁴ on 31st January 2017,⁸⁵ committing to recognize the rights, freedoms and duties enshrined in the ACRWC towards children and adopt legislative or other measures to implement its provisions. Regarding mental health, Article 14(1) states that “Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health,” whilst Article 14(2)(b) continues that states are to “ensure the provision of necessary medical assistance and healthcare to all children with emphasis on the development of primary healthcare”. However, the ACRCW does not specifically mention the right of children to mental healthcare, although it is understood through its Preamble that “health care” includes psychological health and support services.⁸⁶

As established in Article 43 of this Charter, states are required to submit an initial report to the African Committee of Experts on the Rights and Welfare of the Child two years after ratification of the ACRWC and every three years thereafter.⁸⁷ The DRC, however, since ratifying the instrument, has not submitted a report to the Committee.⁸⁸

Another significant regional legal instrument in the DRC's context is the African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention), which provides a legal framework of state obligations to prevent internal displacement and protect and assist IDPs, promote sustainable solutions, increase regional

⁸² Committee on the Elimination of Discrimination against Women, *General Recommendation No. 19: Violence Against Women.*, January 30, 1992, accessed May 31, 2025, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FGEC%2F3731&Lang=en.

⁸³ Clara Chapdelaine-Feliciati, ed., *The Status of the Girl Child Under International Law: A Semioethical Analysis* (Cambridge University Press, 2025).

⁸⁴ To date, the ACRWC has been ratified by 51 Members of the African Union (AU).

⁸⁵ African Committee of Experts on the Rights and Welfare of the Child, “Ratifications Table,” 2025, <https://www.acerwc.africa/en/member-states/ratifications>.

⁸⁶ ACRWC, *Preamble*.

⁸⁷ African Union, “State Party Reporting Procedure and Guidelines,” 59.

⁸⁸ African Commission on Human and Peoples' Rights, “State Reports,” African Union, 2025, <https://achpr.au.int/en/states/reports/>.

solidarity and set out obligations and responsibilities of armed groups, and non-state actors, including civil society.⁸⁹

Ratified by the DRC in 2022,⁹⁰ Article IX(2)(e) of the Kampala Convention emphasizes that states are to “Provide internally displaced persons to the fullest extent practicable and with the least possible delay” with access to “medical and other healthcare services”.⁹¹ Additionally, states parties are to “Take special measures to protect and provide for the reproductive and sexual health of internally displaced women as well as appropriate psycho-social support for victims of sexual and other related abuses,” emphasizing the obligations upon countries to provide psychosocial support for internally displaced children impacted by sexual violence.⁹² Article IX can therefore be considered a significant provision in the protection of the mental health of internally displaced children who have been sexually harmed.

However, the lack of specification of what these “special [psychosocial] measures” include for IDP survivors of sexual violence leaves a wide interpretation for states, demonstrating a gap in law that makes regional state accountability for the provision of psychological health services to internally displaced children impacted by sexual violence difficult to assess.

Article XIV further provides that; “States Parties shall, when presenting their reports under Article 62 of the African Charter on Human and Peoples’ Rights as well as, where applicable, under the African Peer Review Mechanism, indicate the legislative and other measures that have been taken to give effect to this Convention.”⁹³ Article 62 of the African Charter on Human and Peoples’ Rights thus requires states to provide reports every two years on the status of implementation of the provisions of legal instruments.⁹⁴ According to research, information is currently unavailable on the status of the DRC’s implementation of the provisions of the Convention.

⁸⁹ Kampala Convention, African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, African Union, June 12, 2012, accessed March 6, 2025, https://au.int/sites/default/files/treaties/36846-treaty-kampala_convention.pdf.

⁹⁰ African Union, “List of Countries which have Signed, Ratified/Acceded to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention),” (African Union, Addis Ababa, Ethiopia, August 7, 2024), <https://au.int/sites/default/files/treaties/36846-sl-AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS IN AFRICA KAMPALA CONVENTION.pdf>.

⁹¹ Kampala Convention, art. IX(2)(e).

⁹² Ibid., Article IX.

⁹³ Kampala Convention, Article XIV.

⁹⁴ African Charter on Human and Peoples' Rights. African Charter, African Union, June 27 1981, accessed May 31, 2025, <https://achpr.au.int/en/charter/african-charter-human-and-peoples-rights/>.

Therefore, whilst scholars argue that IDPs are not protected by International Law in the same manner as refugees who have crossed an international border,⁹⁵ Article 23 of the ACRWC⁹⁶ and the Kampala Convention essentially extends the principles of International Human Rights, Humanitarian and Refugee Law to cover IDPs, including children and their right to access healthcare.⁹⁷ The ACRWC has therefore been described as pioneering and “the most progressive of the treaties on the rights of the child,” illustrating the suitability of the African regional mechanisms, as opposed to international human rights mechanisms, to the issues experienced by African nations including the DRC.⁹⁸

3.3.2 Sexual and Gender-based Violence

In efforts to recognise the rights of women, the DRC ratified the Protocol to the African Charter on Human Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) on 9th June, 2008.⁹⁹ The Maputo Protocol seeks to promote and ensure respect for the rights of women in Africa by tackling discrimination, including violence against women, whilst promoting equality between men and women.¹⁰⁰

As a complementary instrument to the African Charter on Human and Peoples’ Rights (African Charter),¹⁰¹ 44 of 55 African states have ratified the treaty.¹⁰² Recognising the intersectionality of the various levels of oppression faced by women, the Maputo Protocol is recognised for addressing the lived realities of African women.¹⁰³

Article I defines “women” as “persons of female gender, including girls”.¹⁰⁴ Furthermore, “discrimination” is defined as “all acts perpetrated against women which cause

⁹⁵ Chesmal Siriwardhana et al., “Ethical Challenges in Mental Health Research Among Internally Displaced People: Ethical Theory and Research Implementation,” *BMC medical ethics* 14 (2013), 13, <https://doi.org/10.1186/1472-6939-14-13>.

⁹⁶ ACRWC, art. 23.

⁹⁷ Kampala Convention, *Preamble*.

⁹⁸ G. van Bueren, *The International Law on the Rights of the Child* (Martinus Nijhoff Publishers, 1995).

⁹⁹ African Union, “List of Countries which have Signed, Ratified/Accessed to the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa,” (Addis Ababa, Ethiopia, September 19, 2023), [https://au.int/sites/default/files/treaties/37077-sl-PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA.pdf](https://au.int/sites/default/files/treaties/37077-sl-PROTOCOL%20TO%20THE%20AFRICAN%20CHARTER%20ON%20HUMAN%20AND%20PEOPLES%20RIGHTS%20ON%20THE%20RIGHTS%20OF%20WOMEN%20IN%20AFRICA.pdf).

¹⁰⁰ Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, Maputo Protocol, African Union, November 25, 2005, accessed May 31, 2025, https://au.int/sites/default/files/treaties/37077-treaty-charter_on_rights_of_women_in_africa.pdf.

¹⁰¹ Ibid.

¹⁰² African Union, “List of Countries which have Signed, Ratified/Accessed to the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa”.

¹⁰³ Esther Waweru, “Introduction to the Maputo Protocol and Its Significance,” accessed May 31, 2025, <https://www.africanlawmatters.com/blog/introduction-to-the-maputo-protocol-and-its-significance#:~:text=Two%20decades%20ago%2C%20on%20the%2011th%20of%20July,moment%20in%20the%20human%20rights%20landscape%20in%20Africa>.

¹⁰⁴ Maputo Protocol, art. I.

or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war.”¹⁰⁵ The Protocol is therefore applicable to women and girls, in peace time and during war and conflict, as is it legally binding on states parties to address sexual harm against women and girls.¹⁰⁶ These definitions can therefore be considered a strength of the Maputo Protocol, particularly as CEDAW, as an international treaty, fails to address whether “women” are inclusive of “girls”,¹⁰⁷ and the issue of sexual harm against women.

Additionally, Article II of the Maputo Protocol emphasizes that “States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures,” providing obligatory steps to be taken by states parties to address discrimination against women.¹⁰⁸ Article V c) continues that states parties are obliged to provide “necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self-supporting.”¹⁰⁹ Thus, states parties are therefore legally responsible for providing psychological support to women and girl victims of sexually harmful practices, including sexual violence, as well as access to justice to address the violation of their rights.

Significantly, Article XI 3) refers directly to the protection of internally displaced persons, noting that states parties are to “undertake to protect asylum seeking women, refugees, returnees and internally displaced persons, against all forms of violence, rape and other forms of sexual exploitation, and to ensure that such acts are considered war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction.”¹¹⁰

The Maputo Protocol therefore addresses women and girls’ rights in a holistic manner, with all provisions applying to girls, including obligations to combat sexual violence law and access to justice, as well as providing psychological support to victims of sexual violence, including internally displaced girls.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Clara Chapdelaine-Feliciati, ed., *The Status of the Girl Child Under International Law: A Semioethic Analysis*.

¹⁰⁸ Maputo Protocol, art. II.

¹⁰⁹ Ibid., art. V c).

¹¹⁰ Ibid., art. XI 3).

3.4 National Human Rights Law

To assess the degree to which the DRC has implemented these obligations, it is necessary to analyse how the right to mental health of internally displaced children impacted by sexual violence is protected in national law. Thus, according to the Constitution of the DRC, Article 213, “The President of the Republic negotiates and ratifies international treaties and agreements”.¹¹¹ Article 215 continues that all international treaties and agreements regularly ratified by the DRC, and upon publication, take precedence over national law. Therefore, once the DRC ratified the CRC, and following publication, the CRC automatically took precedence over national law. Notably, the 2005 State Constitution, amended in 2011, refers directly in its Preamble to the DRC’s commitment and “adherence” to the Convention of the United Nations on the Rights of the Child.¹¹²

According to Article 153, domestic courts are required to implement ratified international treaties, “provided that they are in conformity with the laws as well as customary [law] unless the latter is contrary to the public order or to morality”.¹¹³ Much progress has been made in the DRC regarding the implementation of the Convention through legislative, institutional and policy measures, including Act No. 001 09/10 of 10th January 2009 on the Law on the Protection of the Child¹¹⁴ and the resultant establishment of Children’s Courts;¹¹⁵ as well as the National Commission for Human Rights in March 2013 through Organic Law No. 13/011; an independent monitoring body on human rights issues in the country. Significantly, as of 6th June 2023, the envisioned coordinating body of activities to implement the Convention, the National Council of the Child, as defined in Ministerial Order No. 11/CAB/VM/AFF.SO.F/98, was operational, indicating positive progress by the DRC in ensuring that children’s rights are upheld. However, minimal information is available regarding the activities conducted by the National Council of the Child.

¹¹¹ Constitution of the Third Republic of the DRC, National Assembly, 2005, art. 213, accessed May 31, 2025, https://www.constituteproject.org/constitution/Democratic_Republic_of_the_Congo_2011.

¹¹² *Ibid.*, Preamble.

¹¹³ *Ibid.*, art. 153.

¹¹⁴ Law on the Protection of the Child, Cabinet of the President of the Democratic Republic of the Congo, 2009, accessed May 31, 2025, <https://ihl-databases.icrc.org/en/national-practice/law-protection-child-2009>.

¹¹⁵ *Ibid.*, Title III, Chapter II, art. 94

3.4.1 Internally Displaced Children’s Mental Health

Considering the definition of IDPs provided in the Guiding Principles on Internal Displacement,¹¹⁶ IDPs should therefore enjoy the same rights as ordinary Congolese citizens, including access to healthcare, while receiving protection due to the impact of displacement.

Whilst the Law on the Protection of the Child includes provisions for displaced and refugee children, stating that they have the right to protection, support and humanitarian aid, it does not include a positive right to mental healthcare.¹¹⁷ As guided by the HRBA and considering that human rights are both negative and positive in nature,¹¹⁸ states are to empower internally displaced children as rights-holders to access mental healthcare services, as opposed to simply being ‘protected’ from psychological harm.

Significantly, although Article 47 of the DRC Constitution guarantees the right to health for all Congolese citizens, it does not specify the right to mental healthcare. Furthermore, there are currently no laws that establish the rights of persons with mental illness, their protections and admission procedures into hospitals,¹¹⁹ whilst laws directly addressing the rights of IDPs including children to mental healthcare are yet to be established. Thus, the current legislative framework therefore fails to address mental health and its challenges for the general population, including vulnerable populations such as IDPs and children.

3.4.2 Sexual and Gender-based Violence

Significant to the protection of children from SGBV, the DRC adopted Law No. 09/001 on the Protection of the Child on 10th January 2009.¹²⁰ Stipulating in the “Exposé des motifs”, the Law on the Protection of the Child seeks to “guarantee children the right to benefit from the various administrative, social, judicial, educational, health and other measures aimed at protecting them from all forms of abandonment, neglect, exploitation and physical, moral, psychological and sexual abuse.”¹²¹ This Law applies to all children, or persons under the age of 18, including those in “exceptional situations” such as conflict, internally displaced children are thus protected by the Law, as emphasized in Article 2(2).¹²²

¹¹⁶ United Nations, “Report of the Representative of the Secretary-General, Mr. Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39: Guiding Principles on Internal Displacement”.

¹¹⁷ Law on the Protection of the Child, art. 2(2).

¹¹⁸ Social Protection and Human Rights, “Introduction to a Rights-Based Approach”.

¹¹⁹ Michel Okitapoy On'okoko et al., “Mental Health in the Democratic Republic of Congo: A Post-Crisis Country Challenge,” *International Psychiatry* 7, no. 2 (2010), 41-43, <https://doi.org/10.1192/S1749367600005737>.

¹²⁰ Law on the Protection of the Child.

¹²¹ Law on the Protection of the Child, Exposé des motifs.

¹²² Ibid., art. 2(2).

Articles 169-184 criminalise a vast range of forms of sexual abuse and exploitation, including sexual harassment, rape and other acts committed against children.¹²³ provisions that are further reinforced in the DRC's amended Code Pénal Congolais/ Penal Code of 2006 in Articles 168-171.¹²⁴ The Law on the Protection of the Child further indicates measures of penalisation for acts of sexual abuse and exploitation, ranging from several months to years in prison.¹²⁵ Additionally, Article 195 emphasizes the responsibility of public and private medical services to provide preventive care to children and criminalises the failure to do so.¹²⁶ The Law on the Protection of the Child therefore provides a strong legal foundation for the protection of internally displaced children impacted by sexual violence through the criminalisation of the act and identification of state structures responsible for providing protection.

Additionally, Article 15 of the DRC's Constitution (2006) classifies sexual violence committed against any person, "with the intention of destabilising or breaking up a family and wiping out an entire people" as a "crime against humanity punishable by law".¹²⁷ It emphasizes that "The public authorities shall ensure that sexual violence is eliminated," placing evident responsibility upon the state to eradicate sexual violence throughout the country.¹²⁸

This classification of sexual violence with the intent to destabilise a family or eradicating an entire people as a "crime against humanity" is in line with international human rights treaties including the Rome Statute.¹²⁹ Article 7 of the Rome Statute states that "Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity" can be considered as a crime against humanity "when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack".¹³⁰ Furthermore, Article 8(2)(e) continues that in non-international armed conflicts such as that of the DRC, "Committing rape, sexual slavery, enforced prostitution, forced pregnancy... enforced sterilization, and any other form of sexual violence" constitute a "war crime" "when committed as part of a plan or policy or as part of a

¹²³ Ibid, arts. 169-184.

¹²⁴ "Code Pénal Congolais," In *Journal Officiel De La RDC*, accessed November 4, 2025, <https://www.leganet.cd/Legislation/JO/2004/JO.30.11.2004.pdf>.

¹²⁵ Law on the Protection of the Child., arts. 169-174.

¹²⁶ Ibid., art. 195, para. 5.

¹²⁷ Constitution of the Third Republic of the DRC., art. 15.

¹²⁸ Ibid.

¹²⁹ Rome Statute of the International Criminal Court, Rome Statute, United Nations, July 17, 1998, accessed June 18, 2025, https://legal.un.org/icc/statute/99_corr/cstatute.htm.

¹³⁰ Ibid., art. 7.

large-scale commission of such crimes”.¹³¹ Ratified by the DRC on 11th April 2002,¹³² the Rome Statute is applicable in both peace time and contexts of war and conflict.

To assist victims of conflict-related sexual violence in the DRC, as well as crimes against the peace and security of humanity, to access justice and obtain reparations, the state adopted Law No. 22/065 on 6th December 2022, establishing the Fonds National des Réparations des Victimes de Violences Sexuelles Liées aux Conflits et des Victimes des Crimes Contre la Paix et la Sécurité de l'Humanité/ National Fund for Reparations for Victims of Conflict-Related Sexual Violence and Victims of Crimes against the Peace and Security of Humanity (FONAREV).¹³³ Functioning as a “public technical, financial and social institution, with a legal personality,”¹³⁴ it is unclear as to how many victims have successfully accessed justice and obtained reparations through FONAREV as annual reports are currently unavailable on the institution’s website due to website construction activities.¹³⁵

3.5 Access to Justice

As emphasized in the HRBA, access to justice forms an intrinsic part of the safeguarding of all human rights.¹³⁶ The Committee on the Rights of the Child emphasizes in General Comment No. 15 that states should ensure access to courts for children and their caregivers, removing barriers to accessing remedies regarding such violations.¹³⁷ Additionally, General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-conflict Situations emphasizes that states parties must “Provide internally displaced and refugee women and girl victims of gender-based violence, including sexual violence, with free and immediate access to medical services, legal assistance and a safe environment; [and] provide access to female health-care providers and services, such as reproductive health care and appropriate counselling”.¹³⁸

¹³¹ Ibid., art. 8(2)(e).

¹³² International Criminal Court, “The States Parties to the Rome Statute: Democratic Republic of the Congo,” (November 3, 2003), <https://asp.icc-cpi.int/states-parties/african-states/democratic-republic-of-the-congo>.

¹³³ Fonds National des Réparations des Victimes des Violences Sexuelles liés aux Conflits et des Victimes des Crimes, “About FONAREV,” accessed June 22, 2025, <https://www.fonarev.cd/a-propos-du-fonarev>.

¹³⁴ Ibid., “Legal Framework”.

¹³⁵ Ibid., “Annual Reports”.

¹³⁶ United Nations General Assembly, *Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels*, General Assembly, September 9, 2012, 67/1, paras. 13-14, accessed May 31, 2025, <https://digitallibrary.un.org/record/738646?v=pdf>.

¹³⁷ United Nations Committee on the Rights of the Child, *General Comment No. 15 (2013) On the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Article 24)*.

¹³⁸ Committee on the Elimination of Discrimination against Women, *General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations*, 2013, 16, accessed June 18, 2025,

Although the DRC has implemented numerous measures to enable children to bring cases forward in domestic courts to challenge violations of their rights, evidence suggests that very few cases have been brought before the Congolese Courts,¹³⁹ emphasizing the presence of significant barriers to justice and in turn, the neglect by the state to their legal obligations towards children and internally displaced survivors of sexual violence. The DRC, however, has invoked the ACRWC in cases brought before Kinshasa’s Magistrate Court.¹⁴⁰ In 2006, the Court decided not to conduct criminal proceedings against a child aged 17, citing Articles 2 and 17 of the ACRWC which establish 18 years as the minimum age of criminal liability.¹⁴¹ The minor in question was then referred to the juvenile court. However, little information is publicly available on other potential cases brought before the Courts, limiting the assessment of state practice regarding children’s rights. As of date, research has found no examples of domestic courts applying the CRC framework in court proceedings.

Article 84 of the Law on the Protection of the Child further states that “In each territory and in each town, a specialised court shall be created, known as a juvenile court in accordance with Article 149, paragraph 5 of the Constitution,”¹⁴² thus, placing responsibility on the state to ensure that children have access to child-friendly justice systems in every territory and town across the country. However, research suggests that there is a scarcity of judicial bodies in remote and rural areas across the country, as are children and their parents or guardians often unaware of the law’s provisions for children as rights-holders.¹⁴³ This issue will be further discussed in Chapter Seven.

Whilst the Law on the Protection of the Child states that a child has the right to assistance of counsel, there is no clear provision on whether this assistance is free or subsidised.¹⁴⁴ However, individuals or groups of people who are victims of a rights violation can submit a complaint to the National Human Rights Monitoring Centre (NHRMC), after

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FGC%2F30&Lang=en.

¹³⁹ White & Case LLP, and Emery Mukendi Wafwana & Associés, “Access to Justice for Children: Democratic Republic of the Congo,” CRIN, 2015,

https://archive.crin.org/sites/default/files/drc_access_to_justice.pdf.

¹⁴⁰ Democratic Republic of the Congo, “National Report Submitted in Accordance with Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1*: A/HRC/WG.6/6/COD/1.” March 9, 2009, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session6/CD/A_HRC_WG6_6_COD_1_E.pdf.

¹⁴¹ Ibid.

¹⁴² Law on the Protection of the Child, art. 84.

¹⁴³ White & Case LLP, and Emery Mukendi Wafwana & Associés, “Access to Justice for Children: Democratic Republic of the Congo,” 5.

¹⁴⁴ Ibid.

which the NHRMC can choose to investigate the case.¹⁴⁵ The NHRMC functions to investigate human rights violations and assist victims of violations to take judicial action.¹⁴⁶ Due to the limited availability of information, research has been unable to identify how many victims of violations have been assisted by the Centre.

Regarding Court procedures, Article 113 of the Law on the Protection of the Child provides that judgments in Criminal Courts and Children's Courts shall be rendered "within eight days following the hearing".¹⁴⁷ State practice, however, shows that delays in hearing Court decisions are particularly pertinent in cases involving children "as the judicial system is lacking in professionals trained to handle such cases".¹⁴⁸

Additionally, corruption continues to contribute to an ineffective justice system in the DRC.¹⁴⁹ Whilst efforts have been made to counter corruption by supervising magistrates through the establishment in 2008 of the Conseil Supérieur de la Magistrature (Superior Council of the Magistrature), the Council's effectivity is often hindered "by the government withholding resources and appointing members loyal to the government".¹⁵⁰ Thus, there is a clear lack of commitment by the state to effectively implement their legal obligations to enhance access to justice for children, including internally displaced children impacted by sexual violence.¹⁵¹

Significantly, the DRC has not ratified the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure,¹⁵² which enables children of states parties, or those acting on their behalf, to submit complaints about rights violations under the CRC, despite a commitment made by the former Minister of Human Rights, Marie-Ange Mushobekwa-Likulua, on 19th January 2017 before the Committee on the Rights of the Child.¹⁵³

¹⁴⁵ Loi Organique n°13/011 Portant Institution, Organisation et Fonctionnement de la Commission Nationale des Droits de l'Homme, Cabinet of the President of the Democratic Republic of the Congo, March 21, 2013, accessed April 11, 2025, <https://www.leganet.cd/Legislation/Droit%20Public/DH/L.13.011.21.03.2013.htm>.

¹⁴⁶ Ibid., Title II, art. 6.

¹⁴⁷ Law on the Protection of the Child, Title III, Chapter III, art. 113.

¹⁴⁸ Democratic Republic of the Congo, "Second Periodic Report of the Democratic Republic of Congo to the UN Committee on the Rights of the Child," United Nations Committee on the Rights of the Child, July 24, 2008.

¹⁴⁹ AfriMAP and the Open Society Initiative for Southern Africa. "République Démocratique Du Congo - Le Secteur De La Justice Et L'état De Droit: Un Etat De Droit En Pointillé." Essai d'évaluation des efforts en vue de l'instauration de l'Etat de droit, July 2013. <https://afrikarabia.com/wordpress/wp-content/uploads/2014/01/RDC-Rapport-Justice-juillet-2013.pdf>.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, United Nations, 2011, accessed April 4, 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-communications>.

¹⁵³ United Nations Office of the High Commissioner for Human Rights, "Committee on the Rights of the Child Considers the Reports of the Democratic Republic of the Congo: Child Rights: DRC," News release,

Thus, alternative complaint mechanisms under the CRC are therefore unavailable to all children.

Additionally, the government of the DRC ratified the Protocol to the African Charter on Human and People's Rights on the Establishment of the African Court on Human and People's Rights¹⁵⁴ on 8th December 2020.¹⁵⁵ Under Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, states are required to make a declaration to expand Court jurisdiction to "allow individuals and NGOs to bring cases directly before the Court".¹⁵⁶ Significantly, the DRC has not made this Declaration,¹⁵⁷ and therefore, individuals and NGOs cannot bring cases before the African Court, limiting their competence before the Court.

Evidence thus suggests that although the DRC has attempted to enhance children's access to justice through the Law on the Protection of the Child and establishment of provincial Children's Courts, these efforts remain insufficient to protect internally displaced children's right to mental health.

In turn, considering that the DRC has experienced conflict for nearly thirty years, and thus, a resultant drain on resources, the question of whether "force majeure" could apply in the DRC's context must be asked. Article 23(1) of the Responsibility of States for Internationally Wrongful Acts states that: "The wrongfulness of an act of a state not in conformity with an international obligation of that state is precluded if the act is due to force majeure, that is the occurrence of an irresistible force or of an unforeseen event, beyond the control of the state, making it materially impossible in the circumstances to perform the obligation."¹⁵⁸ In acknowledging that non-state armed groups such as M23 are largely responsible for the escalation in violence in eastern DRC,¹⁵⁹ this could be understood as a possible justification by the state to invoke "force majeure" as an explanation for not upholding the right to mental health of internally displaced children impacted by sexual violence in eastern DRC.

January 19 2017, accessed April 4, 2025, <https://www.ohchr.org/en/press-releases/2017/01/committee-rights-child-considers-reports-democratic-republic-congo>.

¹⁵⁴ The Court has been operational since November 2006, with its permanent seat in Arusha, Tanzania.

¹⁵⁵ African Court on Human and People's Rights, "Democratic Republic of Congo Ratifies the Protocol on the Establishment of the African Court on Human and Peoples' Rights," News release, November 12, 2020, accessed May 18, 2025, <https://www.african-court.org/wpafc/democratic-republic-of-congo-ratifies-the-protocol-on-the-establishment-of-the-african-court-on-human-and-peoples-rights>.

¹⁵⁶ Ibid.

¹⁵⁷ African Court on Human and People's Rights, "Declarations," African Union, 2025, <https://www.african-court.org/wpafc/declarations/>.

¹⁵⁸ Responsibility of States for Internationally Wrongful Acts, United Nations, December 12, 2001, art. 23(1), https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf.

¹⁵⁹ Group of Experts on the Democratic Republic of the Congo, "Final Report of the Group of Experts on the Democratic Republic of the Congo."

In contrast, Article 23(2) states that “force majeure” does not apply when “the State has assumed the risk of that situation occurring”.¹⁶⁰ Thus, it can be argued that the state knew that this “situation” or escalation in sexual violence would occur, considering that sexual violence has been consistently high throughout the conflict in the DRC.

3.6 Conclusion

In conclusion, considering the state’s role as the primary duty-bearer, the DRC has recognised the right to health of all persons in the Constitution,¹⁶¹ with additional provisions on the right to the protection from psychological harm in the Law on the Protection of the Child. However, no law has been established in national health legislation that directly addresses the right to mental health for IDPs, including children.

Additionally, the justiciability of the right to mental health of internally displaced children impacted by sexual violence remains constrained with few Children’s Courts operational. Furthermore, the DRC’s pattern of late reporting to treaty monitoring bodies demonstrates a limitation in the ability of treaty bodies to protect and empower rights-holders to access their human rights.

¹⁶⁰ Responsibility of States for Internationally Wrongful Acts, art. 23(2).

¹⁶¹ Constitution of the Third Republic, art. 47.

4. THE IMPACT OF CONFLICT ON THE MENTAL HEALTH OF INTERNALLY DISPLACED CHILDREN IMPACTED BY SEXUAL VIOLENCE IN EASTERN DRC

4.1 Introduction

Considering the lack of legal protections of the right to mental health for internally displaced children who are survivors of sexual violence in eastern DRC, the impact of conflict on their mental health will thus be explored in this chapter.

Research demonstrates that in conflict zones, the prevalence of mental health conditions is more than double that of the general population,¹⁶² whilst IDPs are particularly vulnerable to developing mental illnesses. Chapter Four therefore examines the internal displacement crisis in the eastern region of the country, the factors contributing to the prevalence of sexual violence, and the impact of the conflict on internally displaced children's mental health. Concluding with a brief analysis of inter-generational trauma as a consequence of sexual violence and the identification of significant research gaps, it highlights the need for the state to uphold its legal obligations to the mental health needs of internally displaced children surviving sexual violence.

4.2 The Internal Displacement Crisis in Eastern DRC

According to the UN International Organisation for Migration (IOM)'s Rapid Displacement Analysis #24 on the Eastern Provinces of North Kivu and South Kivu, published in March 2025, 1,157,090 persons were displaced across the provinces due to the advancement of armed group M23,¹⁶³ of whom 158,565 children were under the age of five.¹⁶⁴ In addition, an approximate 1,787,298 IDPs were forced to return to their place of origin, of whom 251,214 were children under the age of five.¹⁶⁵

Emphasized by UNICEF, the escalation in armed conflict is impacting over 14.9 million children, who are exposed to strenuous living conditions, disease and violence, including

¹⁶² Fiona Charlson et al., "New WHO Prevalence Estimates of Mental Disorders in Conflict Settings: A Systematic Review and Meta-Analysis," *The Lancet* 394, no. 10194 (2019), 240-48, [https://doi.org/10.1016/S0140-6736\(19\)30934-1](https://doi.org/10.1016/S0140-6736(19)30934-1).
<https://www.sciencedirect.com/science/article/pii/S0140673619309341>.

¹⁶³ International Organisation for Migration, "Rapid Displacement Analysis #24: North Kivu & South Kivu, Democratic Republic of the Congo," United Nations, March 2025, 5, <https://dtm.iom.int/reports/drc-rapid-displacement-analysis-north-kivu-and-south-kivu-3-11-march-2025>.

¹⁶⁴ *Ibid.*, 7.

¹⁶⁵ *Ibid.*, 8.

sexual violence.¹⁶⁶ It must be noted, however, that numerous reports include conflicting data on the impact of the conflict on children in eastern DRC, with state and NGO reports citing numbers from three to 14.9 million children affected. Thus, there is a need for the centralisation of data and uniformity across publications to inform an appropriate and effective response to children's needs in the region.

Additionally, according to IOM, disease outbreaks were reported in 48 percent of the locations assessed in North Kivu and South Kivu between 4th to 11th March 2025, with malaria, typhoid fever, acute malnutrition and measles, largely impacting children, proving to be the most significant health concerns for IDPs living in both provinces.¹⁶⁷ In 2023, North Kivu alone accounted for 65 percent of all cases of cholera recorded in the DRC, of which 41 percent were among children under the age of 18 and 25 percent in children under the age of five.¹⁶⁸

Concerningly, displaced communities did not have access to healthcare in 12 percent of the locations assessed, whilst many facilities were reported as lacking in medicines and personnel.¹⁶⁹ Paying for medical expenses and a lack of transportation to medical centres made for additional challenges for IDPs to access healthcare services; issues which will be explored in further detail in the following chapter.¹⁷⁰

In addition, 78 percent of assessed locations reported insufficient daily water quantities, whilst 79 percent faced damaged shelters.¹⁷¹ Extreme weather events such as floods and landslides continue to impact the provinces, leading to the deaths of 3,000 people in May 2023, in Kalehe, South Kivu.¹⁷² As the impacts of climate change are felt across the globe, extreme weather events are likely to intensify in the coming years.¹⁷³

Subsequently, the UN World Food Programme (WFP) warned that as of March 2025, 4.5 million children were acutely malnourished, exacerbated by the ongoing armed conflict, resultant displacement and rising food prices.¹⁷⁴ Estimates by UNICEF conclude that

¹⁶⁶ Ibid., 1.

¹⁶⁷ Ibid.

¹⁶⁸ United Nations Children's Fund, "Democratic Republic of the Congo Appeal: Humanitarian Action for Children," 2.

¹⁶⁹ International Organisation for Migration, "Rapid Displacement Analysis #24: North Kivu & South Kivu, Democratic Republic of the Congo."

¹⁷⁰ Ibid.

¹⁷¹ Ibid., 13.

¹⁷² United Nations Children's Fund, "Democratic Republic of the Congo Appeal: Humanitarian Action for Children," 2.

¹⁷³ Ibid.

¹⁷⁴ World Food Programme, "Conflict and Rising Food Prices Drive Congolese into One of the World's Worst Food Crises According to New IPC Data," News release, March 27, 2025, accessed April 30, 2025, <https://www.wfp.org/news/conflict-and-rising-food-prices-drive-congolese-one-worlds-worst-food-crises-according-new-ipc>.

throughout the DRC, 1.2 million children under the age of five require treatment for severe wasting; four million women and children require protection services; 6.6 million children need emergency water and sanitation; and 1.6 million children require emergency education.¹⁷⁵ Children are therefore increasingly vulnerable in eastern DRC to the effects of armed conflict, the outbreak of disease, ill-functioning social services, poverty and climate change. These intersecting vulnerabilities are therefore important to consider when evaluating the response of the state to the mental health of internally displaced children.

4.3 Impact of Conflict on Internally Displaced Children’s Mental Health

IDPs are particularly vulnerable to mental illnesses arising from direct exposure to conflict-related violence including physical and sexual violence, the destruction of a person’s home and/or the disappearance or death of loved ones. Compounded by difficult living conditions such as poverty, malnutrition and unemployment,¹⁷⁶ the mental strain on IDPs, particularly children, is immense. Significantly, the negative impacts caused by conflict on mental health can be passed from one generation to another,¹⁷⁷ with far-reaching transgenerational effects that are psychological, familial, social, cultural and neurobiological in nature.¹⁷⁸

Post-Traumatic Stress Disorder (PTSD), depression and/or anxiety prove to be the most common forms of mental illness in the eastern region of the DRC.¹⁷⁹ PTSD is considered as “a serious and debilitating mental disorder” which develops in survivors “in the aftermath of a traumatic event”.¹⁸⁰ As defined by the American Psychiatric Association, PTSD may result “when an individual lives through or witnesses an event in which they believe that there is a threat to life or physical integrity and safety and experiences fear, terror, or helplessness,” and is characterized by painful recollections, numbing, disturbed sleep, challenges remembering,

¹⁷⁵ United Nations Children's Fund, “Democratic Republic of the Congo Appeal: Humanitarian Action for Children,” 2.

¹⁷⁶ Kenneth E. Miller, and Andrew Rasmussen, “War Exposure, Daily Stressors, and Mental Health in Conflict and Post-Conflict Settings: Bridging the Divide Between Trauma-Focused and Psychosocial Frameworks,” *Social Science & Medicine* 70, no. 1 (2010), 7-16, <https://doi.org/10.1016/j.socscimed.2009.09.029>.

¹⁷⁷ Rachel Yehuda, and Amy Lehrner, “Intergenerational Transmission of Trauma Effects: Putative Role of Epigenetic Mechanisms,” *World Psychiatry Official Journal of the World Psychiatric Association (WPA)* 17, no. 3 (2018), 243-57, <https://doi.org/10.1002/wps.20568>.

¹⁷⁸ Cindy, C. Sangalang, and Cindy Vang, “Intergenerational Trauma in Refugee Families: A Systematic Review,” *Journal of Immigrant and Minority Health* 19, no. 3 (2017), 745-54, <https://doi.org/10.1007/s10903-016-0499-7>.

¹⁷⁹ Kirsten Johnson et al., “Association of Sexual Violence and Human Rights Violations with Physical and Mental Health in Territories of the Eastern Democratic Republic of the Congo,” *JAMA* 304, no. 5 (2010), 553-62, <https://doi.org/10.1001/jama.2010.1086>.

¹⁸⁰ Kessler et al., “Posttraumatic Stress Disorder in the National Comorbidity Survey,” 22–34.

“guilt about surviving the trauma when others did not” and other symptoms.¹⁸¹ Furthermore, clinical depression is characterized by “persistent sadness”.¹⁸² Thus, untreated PTSD and/or depression severely impacts the quality and enjoyment of life in persons experiencing these conditions.

Evidence suggests that the development of PTSD, depression and/or anxiety disorder is likely following displacement.¹⁸³ Although recent data is unavailable regarding the *current* prevalence and type of mental illnesses in the DRC, including the eastern region, a 2010 study by Johnson et al. demonstrated that half of the general population (50.1 percent) in the eastern region of the country “met symptomatic criteria for post-traumatic stress disorder, 25.9 percent reported suicidal ideation and 16 percent attempted suicide at some point during their lives”.¹⁸⁴ Additionally, studies have found that sexual violence is the highest predictor of negative mental health in eastern DRC.¹⁸⁵ Considering the recent upsurge in armed conflict throughout the eastern region, it is recommended that up-to-date research is conducted to ascertain the prevalence of mental illnesses displaced populations, including children.

Particular to children, studies suggest that there is a higher prevalence of mental disorders amongst children in post-conflict contexts, in comparison with the general population.¹⁸⁶ PTSD, depression and anxiety are identified as the most pertinent outcomes, with numerous meta-analyses recording a higher prevalence of mental disorders within conflict-affected, internally displaced and refugee populations.¹⁸⁷ A meta-analysis of eight studies conducted in five countries demonstrated that child refugees and asylum seekers reported a 22.7 percent prevalence of PTSD, 13.8 percent of depression and 15.8 percent of anxiety disorders.¹⁸⁸ Although the meta-analysis did not address internally displaced children

¹⁸¹ American Psychological Association, *APA Dictionary of Psychology*. American Psychological Association, 2023.

¹⁸² Ibid.

¹⁸³ Bernado Carpiello, “The Mental Health Costs of Armed Conflicts-A Review of Systematic Reviews Conducted on Refugees, Asylum-Seekers and People Living in War Zones,” *International Journal of Environmental Research and Public Health* 20, no. 4 (2023), <https://doi.org/10.3390/ijerph20042840>.

¹⁸⁴ Johnson et al., “Association of Sexual Violence and Human Rights Violations with Physical and Mental Health in Territories of the Eastern Democratic Republic of the Congo,” 553-62.

¹⁸⁵ Lokuge et al., “Mental Health Services for Children Exposed to Armed Conflict: Medecins Sans Frontieres' Experience in the Democratic Republic of Congo, Iraq and the Occupied Palestinian Territory,” 269.

¹⁸⁶ Vindya Attanayake et al., “Prevalence of Mental Disorders Among Children Exposed to War: A Systematic Review of 7,920 Children,” *Medicine, Conflict and Survival* 25, no. 1 (2009), 4-19, <https://doi.org/10.1080/13623690802568913>.

¹⁸⁷ Sohrab Amiri, “Prevalence of Suicide in Immigrants/Refugees: A Systematic Review and Meta-Analysis,” *Archives of suicide research official journal of the International Academy for Suicide Research* 26, no. 2 (2022), 370-405, <https://doi.org/10.1080/13811118.2020.1802379>.

¹⁸⁸ Rebecca Blackmore et al., “The Prevalence of Mental Illness in Refugees and Asylum Seekers: A Systematic Review and Meta-Analysis,” In *PLoS medicine* 17 (9), 2020, [10.1371/journal.pmed.1003337](https://doi.org/10.1371/journal.pmed.1003337).

specifically, it can be understood that forced migration of any form has a significant impact on children's mental health.

Furthermore, during times of violence and conflict, forced migration often results in the separation of children from one or both parents.¹⁸⁹ Research demonstrates that parent-child separation negatively impacts the mental health, social-emotional development and well-being of children.¹⁹⁰ The loss of access to safe places and situations encountered by a child often results in high levels of prolonged stress, impacting their perceptions of “themselves, the social world, and the projected future”.¹⁹¹ Compounded by the loss of family life, their home, school and friends, the impact of violence, war and conflict on children are far-reaching, resulting in immediate stress-responses and an increase in risk of the development of mental disorders.¹⁹² Thus, there is a need to ensure that internally displaced children are provided adequate support immediately following their exposure to traumatic events, in order to prevent the development of mental disorders or address existing symptoms.

4.4 Factors Contributing to the High Prevalence of Sexual Violence

Sexual remains one of the highest risk factors to the mental health and well-being of children, largely girls, in conflict settings. Described as a “weapon of warfare”,¹⁹³ sexual violence has been used in conflicts throughout history to “humiliate, dominate, instill fear, disperse and/or forcibly relocate civilian members of communities and ethnic groups”.¹⁹⁴ Reported incidents of sexual violence in the DRC include “gang rape, abduction for purposes of sexual slavery, forced participation of family members in rape, mutilation of women's genitalia with knives and guns”, as well as other atrocities.¹⁹⁵

¹⁸⁹ David Bürgin et al., “Impact of War and Forced Displacement on Children's Mental Health - Multilevel, Needs-Oriented, and Trauma-Informed Approaches,” *European Child & Adolescent Psychiatry* 31, no. 6 (2022), 845–53, <https://doi.org/10.1007/s00787-022-01974-z>.

¹⁹⁰ Anne Bentley Waddoups et al., “Developmental Effects of Parent-Child Separation,” *Annual Review of Developmental Psychology* 1, Volume 1, 2019 (2019), 387–410, <https://doi.org/10.1146/annurev-devpsych-121318-085142>.

¹⁹¹ George M. Slavich, “Social Safety Theory: A Biologically Based Evolutionary Perspective on Life Stress, Health, and Behavior,” *Annual Review of Clinical Psychology* 16 (2020), 265–95, <https://doi.org/10.1146/annurev-clinpsy-032816-045159>.

¹⁹² Bürgin et al., “Impact of War and Forced Displacement on Children's Mental Health - Multilevel, Needs-Oriented, and Trauma-Informed Approaches,” 845–53.

¹⁹³ S. M. Bartels et al., ““Now, the World Is Without Me”: An Investigation of Sexual Violence in Eastern Democratic Republic of Congo,” 2010, accessed May 31, 2025, <https://hhi.harvard.edu/publications/now-world-without-me-investigation-sexual-violence-eastern>.

¹⁹⁴ Erica Deel, “S-Security Council-Resolution 1820 (2008),” 2008, accessed May 10, 2025, <https://policycommons.net/artifacts/1599286/s/2289055/>.

¹⁹⁵ Amber Peterman et al., “Estimates and Determinants of Sexual Violence Against Women in the Democratic Republic of Congo,” *American Journal of Public Health* 101, no. 6 (2011), 1060–67. <https://doi.org/10.2105/AJPH.2010.300070>.

According to the DRC's Ministère du Plan et Suivi de la Mise en œuvre de la Révolution de la Modernité Ministère de la Santé Publique,¹⁹⁶ approximately one third of Congolese women reported having experienced sexual violence at some point during their lifetime. The conflict-affected provinces of North and South Kivu in eastern DRC, however, have seen the highest rates of rape.¹⁹⁷ In the province of South Kivu, it is estimated that “one-third and one-fifth of girls aged 13-14 respectively have already experienced some form of physical or sexual violence in the past year”.¹⁹⁸ As of yet, similar data is unavailable on North Kivu. This high prevalence of sexual violence in the region is associated with a complex set of factors,¹⁹⁹ often driven by the conflict objectives of armed groups, including “sowing terror, undermining social cohesion and creating disorder among communities”.²⁰⁰ However, armed groups alone are not responsible for the high rates of sexual violence, as instances of sexual violence committed by humanitarian actors including NGO personnel, workers of multilateral institutions and peacekeepers, including those of the UN, have been documented.²⁰¹ Societal gender inequalities, a weakened economy, limited access to social capital, the rule of law and security institutions further contribute to the sexual violence against women and girls in conflict contexts.²⁰²

Research demonstrates further that survivors of sexual violence from their childhood are more likely to suffer from depression, suicide and other mental health issues.²⁰³ Saunders et al. established in a sample study that childhood rape survivors had a 52 percent rate of

¹⁹⁶ Democratic Republic of the Congo, “Ministère Du Plan Et Suivi De La Mise En Œuvre De La Révolution De La Modernité Ministère De La Santé Publique,” *Enquête Démographique et de Santé en République Démocratique du Congo 2014* (2013), accessed May 10, 2025, <https://dhsprogram.com/pubs/pdf/FR300/FR300.pdf>.

¹⁹⁷ Peterman et al., “Estimates and Determinants of Sexual Violence Against Women in the Democratic Republic of Congo,” 1060-67.

¹⁹⁸ Lindsay Stark et al., “Prevalence and Associated Risk Factors of Violence Against Conflict-Affected Female Adolescents: A Multi-Country, Cross-Sectional Study,” *Journal of Global Health* 7, no. 1 (2017), 10416, <https://doi.org/10.7189/jogh.07.010416>.

¹⁹⁹ Bartels et al., ““Now, the World Is Without Me”: An Investigation of Sexual Violence in Eastern Democratic Republic of Congo.”

²⁰⁰ Ibid.

²⁰¹ Kirstin Wagner et al., “UNsupported: The Needs and Rights of Children Fathered by UN Peacekeepers in the Democratic Republic of Congo,” *Human Rights Review* 23, no. 3 (2022), 305–32, accessed May 10, 2025, <https://link.springer.com/article/10.1007/s12142-021-00652-y>.

²⁰² Halyna Lugova et al., “Sexual and Gender-Based Violence Among Refugees and Internally Displaced Persons in the Democratic Republic of the Congo: Post-Conflict Scenario,” *Risk Management and Healthcare Policy* 13, null (2020), 2937-48, <https://doi.org/10.2147/RMHP.S283698>.

²⁰³ Aurelie Kasangye Kangoy et al., “Mental Health Consequences of Being Raped in the Eastern Region of the Democratic Republic of Congo,” *Donnish Journal of Medicine and Medical Sciences* 3(2) (2016), 6-10, accessed May 10, 2025, <https://donnishjournals.org/djmms/pdf/2016/february/Aurelie-et-al.pdf>.

lifetime depression in comparison to non-victims whose rate of lifetime depression was 27 percent.²⁰⁴

Additionally, a study conducted in 2007 concluded that 1.69 million to 1.80 million women and girls aged between 15 to 49 years in eastern DRC reported a history of being raped.²⁰⁵ A further 3.07 million to 3.37 million women had experienced intimate partner sexual violence (IPSV).²⁰⁶ However, this study did not account for children younger than 15 years of age. Notably, during this period, records of the Panzi Hospital in South Kivu demonstrated that of 4,133 females attending the hospital due to sexual violence, six percent were younger than 16 years of age.²⁰⁷ Thus, data regarding sexual violence experienced by children younger than the age of 15 in the years preceding 2007 in eastern DRC is unavailable, demonstrating a concerning research gap on the prevalence of sexual violence in young children prior to 2007, and contributing to an inaccurate reflection of sexual violence against children in the region .

However, a pioneering study conducted by Nelson et al. in 2011 assessed the narratives of paediatric survivors of SGBV in eastern DRC, identifying numerous threats to the mental and physical health of children.²⁰⁸ Young girls and adolescents participating in the study experienced brutal forms of SGBV including gang rape and sexual slavery, with over 19 percent reporting pregnancy as a result of rape.²⁰⁹ The study identified that girls who are illiterate,²¹⁰ and those who live in rural areas, prove to be at higher risk of experiencing gang rape and sexual slavery.²¹¹ Considering that as of 6th March 2025, 775 schools in North Kivu alone were closed due to the escalation in conflict, a further 375,000 children were therefore at a higher risk of experiencing sexual violence.²¹² Thus, girls without access to education, particularly in rural areas, are therefore more vulnerable to the harms of sexual violence.

²⁰⁴ Benjamin Saunders et al., “Prevalence, Case Characteristics, and Long-Term Psychological Correlates of Child Rape Among Women: A National Survey,” *Child Maltreatment* 4, no. 3 (1999), 187-200, <https://doi.org/10.1177/1077559599004003001>.

²⁰⁵ Peterman et al., “Estimates and Determinants of Sexual Violence Against Women in the Democratic Republic of Congo,” 1060-67.

²⁰⁶ Ibid.

²⁰⁷ Bartels et al., ““Now, the World Is Without Me”: An Investigation of Sexual Violence in Eastern Democratic Republic of Congo.”

²⁰⁸ Brett D. Nelson et al., “Impact of Sexual Violence on Children in the Eastern Democratic Republic of Congo,” *Medicine, Conflict and Survival* 27, no. 4 (2011), 211-25, <https://www.jstor.org/stable/27018246>.

²⁰⁹ Ibid., 212.

²¹⁰ Ibid.

²¹¹ Ibid., 213.

²¹² Save the Children, “DRC: More than 375,000 Children Out of School in North Kivu at Risk of Violence and Recruitment,” News release, June 3, 2025, accessed April 30, 2025, <https://www.savethechildren.net/news/drc-more-375000-children-out-school-north-kivu-risk-violence-and-recruitment>.

In addition, the study found that paediatric survivors who experienced “rape not otherwise specified,” meaning sexual violence committed by a single assailant, rather than for purposes of sexual slavery, were more likely to be “attacked by civilians... during the day while on the road or in other locations such as the perpetrator’s home or place of business”.²¹³ Contrastingly, according to Bartels and Van Rooyen, adult survivors of sexual violence were more likely to experience gang rape and be attacked in their homes during the night.²¹⁴ This is a concerning finding as reports highlight an increase in sexual violence committed by civilians, as opposed to military personnel, in the eastern region, alluding to a ‘normalization’ of rape in the area.²¹⁵

Research demonstrates that the normalization of rape amongst societies hinders the ability of victims to label their experiences of sexual violence as rape, as it is deemed as being normal.²¹⁶ Compounded by the presence of stigma, blame and the potential of experiencing more violence due to this acknowledgment, victims are less likely to disclose their experiences of sexual violence.²¹⁷ Stereotypes of rape being committed by strangers and military personnel²¹⁸ can be a further deterrent for victims not to consider their experiences of sexual violence as rape, particularly if perpetrated by family or community members, and therefore, ‘unfitting’ to existing stereotypes²¹⁹. Additionally, harmful gender norms in the DRC often portray women as ‘submissive’,²²⁰ with importance given to fulfilling the sexual needs of men. According to Jejeebhoy and Bott, unequal societal gender norms such as those observed in the DRC, “may justify violence against women”.²²¹ Thus, it can be understood that the prevalence and impact of sexual violence in eastern DRC is not fully documented, as harmful societal norms contribute to limitations in reporting by survivors.

²¹³ Nelson et al., “Impact of Sexual Violence on Children in the Eastern Democratic Republic of Congo,” 211-25.

²¹⁴ Ibid.

²¹⁵ Bartels et al., ““Now, the World Is Without Me”: An Investigation of Sexual Violence in Eastern Democratic Republic of Congo.”

²¹⁶ Ibid.

²¹⁷ Orna Braun-Lewensohn et al., “Coping Styles as Moderating the Relationships Between Terrorist Attacks and Well-Being Outcomes,” *Journal of Adolescence* 32, no. 3 (2009), 585-99, <https://doi.org/10.1016/j.adolescence.2008.06.003>.

²¹⁸ Arnold S. Kahn et al., “Rape Scripts and Rape Acknowledgment,” *Psychology of Women Quarterly* 18, no. 1 (1994), 53-66, <https://doi.org/10.1111/j.1471-6402.1994.tb00296.x>.

²¹⁹ Barrie Bondurant, “University Women's Acknowledgment of Rape: Individual, Situational, and Social Factors,” *Violence Against Women* 7, no. 3 (2001), 294-314, <https://doi.org/10.1177/1077801201007003004>.

²²⁰ Christopher Dolan, *War Is Not Yet Over: Community Perceptions of Sexual Violence and its Underpinnings in Eastern DRC*, 2010.

²²¹ Shireen J. Jejeebhoy, and Sarah Bott, “Non-Consensual Sexual Experiences of Young People in Developing Countries: An Overview,” *Sex without Consent: Young People in Developing Countries*, 2005, 3-45.

4.5 Inter-generational Trauma as a Long-Term Consequence of Sexual Violence

Whilst research has largely focused on the implications of conflict-related sexual violence, intimate partner violence (IPV) remains the most widespread form of gender-based violence in the DRC.²²² According to the Demographic and Health Survey conducted in the DRC in 2014, two-thirds of women with partners had experienced sexual, physical or emotional violence by an intimate partner;²²³ nearly double that of the global average.²²⁴ IPV is far less visible than sexual violence by armed groups, as it usually occurs at home, and is considered as “acceptable” according to cultural norms.²²⁵

Geudes et al. highlight that experiencing violence as a child has been linked to perpetrating violence as an adult,²²⁶ whilst further studies have found that women who have experienced IPV are likely to adopt harsh parenting practices.²²⁷ Additionally, women who witnessed IPV or were exposed to other forms of trauma as a child are more likely to endure IPV as an adult.²²⁸ However, these findings are based on studies conducted in high-income countries, exposing a gap in research regarding the long-term impact of IPV on victims in low-income countries and conflict settings.

A study conducted by Falb et al. in North Kivu with 203 couples found that “over half of families participating in the study reported co-occurring IPV against women and child abuse within the past three months”,²²⁹ an increase in prevalence than studies conducted in other settings.²³⁰ The perpetration of child abuse, as reported by both partners, was high, yet

²²² Peterman et al., “Estimates and Determinants of Sexual Violence Against Women in the Democratic Republic of Congo,” 1060-67.

²²³ Sarah Myers Tlappek, “Women's Status and Intimate Partner Violence in the Democratic Republic of Congo,” *Journal of Interpersonal Violence* 30, no. 14 (2015), 2526-40, <https://doi.org/10.1177/0886260514553118>.

²²⁴ World Health Organisation, “Violence Against Women Prevalence Estimates, 2018: Global Fact Sheet,” United Nations, 2018, <https://iris.who.int/bitstream/handle/10665/341604/WHO-SRH-21.6-eng.pdf?sequence=1>.

²²⁵ Lindsay Stark, and Alastair Ager, “A Systematic Review of Prevalence Studies of Gender-Based Violence in Complex Emergencies,” *Trauma, Violence, & Abuse* 12, no. 3 (2011), 127-34, accessed June 12, 2025, <https://doi.org/10.1177/1524838011404252>.

²²⁶ Guedes et al., “Bridging the Gaps: A Global Review of Intersections of Violence Against Women and Violence Against Children,” 31516, <https://doi.org/10.3402/gha.v9.31516>.

²²⁷ Emma Fulu et al., “Pathways Between Childhood Trauma, Intimate Partner Violence, and Harsh Parenting: Findings from the UN Multi-Country Study on Men and Violence in Asia and the Pacific,” *The Lancet. Global health* 5, no. 5 (2017), [https://doi.org/10.1016/S2214-109X\(17\)30103-1](https://doi.org/10.1016/S2214-109X(17)30103-1).

²²⁸ Melissa Kimber et al., “The Association Between Child Exposure to Intimate Partner Violence (IPV) And Perpetration of IPV in Adulthood-a Systematic Review,” *Child Abuse & Neglect* 76 (2018), 273-86, <https://doi.org/10.1016/j.chiabu.2017.11.007>.

²²⁹ Kathryn L. Falb et al., “Co-Occurring Intimate Partner Violence and Child Abuse in Eastern Democratic Republic of Congo: The Influence of Early Life Experiences of Abuse,” *Violence Against Women* 30, 3-4 (2022), 873-89, <https://doi.org/10.1177/10778012221145302>.

²³⁰ Ko Ling Chan, “Children Exposed to Child Maltreatment and Intimate Partner Violence: A Study of Co-Occurrence Among Hong Kong Chinese Families,” *Child Abuse & Neglect* 35, no. 7 (2011), 532-42, <https://doi.org/10.1016/j.chiabu.2011.03.008>.

increasingly so for female caregivers.²³¹ According to studies with similar findings, higher levels of child abuse perpetration amongst women is likely reflective of the fact that women spend large amounts of time caring for children²³² or experience high levels of parental stress.²³³ Women are thus likelier to experience abuse by their partner when their partner is angered by matters regarding the children.²³⁴ It is therefore likely that women might use harsh disciplinary measures to ensure that their children “behave” and guarantee their safety against “IPV as a sanction for children’s misbehaviour”.²³⁵ An additional study conducted by Fulu et al. had similar findings.²³⁶ Children are therefore at a high risk of experiencing abuse when IPV is apparent within their families.

Significantly, approximately 70 percent of women and 60 percent of men participating in the study reported exposure to high levels of violence in childhood, including witnessing IPV between their parents or experiencing physical abuse as a child.²³⁷ Similar findings were reflected in an additional study by Slegh et al.,²³⁸ which clearly demonstrate the link between witnessing IPV as a child or experiencing child abuse with perpetrating violence and IPV or experiencing IPV as an adult. Thus, intergenerational cycles of violence are important to address and break in eastern DRC, as accumulated trauma is passed from one generation to another.

Notably, limited research is available on the inter-generational impact of conflict-related sexual violence in the DRC, apart from the effects on children born of rape. Thus, it is recommended to undertake academic research amongst adults who experienced conflict-related sexual violence as children, to ascertain the impact on their mental health and overall well-being as adults, as well as the inter-generational consequences of their experiences on their children. These findings could help to inform the development of more effective programs

²³¹ Falb et al., “Co-Occurring Intimate Partner Violence and Child Abuse in Eastern Democratic Republic of Congo: The Influence of Early Life Experiences of Abuse,” 873–889.

²³² Corinne May-Chahal, and Pat Cawson, “Measuring Child Maltreatment in the United Kingdom: A Study of the Prevalence of Child Abuse and Neglect,” *Child Abuse & Neglect* 29, no. 9 (2005), 969-84, <https://doi.org/10.1016/j.chiabu.2004.05.009>.

²³³ Hua Niu et al., “Intergenerational Transmission of Harsh Discipline: The Moderating Role of Parenting Stress and Parent Gender,” *Child Abuse & Neglect* 79 (2018), 1-10, <https://doi.org/10.1016/j.chiabu.2018.01.017>.

²³⁴ Ibid.

²³⁵ Falb et al., “Co-Occurring Intimate Partner Violence and Child Abuse in Eastern Democratic Republic of Congo: The Influence of Early Life Experiences of Abuse,” 873–889.

²³⁶ Fulu et al., “Pathways Between Childhood Trauma, Intimate Partner Violence, and Harsh Parenting: Findings from the UN Multi-Country Study on Men and Violence in Asia and the Pacific”.

²³⁷ Falb et al., “Co-Occurring Intimate Partner Violence and Child Abuse in Eastern Democratic Republic of Congo: The Influence of Early Life Experiences of Abuse,” 873–889.

²³⁸ Henry Slegh et al., *Gender Relations, Sexual and Gender-Based Violence and the Effects of Conflict on Women and Men in North Kivu, Eastern Democratic Republic of the Congo: Results from the International Men and Gender Equality Survey (IMAGES)* (Promundo-US, 2014).

and treatments for child survivors of conflict-related sexual violence, and to reduce inter-generational consequences.

Conclusion

Exacerbated by the escalation in conflict and resultant sexual violence in early 2025, in combination with the intersecting vulnerabilities of IDP populations, internally displaced children are at high-risk of developing mental illnesses such as PTSD and depression. If left untreated, it is more likely that these child survivors of sexual violence will both experience and/or perpetrate child abuse in adulthood, demonstrating clear intergenerational consequences of untreated mental illness in children harmed by SGBV. Government interventions to address this issue will thus be explored in the following chapter.

5. GOVERNMENT INTERVENTIONS AND THE ROLE OF HUMANITARIAN ACTORS

5.1 Introduction

Demonstrated in the inter-generational impact of conflict on the mental health of children who are displaced or survivors of sexual violence, it is evident that human rights treaties and domestic laws alone do not protect human rights, but rather the way that these treaties and laws are implemented at an operational level.²³⁹ Considering the international and regional legal obligations of the state of the DRC towards the mental health of internally displaced children impacted by sexual violence, this chapter explores the policy and operational interventions undertaken by the state to ensure the realisation of this right.

Additionally, barriers to the implementation of these interventions are analysed, as is the role of humanitarian actors in supporting government efforts. Funding gaps, a lack of prioritisation of mental health amongst stakeholders, limited human resources, safety and security constraints, cultural understandings of mental illness and the heavy mental toll carried by healthcare workers are identified as significant challenges to overcome by both the state and humanitarian actors.

5.2 Government Interventions

The complex humanitarian situation in eastern DRC has called for a robust response from the state and humanitarian actors, with numerous stakeholders responding to the growing needs of the population in the region.²⁴⁰ With a focus on IDPs, governmental organisation and NGOs, international organisations, UN agencies, faith-based organisations and other members of civil society are working together in a coordinated cluster, or independently, to reach IDPs with services including healthcare, housing, nutrition, education and protection.²⁴¹

Clusters are coordinated by the Ministry of Humanitarian Affairs, with ministries such as Social Affairs, Gender, Health and Justice supporting interventions targeting migrants.²⁴² Research shows however, that it is difficult to ascertain the degree to which the clusters respond

²³⁹ Julie Fraser, “Challenging State-Centricity and Legalism: Promoting the Role of Social Institutions in the Domestic Implementation of International Human Rights Law,” *The International Journal of Human Rights* 23, no. 6 (2019), 974–92, <https://doi.org/10.1080/13642987.2019.1577539>.

²⁴⁰ Paulin Beya Wa Bitadi Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” *Frontiers in Human Dynamics* 5 (2024), accessed March 6, 2025, <https://www.frontiersin.org/journals/human-dynamics/articles/10.3389/fhumd.2023.1273937>.

²⁴¹ *Ibid.*, 05.

²⁴² *Ibid.*

to mental health, as very few clusters refer specifically to “children’s mental health” in their respective plans.

As of 5th January 2024, the Health Cluster was comprised of 158 international NGOs, 58 national NGOs, 82 UN representatives, six with the Ministry of the Humanitarian Affairs, eight donors and five observers.²⁴³ According to a 2023 report of the United Nations Office for Humanitarian Affairs (OCHA), health priorities included: tackling excess morbidity and mortality due to a lack of access to basic healthcare, secondary healthcare, sexual and reproductive healthcare, malnutrition complications and outbreaks of epidemics such as measles, cholera and malaria in an already-fragile health system.²⁴⁴²⁴⁵

5.2.1 Internally Displaced Children’s Mental Health

According to a 2024 policy and stakeholder analysis conducted by Mutombo et al. on mental healthcare amongst displaced Congolese, in which data from 32 interviews with various stakeholders at the national level and in the four provinces of eastern DRC, namely Kasai Central, Tanganyika, South Kivu and Ituri is examined, health interventions were considered as “limited”, and not always inclusive of mental health.²⁴⁶ A separate OCHA report on humanitarian response in the second trimester of 2023 stated that mental health was recognised by the Health Cluster as having minimal activities, whilst “none (0%) of the 14,000 migrants in need were reached during that period”.²⁴⁷

Activities, however, were reported on efforts to integrate mental healthcare in 51 of the 519 health zones, build the capacity of healthcare providers on mental health across seven health zones in the Ituri province, and eight of 11 health zones in Tanganyika province.²⁴⁸ In 2021, measures were taken to harmonise mental health guidelines amongst all stakeholders addressing mental health.²⁴⁹

Furthermore, since 2011, the DRC’s Ministry of Health has been working to implement the PNSM which seeks to promote the integration of mental health provisions into the primary

²⁴³ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 6.

²⁴⁴ Office for the Coordination of Humanitarian Affairs, “République Démocratique Du Congo: Lignes Directrices Du Cluster Santé,” United Nations, Kinshasa: DRC, 2021.

²⁴⁵ Office for the Coordination of Humanitarian Affairs, “République Démocratique Du Congo: Présence Opérationnelle–3W (Qui Fait Quoi Où),” United Nations, Kinshasa: DRC, 2023.

²⁴⁶ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 6.

²⁴⁷ Office for the Coordination of Humanitarian Affairs, “République Démocratique Du Congo: Tableau De Bord Humanitaire,” United Nations, Kinshasa: DRC, 2023.

²⁴⁸ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 6.

²⁴⁹ Ibid.

healthcare system to address the gap in mental health services.²⁵⁰ Launched in the health district of Lubero, North Kivu, in 2011,²⁵¹ the Program is an indication of the growing investment by the state in mental health provisions. However, whilst progress is being made at a policy level in the DRC to include mental healthcare into the primary healthcare package for the entire population, a gap exists in the inclusion of these efforts at an operational level.²⁵²

5.2.1.1 Financing Gaps in Mental Health Interventions

As found by Mutombo et al., less than five percent of health districts had the appropriate human resources to offer quality mental healthcare to the Congolese population, whilst no specific budget, according to interview respondents, had been allocated by the state to mental healthcare provisions as of 5th January 2024.²⁵³ However, this finding is contradictory to a study conducted by Mayoyo et al., in which the researchers state that an analysis of the DRC’s 2022 financial bill revealed that the allocation from the USD 9.9 billion national budget to the health sector equated to USD 225 million.²⁵⁴

Furthermore, USD 39,000, a mere 0.017 percent of the national health budget, was allocated specifically to mental healthcare.²⁵⁵ This budget, however, was mainly used for the “payment of salaries and the functioning of the central level of the PNSM”.²⁵⁶ Considered as “very insufficient” to enable the implementation of activities focused on mental health at an operational level,²⁵⁷ research has not been able to confirm whether the state has increased this budget allocation as of June 2025, particularly as the final draft of the national budget for 2025 is currently unavailable on the official website of the Ministère du Budget/ Ministry of Budget.²⁵⁸ This finding demonstrates the need for official channels of communication regarding the national budget to be updated by the state, and accurate information about budget allocation for mental healthcare to be provided to all stakeholders working on the issue.

²⁵⁰ Erick Mukala Mayoyo et al., “Intégration de la Santé Mentale dans les Services de Soins de Santé Primaires en République démocratique du Congo,” *Santé Publique* Vol. 33, no. 1 (2021), 77–87, accessed June 18, 2025, <https://doi.org/10.3917/spub.211.0077>.

²⁵¹ Ibid.

²⁵² Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 5.

²⁵³ Ibid.

²⁵⁴ Erick Mukala Mayoyo et al., “Mental Health Care in the City of Lubumbashi, Democratic Republic of the Congo: Analysis of Demand, Supply and Operational Response Capacity of the Health District of Tshamilemba,” *PLOS ONE* 18, no. 4 (2023), accessed March 5, 2025, <https://doi.org/10.1371/journal.pone.0280089>.

²⁵⁵ Ibid.

²⁵⁶ Ibid.

²⁵⁷ Ibid.

²⁵⁸ Ministère du Budget, R. D.C., “Bienvenue Au Ministère Du Budget: Espace Officiel De Communication, D'échanges Et D'information Sur Les Activités Du Ministère Du Budget En République Démocratique Du Congo,” accessed June 3, 2025, <https://budget.gouv.cd/>.

Additionally, the World Health Organisation (WHO) has emphasized that budgeting for the health sector, to enable universal health coverage (UHC) is necessary “because progress towards UHC relies on government spending” making “robust public budgeting” “a necessary precondition to facilitate this progress”.²⁵⁹ Thus, according to WHO, there is a need for the state of the DRC to allocate a larger budget and resources to the provision of mental healthcare, without which benefits from implemented legislation and policies will not be felt by the Congolese population.²⁶⁰

Studies further recognise that the “primary funding [for mental health] comes in the form of out-of-pocket expenditure by the patient or the patient’s family”.²⁶¹ Considering that persons living in conflict-affected eastern DRC have limited access to financial institutions and opportunities to earn an income, this restricts their access to mental healthcare.²⁶² Daily economic, health and resource constraints, as well as exposure to traumatic events including forced displacement, contribute to the accumulated stress, and negative mental health symptoms, experienced by families.²⁶³ Few studies explore this limitation, including that of Mutombo et al., highlighting the need for further research to consider the link between socio-economic support and access to mental healthcare.

However, a study conducted by Glass et al. in eastern DRC demonstrated that microfinance programmes can improve income, economic productivity and mental health.²⁶⁴ Furthermore, group-based economic interventions proved effective in supporting the recovery of victims of sexual violence, whilst mental health was improved in 10 conflict-affected villages through an “innovative productive asset transfer programme” called “Pigs for Peace”.²⁶⁵ Notably, women reported using funds gained from the programme to pay for school

²⁵⁹ World Health Organisation, *Budget Matters for Health: Key Formulation and Classification Issues: Health Financing Policy Brief No. 4: Budgeting Health*, 2018, no. 18.4, accessed June 16, 2025, 6, <https://iris.who.int/bitstream/handle/10665/273000/WHO-HIS-HGF-PolicyBrief-18.4-eng.pdf?sequence=1>.

²⁶⁰ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 5.

²⁶¹ On'okoko et al., “Mental Health in the Democratic Republic of Congo: A Post-Crisis Country Challenge,” 41-43.

²⁶² Kayonda Hubert Ngamaba et al., “Mental Health Outcomes, Literacy and Service Provision in Low- and Middle-Income Settings: A Systematic Review of the Democratic Republic of the Congo,” *npj Mental Health Research* 3, no. 1 (2024), 9, accessed June 16, 2025, <https://doi.org/10.1038/s44184-023-00051-w>.

²⁶³ Anjalee Kohli et al., “Risk for Family Rejection and Associated Mental Health Outcomes Among Conflict-Affected Adult Women Living in Rural Eastern Democratic Republic of the Congo,” *Health Care for Women International* 35, 7-9 (2014), 789–807, accessed June 3, 2025, <https://doi.org/10.1080/07399332.2014.903953>.

²⁶⁴ Nancy Glass et al., “Randomised Controlled Trial of a Livestock Productive Asset Transfer Programme to Improve Economic and Health Outcomes and Reduce Intimate Partner Violence in a Postconflict Setting,” *BMJ Global Health* 2, no. 1 (2017), accessed June 3, 2025, <https://doi.org/10.1136/bmjgh-2016-000165>.

²⁶⁵ Ibid.

fees, buy land and build or repair their family homes, ultimately advancing their families' well-being, including their children.²⁶⁶

Thus, as identified throughout this research, whilst policy-level efforts have been made by the government of the DRC to ensure mental healthcare, these efforts are not sufficient to meet the needs of the Congolese people, including IDPs and children.

5.2.2 Sexual and Gender-based Violence (SGBV)

However, in response to the high levels of SGBV in the region, the government, through its national ministries, and other stakeholders, are providing psychosocial care to survivors of SGBV.²⁶⁷ This support is in line with the Ministry of Gender, Family and Child's revised National Strategy for Combating Gender-based Violence launched in August 2020, which aims to provide a refined "reference framework for the prevention of crimes and care of survivors".²⁶⁸ Notably, the revised SNVBG recognises SGBV in humanitarian settings, and strengthens government responsibility to the entirety of the country;²⁶⁹ a positive step forward in enhancing national accountability for the response to SGBV.

Due to the unavailability of reports on the implementation of this Strategy, and relevant data, it is unclear the degree to which this Strategy targets internally displaced children in eastern DRC.

5.2.2.1 Financing Gaps in SGBV Interventions

Significantly, the SNVBG does not include a publicly available budget for the implementation of the strategy.²⁷⁰ Notably, the Committee on the Elimination of Discrimination against Women's "Concluding observations on the eighth periodic report of the Democratic Republic of the Congo," the Committee stated that it was "deeply concerned about the very low percentage of the national budget allocated to the Ministry of Gender, Family and the Child, which is the national machinery for the advancement of women, and its affiliated structures, such as the Agency for Fighting Violence Against Women and Girls".²⁷¹ Budget restrictions

²⁶⁶ Ibid.

²⁶⁷ Mutombo et al., "Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis," 5.

²⁶⁸ UN Women, "DRC Takes a Step Towards Zero Tolerance Against Gender-Based Violence," accessed June 3, 2025, <https://africa.unwomen.org/en/news-and-events/stories/2020/09/drc-takes-a-step-towards-zero-tolerance-against-gender-based-violence>.

²⁶⁹ Ibid.

²⁷⁰ Republique Démocratique du Congo Ministère du Genre, de la Famille et de l'Enfant, *Stratégie Nationale de Lutte Contre Les Violences Basées sur le Genre (SNVBG)*, Kinshasa: DRC, 2009, accessed June 3, 2025, https://monusco.unmissions.org/sites/default/files/old_dnn/National%20Strategy.pdf.

²⁷¹ Committee on the Elimination of Discrimination Against Women, "Concluding Observations on the Eighth Periodic Report of the Democratic Republic of the Congo," United Nations, June 8, 2019, 6.

therefore act as significant barrier to the response of the state to the nationwide issue of SGBV, and in turn, the possibility for survivors to receive support.

5.3 Barriers to Implementing Government Interventions

According to research, further barriers for Congolese persons, including children, to access mental healthcare include:²⁷²

5.3.1 A lack of specialized and skilled staff

Throughout the DRC, few psychiatrists and other skilled staff were available to offer mental healthcare to the Congolese population, including children.²⁷³ Furthermore, the distribution of such staff remained “unequal” across the regions, with no staff present in Kasai Central, Ituri and Tanganyika, whilst some mental health facilities in South Kivu reported the availability of skilled staff, particularly in the Soins de Sante Mentale (SOSAME) or mental healthcare facility regional centre, and the Panzi Foundation which largely serves victims of sexual violence.²⁷⁴

However, whilst the researchers highlight through the interview analysis that no hospital does not explore the services and extent to which this support is provided by NGOs, allowing a stakeholder analysis that is not holistic in nature.

Notably, stakeholders’ plans including the Stratégie Nationale du Cluster de Coordination et Gestion des Sites (CCCM) pour la République Démocratique du Congo 2023-2024/ National Strategy of the Site Coordination and Management Cluster (CCCM) for the DRC 2023-2024,²⁷⁵ demonstrate that progress has been made regarding the allocation of financial resources to addressing mental health challenges amongst displaced populations.²⁷⁶ Trainings of health workers had been undertaken in Bunia by stakeholders, including the UN, on the management of cases of mental illness.²⁷⁷ The researchers note that although progress has been made, the impact will likely be “very limited” considering the need of over seven million IDPs for mental healthcare.

<https://www.ohchr.org/en/documents/concluding-observations/committee-elimination-discrimination-against-women-concluding-0>.

²⁷² Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 6.

²⁷³ Ibid.

²⁷⁴ Ibid.

²⁷⁵ CCCM Cluster, *Stratégie Nationale Du Cluster De Coordination Et Gestion Des Sites (CCCM) Pour La République Démocratique Du Congo 2023-2024.*, 2023, accessed June 3, 2025, https://www.cccmcluster.org/sites/default/files/2023-06/2022%2001%2031_Strategie%20Nationale%20Cluster%20CCCM%20DRC_2023-2024%20vf.pdf.

²⁷⁶ Mutombo et al. “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 7.

²⁷⁷ Ibid.

5.3.2 *A lack of interest by stakeholders*

Research suggests that mental healthcare is not considered an urgent issue amongst stakeholders, including the Ministry of Health,²⁷⁸ although there has been a recent increase in efforts to train health providers.²⁷⁹ Furthermore, no studies address whether these efforts focus on child populations, whilst minimal detail is provided regarding the impact of efforts to train health providers.

5.3.3 *“Poached” healthcare workers*

In addition to the lack of availability of healthcare workers in the country, Mutombo et al. highlight a significant finding that often, healthcare workers trained in mental health are recruited by NGOs to work on projects, after which many leave [it is uncertain where they leave to] following the completion of projects for better pay.²⁸⁰ Thus, there is a need to increase pay for skilled healthcare workers in mental health, to retain knowledge of the context and needs of IDPs, and to ensure the sustainability and impact of projects focused on mental health.²⁸¹

5.3.4 *Understanding of mental illness*

Significantly, most of the Congolese population, including some health providers, perceive mental illnesses as “mystical or due to curse”.²⁸² Several studies²⁸³ have explored this issue stating that oftentimes, those with mental illness seek assistance from traditional or religious healers rather than from medical health providers.²⁸⁴ This often leads to the blaming of persons facing mental health issues, which ultimately impacts whether they choose to seek treatment.²⁸⁵ Furthermore, particular to war and conflict zones, On'okoko et al. explain that the consequences of war and conflict are often considered as being physical, as opposed to psychological, amongst the Congolese population.²⁸⁶ This is a significant finding, particularly in relation to

²⁷⁸ Mukala Mayoyo et al., “Health System Facilitators and Barriers to the Integration of Mental Health Services into Primary Care in the Democratic Republic of the Congo: A Multimethod Study,” *BMC Primary Care* 25, no. 1 (2024), 214, <https://doi.org/10.1186/s12875-024-02460-y>.

²⁷⁹ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 7.

²⁸⁰ Ibid.

²⁸¹ Ibid.

²⁸² Ibid.

²⁸³ Astrid Wiel and Henny Slegh. “Practices of Congolese Mental Health and Psychosocial Support Providers: A Qualitative Study on Gaps and Obstacles,” *Intervention Journal of Mental Health and Psychosocial Support in Conflict Affected Areas* 22, no. 2 (2024), https://journals.lww.com/invn/fulltext/2024/22020/practices_of_congolese_mental_health_and.4.aspx.

²⁸⁴ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 7.

²⁸⁵ Ibid.

²⁸⁶ On'okoko et al., “Mental Health in the Democratic Republic of Congo: A Post-Crisis Country Challenge.”

conflict-affected children in eastern DRC, as children generally rely on their caregivers to initiate assistance for their mental health challenges which are often invisible in nature.²⁸⁷ Thus, the perception that the consequences of war and conflict are physical as opposed to psychological, increases the vulnerability of children to suffering from untreated mental illness such as PTSD, depression and anxiety.

Mutombo et al. continue that “those affected by mental illness are often accused of wrong-doing in the past and it is assumed that they deserve their curse”, leading to persons not seeking assistance.²⁸⁸ Echeverri et al. further explain that this perception of the “source” of mental health contributes to a sense of “doubt” and “suspicion” regarding “modern” or “Western” forms of medical treatment.²⁸⁹ Thus, the perception of the cause of mental illness ultimately hinders the likelihood of persons seeking treatment for mental health challenges and exacerbates the worsening of symptoms.²⁹⁰

5.3.5 Safety and security constraints

Notably, there emerges a significant gap in much of the literature, including Mutombo et al., On’okoko et al. and Glass et al. in the lack of consideration given to the inaccessibility of medical facilities due to the spread of conflict²⁹¹ and inadequate transport infrastructure.²⁹² Medical facilities such as hospitals and clinics are often targeted with acts of violence, resulting in their destruction and an inability to provide essential healthcare services.²⁹³ As of 7th February 2025, the escalation in conflict had destroyed over 70 health facilities in North Kivu,²⁹⁴ with more recent numbers unable to be verified. Furthermore, the closure of roads due

²⁸⁷ Lenka Hellerova et al., “Caregiver Perceptions of Mental Health and Barriers to and Facilitators of Their Child’s Treatment,” *Pediatric emergency care* 38, no. 2 (2022), accessed April 11, 2025, <https://doi.org/10.1097/PEC.0000000000002445>.

²⁸⁸ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders’ Analysis,” 7.

²⁸⁹ C. Echeverri, et al., “Mental Health Capacity Building in Refugee Primary Health Care Settings in Sub-Saharan Africa: Impact, Challenges and Gaps,” *Global Mental Health (Cambridge, England)* 5 (2018), accessed June 3, 2025, <https://doi.org/10.1017/gmh.2018.19>.

²⁹⁰ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders’ Analysis,” 7.

²⁹¹ Sandra Phiri et al., “Protecting the Health of the Most Vulnerable in the Overlooked Democratic Republic of Congo Crisis,” *Health Science Reports* 7, no. 8 (2024), accessed May 31, 2025, <https://doi.org/10.1002/hsr2.70011>.

²⁹² Reine Dahlia Massounda Bantsimba, and Lixin Guo, “Study on the Development of Transport Infrastructure in Congo,” no. 11 (November 2024), 12, accessed June 18 2025, https://www.globalscientificjournal.com/researchpaper/STUDY_ON_THE_DEVELOPMENT_OF_TRANSPORT_INFRASTRUCTURE_IN_CONGO.pdf.

²⁹³ Ibid.

²⁹⁴ World Health Organisation, “Dire Health and Humanitarian Crisis in Eastern Democratic Republic of the Congo Prompts Escalation of Efforts by WHO, Partners,” News release, July 2, 2025, accessed June 3, 2025, <https://www.who.int/news/item/07-02-2025-dire-health-and-humanitarian-crisis-in-eastern-democratic-republic-of-the-congo-prompts-escalation-of-efforts-by-who--partners>.

to the spread of conflict,²⁹⁵ poor road conditions, as well as inadequate public transport services often prevent persons from travelling to medical facilities.²⁹⁶ These logistical barriers, which will require an enhanced response from the government and stakeholders to address and overcome, should be considered by researchers when assessing access to mental healthcare in eastern DRC for the conflict-affected populations, for they indicate that without safety and security, rights-holders are often unable to live their freedoms.

5.4 The Role of Humanitarian Actors in Responding to Children’s Mental Health

In support of government efforts, humanitarian actors are playing a significant role in filling the gaps in services for the mental health needs of internally displaced children impacted by sexual violence in eastern DRC. Under the Protection Cluster in the DRC, which was activated in 2006 “to ensure the coordination of protection interventions in emergencies,”²⁹⁷ the Child Protection Area of Responsibility (CP AoR) coordinates child protection efforts in emergencies, responding to the protection needs of children impacted by humanitarian crises, whether conflict or natural disasters.²⁹⁸

Activated in 2009, the CP AoR acts as a coordination forum for state structures relevant to protection, international and national NGOs, UN agencies and donors involved in child protection activities in emergencies. Coordinated by UNICEF and Save the Children, the CP AoR consists of one state service, eight international NGOs and 51 national NGOs.²⁹⁹ Seeking to “ensure more predictable, accountable and effective interventions,” the CP AoR “coordinates prevention and response interventions to reduce child violence, abuse, exploitation and neglect,” after identifying humanitarian needs and establishing relevant response plans.³⁰⁰ The CP AoR National works closely with the provincial coordination groups to enable effective information sharing and in turn, efficient coordination.³⁰¹

²⁹⁵ Office for the Coordination of Humanitarian Affairs, “Democratic Republic of the Congo: Eastern DRC: Incidents Against Humanitarian Workers,” United Nations, May 2025, https://www.unocha.org/attachments/2a2922aa-ac7c-4211-8464-ebb61d0cd40e/OCHA_DRC_Snapshot_incident_against_Hum_May2025.pdf.

²⁹⁶ Michelle V. Evans et al., “Geographic Barriers to Care Persist at the Community Healthcare Level: Evidence from Rural Madagascar,” *PLOS Global Public Health* 2, no. 12 (2022), accessed June 3, 2025, <https://doi.org/10.1371/journal.pgph.0001028>.

²⁹⁷ Child Protection Area of Responsibility, “Congo DR: Global Protection Cluster,” 2025, <https://cpaor.net/country/congo-dr>.

²⁹⁸ ReliefWeb., “Area of Responsibility for Child Protection (CP AoR),” 2025, <https://response.reliefweb.int/democratic-republic-congo/sous-cluster-protection-de-lenfance>.

²⁹⁹ Ibid., “Humanitarian Scorecard 2025”.

³⁰⁰ ReliefWeb. “Area of Responsibility for Child Protection (CP AoR)”.

³⁰¹ Ibid.

Evidently, the CP AoR, through its 108 operational partners, has made immense progress in providing psychosocial support to children, having reached over 428,000 girls and 421,000 boys with psychosocial services, as well as 25,697 child survivors of sexual violence in 2024.³⁰² Furthermore, from January to March 2025, over 80,000 children and 3,371 child survivors of sexual violence across eastern DRC have been reached with psychosocial care.³⁰³ Whilst this progress is notable, it is clear that the child protection needs in the DRC surpass the capacity of humanitarian actors to respond. In 2024, four million people³⁰⁴ needed child protection services, of whom less than half, 1.9 million people, were targeted.³⁰⁵ Additionally, only USD 0.6 million of the overall budget request of USD 72.9 million, was received.³⁰⁶ According to the DRC's "Humanitarian Needs and Response Plan 2025" (HNRP); the country's overall, coordinated humanitarian response plan to vulnerable Congolese populations,³⁰⁷ four million people need child protection services, whilst a budget of USD 73.9 million has been requested to address these needs.³⁰⁸ Considering the current trend of budget cuts to humanitarian response efforts across the globe, an enhanced response from the humanitarian community and donors is therefore required to meet this need.

The country's HNRP 2025, which is coordinated by OCHA, places an emphasis on targeting psychosocially distressed children, displaced and returned children, as well as children at risk and victims of violence, including sexual violence.³⁰⁹

Thus, humanitarian actors across the country face numerous barriers, including the lack of prioritisation of child protection issues, often reflected in funding inadequacies. However, additional barriers exist in the implementation of the DRC's HNRP which will be explored below.

³⁰² Ibid. "Humanitarian Scorecard 2024".

³⁰³ Child Protection Area of Responsibility, "Congo DR: Global Protection Cluster".

³⁰⁴ "People" are used in this instance as some child protection measures target adults.

³⁰⁵ Child Protection Area of Responsibility, "Congo DR: Global Protection Cluster."

³⁰⁶ Ibid.

³⁰⁷ United Nations, "The Humanitarian Community in the DRC Calls for \$2.54 Billion to Provide Lifesaving Assistance to 11 Million People Affected by Crises," News release, February 27, 2025, accessed June 3, 2025, <https://www.un.org/press/en/2025/250227.drc-humanitarian-community-calls-for-2.54-billion-to-provide-lifesaving-assistance-to-11-million-people-affected-by-crises/index.html> | OCHA.

³⁰⁸ Office for the Coordination of Humanitarian Affairs, "République Démocratique du Congo: Besoins Humanitaires et Plan de Réponse," United Nations, February 2025, 2, https://reliefweb.int/report/democratic-republic-congo/republique-democratique-du-congo-besoins-humanitaire-et-plan-de-reponse-2025-fevrier-2025?_gl=1*1v3nvy6*_ga*NDg4MTg2MjYuMTczMTkyMTUxOA.*_ga_E60ZNX2F68*_czE3NTAyNDc5ODAKbzYkZzEkdDE3NTAyNDg5NzIkajE2JGwwJGgw.

³⁰⁹ Ibid., 67.

5.5 Barriers to Implementing Humanitarian Interventions

5.5.1 Restricted humanitarian access

The ongoing conflict has restricted humanitarian access, exacerbated by the closure of essential airports in the region including Goma and Kavumu.³¹⁰ Road access in North Kivu, in Masisi and Walikale; South Kivu, between Bukavu and Uviru; and Ituri, in Bunja, Fataki, Bule, Maze, Drododo and Mahagi, Linga, Jiba, Drododo and Katoto, is severely restricted, with movement blocked between Bukavu and Uvira via the R5 road. Aid delivery and the safety of staff are further impacted by constrained cross-border access with Burundi.³¹¹

Considering the completion of the withdrawal of the Mission de l'Organisation des Nations Unies pour la Stabilisation en République Démocratique du Congo (MONUSCO)/ United Nations Organization Stabilization Mission in the Democratic Republic of the Congo on 30th June 2024 from South Kivu, which worked to protect civilians, including by enhancing humanitarian access through joint operations with the Forces Armées de la République Démocratique du Congo (FARDC),³¹² humanitarian access remains exceptionally restricted.

5.5.2 Safety and security constraints

The safety and security of humanitarian workers remains a concern across eastern DRC.³¹³ Between January and May 2025, 267 incidents involving humanitarian workers were reported, of which 140 incidents took place in North Kivu. Throughout this period, 12 humanitarian workers were killed, 12 were kidnapped and 18 injured. Furthermore, “burglary, robbery and intrusion” accounted for 116 cases, “interference and restriction” accounted for 79 incidents and “intimidation, threat and aggression” accounted for 62 cases.³¹⁴ Whilst there has been a decline in incidents in May, in comparison to previous months, there remains an urgency to enhance safety measures for the protection of humanitarian workers and delivery of assistance to vulnerable populations.³¹⁵

³¹⁰ Office for the Coordination of Humanitarian Affairs, “Democratic Republic of the Congo: Eastern DRC: Incidents Against Humanitarian Workers,” United Nations, May 2025, https://www.unocha.org/attachments/2a2922aa-ac7c-4211-8464-ebb61d0cd40e/OCHA_DRC_Snapshot_incident_against_Hum_May2025.pdf.

³¹¹ Ibid.

³¹² United Nations Peacekeeping, “MONUSCO Ending Its Mission in South Kivu After More Than 20 Years of Service.” News release, June 25, 2024, accessed June 19, 2025, <https://peacekeeping.un.org/en/monusco-ending-its-mission-south-kivu-after-more-20-years-of-service>.

³¹³ Office for the Coordination of Humanitarian Affairs. “Democratic Republic of the Congo: Eastern DRC: Incidents Against Humanitarian Workers.”

³¹⁴ Ibid.

³¹⁵ Ibid.

5.5.3 Lack of prioritisation of mental healthcare

Research suggests that historically, humanitarian assistance programmes have often overlooked the essentiality of incorporating mental health and psychosocial support services into response efforts, “despite overwhelming evidence of heightened vulnerability among displaced communities to mental health conditions”.³¹⁶ Whilst efforts have been made by the CP AoR to include mental health and psychosocial care in their response in eastern DRC, funding cuts for programmes in the country raise concern that these efforts are at risk of being underfunded and thus, limited.³¹⁷

5.5.4 Heavy mental toll of the crisis on humanitarian workers

Whilst existing studies largely focus on the impact of the crisis in eastern DRC on healthcare workers,^{318,319} as opposed to humanitarian workers in different roles, a report conducted by Physicians for Human Rights in October 2024 revealed that healthcare workers carry a heavy mental burden due to the scale and gravity of the conflict.³²⁰ Capturing the experiences of 16 healthcare professionals working in IDP camps, employed by health facilities and humanitarian organisations in North and South Kivu, the study revealed that healthcare workers felt “overwhelmed” by the large number of patients dealt with daily which negatively impacted their well-being.

Considering the small sample size of the report and its limited scope to healthcare workers, a clear academic research gap is therefore present in understanding the mental toll of the crisis on humanitarian workers in eastern DRC.

³¹⁶ World Health Organisation, “Providing Mental Health Support in Humanitarian Emergencies: An Opportunity to Integrate Care in a Sustainable Way,” United Nations, December 17, 2021, <https://www.who.int/news-room/feature-stories/detail/providing-mental-health-support-in-humanitarian-emergencies-an-opportunity-to-integrate-care-in-a-sustainable-way#:~:text=Historically%2C%20humanitarian%20assistance%20programmes%20have%20often%20overlooked%20the,vulnerability%20among%20displaced%20communities%20to%20mental%20health%20conditions>.

³¹⁷ Sally Howard, “Global Aid Cuts Are Straining Mental Health Services for Refugees, Says UN.” *BMJ* 389 (2025), <https://doi.org/10.1136/bmj.r1215>.

³¹⁸ Samuel Makali et al., “Conflict and Health Violence Against Health Care Workers in a Crisis Context: A Mixed Cross-Sectional Study in Eastern Democratic Republic of Congo,” *Conflict and Health* 17 (2023), <https://doi.org/10.1186/s13031-023-00541-w>.

³¹⁹ Jude Mary Cénat et al., “Prevalence and Factors Related to Psychological Distress Among Ebola Survivors and Healthcare Workers in the Eastern DR Congo,” *Psychiatry Research* 344 (2025): 116319, <https://doi.org/10.1016/j.psychres.2024.116319>.

³²⁰ Physicians for Human Rights, ““Massive Influx of Cases”: Health Worker Perspectives on Conflict-Related Sexual Violence in Eastern Democratic Republic of the Congo”.

5.5.5 Inadequate integration and fragmented funding

Effective integration of mental health and psychosocial services (MHPSS) into health systems proves a significant challenge in humanitarian settings, as separate guidelines exist for providers of care to “deliver specific, rather than integrated forms of care”.³²¹ Additionally, funding is generally received from various bilateral, multilateral and private sources, resulting in fragmented funding and service delivery.³²²

Considering the scarcity of resources, it is recommended that humanitarian funding systems are redesigned to leverage these resources and meet the needs of populations in a more holistic manner.³²³

5.6 Conclusion

Altogether, the DRC state’s interventions to protect internally displaced children in eastern DRC, particularly their mental health and recovery from sexual violence, remain inadequate. Whilst humanitarian actors, through the CP AoR, are working to address the critical gaps in national response, the growing need for child protection programs focusing on mental health and sexual violence resilience is largely unmet. A severe lack of funding and resources, both at an international and national level, is resulting in the neglect of millions of children, whilst child protection interventions seemingly fall under the responsibility of humanitarian actors across the region. Considering the international and regional obligations of the state, as well as the escalation in conflict in the eastern region, there is a need for the state to enhance measures to protect the mental health of internally displaced children in eastern DRC.

³²¹ Bishal Gyawali et al., “Not an 'Either/or': Integrating Mental Health and Psychosocial Support Within Non-Communicable Disease Prevention and Care in Humanitarian Response,” *Journal of Global Health* 11 (2021): 3119, <https://doi.org/10.7189/jogh.11.03119>.

³²² Ibid.

³²³ Ibid.

6. FINDINGS

6.1 Legal Findings

Following the analysis of the DRC's obligations and response towards the right to mental health of internally displaced children who are survivors of sexual violence, this chapter presents the study's main findings according to the research questions. The meaning of these findings will be explored in-depth in Chapter Seven.

6.1.1 What are the state's legal obligations under International and Regional Human Rights Law towards internally displaced children impacted by sexual violence?

Through the ratification of international and regional human rights instruments such as the CRC³²⁴ and CEDAW,³²⁵ the ACRWC,³²⁶ Kampala Convention³²⁷ and Maputo Protocol,³²⁸ the DRC has assumed several obligations towards children.³²⁹

Under Article 24(1) of the CRC, states parties "shall strive to ensure that no child is deprived of his or her right of access to such healthcare services," through several recommended interventions, including "the provision of necessary medical assistance and healthcare to all children."³³⁰ Furthermore, as noted in General Recommendation No. 30 by the Committee on the Elimination of Discrimination Against Women, states parties are recommended to "Provide internally displaced and refugee women and girls victims of gender-based violence, including sexual violence, with free and immediate access to medical services" inclusive of "appropriate counselling".³³¹

Article 23(4) of the ACRWC requires that internally displaced children are provided sufficient protection and humanitarian assistance to enable their enjoyment of all rights set in the African Charter,³³² including the right to mental health established in Article 14.³³³ In addition, the Kampala Convention obliges states to "Take special measures to protect and provide for the reproductive and sexual health of internally displaced women as well as

³²⁴ United Nations Office of the High Commissioner for Human Rights, "UN Treaty Body Database".

³²⁵ Ibid.

³²⁶ African Union, "Ratifications Table".

³²⁷ African Union, "List of Countries which have Signed, Ratified/Acceded to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)".

³²⁸ African Union, "List of Countries Which Have Signed, Ratified/Acceded to the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol)".

³²⁹ CRC, art. 1.

³³⁰ Ibid., art. 24(1).

³³¹ Committee on the Elimination of Discrimination against Women. *General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations*, 2013, 16.

³³² ACRCW, art. 23(4).

³³³ Ibid., 14.

appropriate psycho-social support for victims of sexual and other related abuses,³³⁴ whilst the Maputo Protocol emphasizes in Article V c) that states parties are obliged to provide “necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling.”³³⁵ International and regional human rights instruments therefore set out clear obligations for the DRC to protect the right to mental health of internally displaced children surviving sexual violence.

6.1.2 How is the state translating these legal obligations into domestic law?

These obligations have been translated into domestic law through the Constitution of the DRC, the Law on the Protection of the Child and the Penal Code, as well as the establishment of accountability mechanisms including provincial Children’s Courts,³³⁶ the National Council of the Child³³⁷ and FONAREV.³³⁸ However, no law directly addresses the mental health needs of internally displaced children. Access to justice for children remains severely constrained in the DRC with only one notable case brought before the courts,³³⁹ whilst state reporting to human rights treaty bodies including the Committee on the Rights of the Child³⁴⁰ and others,³⁴¹ is often delayed³⁴² or has not been undertaken.³⁴³

Additionally, gaps in International Law are apparent including a lack of definition of “women” or reference to “gender-based violence” in CEDAW.³⁴⁴

³³⁴ Kampala Convention, art. IX.

³³⁵ Maputo Protocol, art. I.

³³⁶ Law on the Protection of the Child, art. 94.

³³⁷ Office of the United Nations High Commissioner for Human Rights, “Written Replies by the Government of the Democratic Republic of the Congo Concerning the List of Issues to be taken up in Connection with the Consideration of the Second Periodic Report of the Democratic Republic of the Congo,” United Nations, December 12, 2008, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CRC%2fC%2fCOD%2fQ%2f2%2fAdd.1&Lang=en.

³³⁸ Fonds National des Réparations des Victimes des Violences Sexuelles liés aux Conflits et des Victimes des Crimes, “About FONAREV”.

³³⁹ White & Case LLP, and Emery Mukendi Wafwana & Associés, “Access to Justice for Children: Democratic Republic of the Congo”.

³⁴⁰ Ibid.

³⁴¹ United Nations Office of the High Commissioner for Human Rights, “UN Treaty Database: Ratification Status for Democratic Republic of the Congo”.

³⁴² Ibid.

³⁴³ African Union, “Status of Reporting: DR Congo.”

³⁴⁴ Eise Meyer, ed., *Designing Women: The Definition of “Woman” in the Convention on the Elimination of All Forms of Discrimination Against Women*. 16.2 ed., (Chicago Journal of International Law, 2016), accessed May 31, 2025, <https://cjl.uchicago.edu/print-archive/designing-women-definition-woman-convention-elimination-all-forms-discrimination>.

6.2 Qualitative Findings

6.2.1 *Why are internally displaced children at-risk?*

As conflict spreads across eastern DRC, with the resurgence of M23 in 2021 and subsequent escalation of violence in January 2025, over three million are estimated to be displaced.³⁴⁵ Furthermore, the number of grave violations against children tripled in the early months of 2025,³⁴⁶ with children accounting for nearly 45 percent of cases of rape documented in that period.³⁴⁷

Compounded by strenuous living conditions faced by IDPs including disease, ill-functioning social services, poverty, hunger and the impacts of climate change, research demonstrates that the development of PTSD, depression and/or anxiety disorder is likely following displacement.³⁴⁸ PTSD, in particular, is described as an “extremely debilitating disorder,” whilst a study conducted in 2010 found that 50.1 percent of the general population in eastern DRC “met symptomatic criteria for PTSD”.³⁴⁹

6.2.2 *What is the impact of sexual violence on internally displaced children’s mental health in eastern DRC?*

Sexual violence is the highest predictor of negative mental health in eastern DRC.³⁵⁰ IPV remains the most common form of sexual violence,³⁵¹ whilst research demonstrates that experiencing violence as a child has been linked to perpetrating violence as an adult.³⁵²

6.2.3 *What policies is the state implementing to address this issue?*

The DRC has undertaken the implementation of several policies to improve healthcare services and support survivors of SGBV in the DRC, including across the eastern region. For instance, the PNSM³⁵³ aims to promote the integration of mental health provisions into the

³⁴⁵ United Nations Children's Fund, “Democratic Republic of the Congo Appeal: Humanitarian Action for Children”.

³⁴⁶ United Nations Children's Fund, “Reports of Grave Violations Against Children in Eastern Democratic Republic of the Congo Tripled in Last Month – UNICEF”.

³⁴⁷ Mishra, “DR Congo Crisis: Children Subjected to Deliberate, Systemic Sexual Violence”.

³⁴⁸ Carpiniello, “The Mental Health Costs of Armed Conflicts-A Review of Systematic Reviews Conducted on Refugees, Asylum-Seekers and People Living in War Zones”.

³⁴⁹ Johnson et al., “Association of Sexual Violence and Human Rights Violations with Physical and Mental Health in Territories of the Eastern Democratic Republic of the Congo”.

³⁵⁰ Lokuge et al., “Mental Health Services for Children Exposed to Armed Conflict: Medecins Sans Frontieres' Experience in the Democratic Republic of Congo, Iraq and the Occupied Palestinian Territory,” 269.

³⁵¹ Braun-Lewensohn, et al., “Coping Styles as Moderating the Relationships Between Terrorist Attacks and Well-Being Outcomes”.

³⁵² Guedes et al., “Bridging the Gaps: A Global Review of Intersections of Violence Against Women and Violence Against Children.”

³⁵³ Mukala Mayoyo et al., “Intégration de la Santé Mentale dans les Services de Soins de Santé Primaires en République Démocratique du Congo,” 77-87.

primary healthcare system, whilst the SNVBG seeks to provide a “reference framework for the prevention of crimes and care of survivors [of SGBV]”.³⁵⁴

6.2.4 What barriers exist in their implementation?

Barriers including financing gaps, with 0.017 percent of the national budget allocated to mental healthcare;³⁵⁵ a scarcity of specialised and skilled staff;³⁵⁶ a perceived lack of interest by stakeholders in mental healthcare;³⁵⁷ “poached” national healthcare workers by NGOs;³⁵⁸ cultural understandings of mental illness³⁵⁹ and a lack of accessibility of medical facilities³⁶⁰ have hindered government interventions.

6.2.5 How are humanitarian actors supporting state interventions?

The DRC’s HNRP 2025 prioritises psychosocially distressed and displaced children.³⁶¹ Through the CP AoR, humanitarian actors are supporting government interventions targeting internally displaced children impacted by sexual violence in eastern DRC, having reached over 80,000 children and 3,371 child survivors of sexual violence with psychosocial care between January and March 2025.³⁶²

³⁵⁴ UN Women, “DRC Takes a Step Towards Zero Tolerance Against Gender-Based Violence”.

³⁵⁵ Mukala Mayoyo et al., “Mental Health Care in the City of Lubumbashi, Democratic Republic of the Congo: Analysis of Demand, Supply and Operational Response Capacity of the Health District of Tshamilemba.”

³⁵⁶ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 6.

³⁵⁷ Mukala Mayoyo et al., “Health System Facilitators and Barriers to the Integration of Mental Health Services into Primary Care in the Democratic Republic of the Congo: A Multimethod Study,” 214.

³⁵⁸ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 7.

³⁵⁹ Ibid.

³⁶⁰ Office for the Coordination of Humanitarian Affairs, “Democratic Republic of the Congo: Eastern DRC: Incidents Against Humanitarian Workers”.

³⁶¹ Office for the Coordination of Humanitarian Affairs. “” 2.

³⁶² Child Protection Area of Responsibility. “Congo DR: Global Protection Cluster.”

6.2.6 *What barriers hinder this support?*

Restricted humanitarian access;³⁶³ safety and security constraints;³⁶⁴ a lack of prioritisation of mental healthcare;³⁶⁵ the heavy mental toll on humanitarian healthcare workers,³⁶⁶ and inadequate and fragmented funding³⁶⁷ have hindered humanitarian actors' support.

³⁶³ Office for the Coordination of Humanitarian Affairs. “Democratic Republic of the Congo: Eastern DRC: Incidents Against Humanitarian Workers.”

³⁶⁴ Ibid.

³⁶⁵ World Health Organisation. “Providing Mental Health Support in Humanitarian Emergencies: An Opportunity to Integrate Care in a Sustainable Way.”

³⁶⁶ Physicians for Human Rights. ““Massive Influx of Cases”: Health Worker Perspectives on Conflict-Related Sexual Violence in Eastern Democratic Republic of the Congo.”

³⁶⁷ Gyawali, Bishal, Mary C. Harasym, and Saria Hassan et al. “Not an 'Either/or': Integrating Mental Health and Psychosocial Support Within Non-Communicable Disease Prevention and Care in Humanitarian Response,” 3119.

7. DISCUSSION

7.1 Introduction

In view of the study's main findings, this chapter discusses the meaning and significance of these findings through the application of the HRBA and the Capability Approach. According to the UN, under the HRBA, policies and programmes must serve to fulfil human rights, whilst rights-holders and duty-bearers must be identified and their capacities strengthened to either claim their rights or uphold their obligations respectively.³⁶⁸ Additionally, principles of human rights established in treaties, including non-discrimination, participation and accountability should guide all phases of the process of implementing such plans and policies.³⁶⁹

Whilst the HRBA provides a normative foundation for recognising individuals as rights-holders and institutions as duty-bearers, the Capability Approach further informs the analysis by highlighting the extent to which individuals can claim their rights and live out their “real” freedoms.³⁷⁰ Robeyns and Byskov state that “real freedom” means that “one has all the required means necessary to achieve that doing and being if one wishes to.”³⁷¹

Therefore, as the DRC has ratified numerous international and regional treaties that address the right to mental health of internally displaced children impacted by sexual violence, gaps in law and practice ultimately hinder the capability of these children to access their right to mental health and live this “real freedom”. As of today, four million children in eastern DRC need protection,³⁷² whilst estimates of internally displaced children impacted by sexual violence and in need of MHPSS interventions are unavailable.

As previously discussed in the Methodology chapter, Sen and Nussbaum emphasize that assessing human rights through a capability lens requires supplementing information about formal recognitions in international human rights treaties and domestic laws, and whether the state refrains from violating these rights, with the steps taken by the state and other duty-holders to respect, protect and fulfil human rights and “information about the substantive freedoms of individuals and groups (assessed and evaluated in terms of capabilities and functionings).”³⁷³

³⁶⁸ UN Sustainable Development Group. “HRBA Portal: UN Practitioners’ Portal on Human Rights Based Approaches to Programming ‘The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies’.” n.d. <https://unsdg.un.org/resources/human-rights-based-approach-development-cooperation-towards-common-understanding-among-un>.

³⁶⁹ Ibid.

³⁷⁰ Robeyns and Byskov, ed., *The Stanford Encyclopedia of Philosophy: The Capability Approach*.

³⁷¹ Ibid.

³⁷² Office for the Coordination of Humanitarian Affairs. “République Démocratique du Congo: Besoins Humanitaires et Plan de Réponse,” 2.

³⁷³ Vizard, “The Capability Approach and Human Rights,” In *The Cambridge Handbook of the Capability Approach*.

Sen continues that whether someone has the capability to achieve a specific doing or being depends on “conversion factors”.³⁷⁴ These factors ultimately influence “how a person can be or is free to convert the characteristics of the resources into a functioning”.³⁷⁵ Defined in three categories: personal, social and environmental, these factors highlight that it is essential to understand the circumstances in which a person is living, as opposed to only the resources that a person owns or can access.³⁷⁶ It is these conversion factors that are considered throughout this discussion under the Capability Approach’s principles of “agency” and “diversity” as well the principles of the HRBA mentioned above.

7.2 Implementation Failures in Converting Rights to Real Freedoms

7.2.1 Social Conversion Factors

Sen and Nussbaum state that “social conversion factors” are “factors from the society in which one lives, such as public policies, social and cultural norms, practices that discriminate, societal hierarchies, or power relations related to, for example, class, gender, race, or caste.”³⁷⁷

Whilst domestic law does include “general” provisions on the right to mental health and protection from psychological harm for internally displaced children, no specific laws have been written to ensure access to mental health services for children, including those who are displaced. Additionally, no laws have been written to address the rights of IDP populations alone. These gaps in legislation signify a lack of prioritisation by the state, contributing to a social barrier in the protection and enabling of IDPs to access their rights, including mental health. Compounded by the absence of a positive right to access mental health services for all Congolese persons, this creates an enabling environment for neglect by the state towards this need amongst the general population.

This neglect is further exemplified in the state’s allocation of 0.017 percent of the national health budget in 2022 to mental health interventions,³⁷⁸ and the fact that in 2023, there were only six psychiatric hospitals and twelve private mental health centres across the country with 500 beds available to treat over 100 million people, almost all of which were located in big cities.³⁷⁹ Balakrishna et al. develop this argument in emphasizing the need to relate analyses

³⁷⁴ Sen, *Inequality Re-Examined*, 19-21.

³⁷⁵ Robeyns and Byskov, ed., *The Stanford Encyclopedia of Philosophy: The Capability Approach*.

³⁷⁶ Ibid.

³⁷⁷ Ibid.

³⁷⁸ Ibid.

³⁷⁹ Ibid.

of economic, public policy and budget to human rights standards³⁸⁰ when assessing the accountability of duty-bearers.

However, although the Ministry of Health has worked to implement the PNSM since 2011 to promote the integration of mental health provisions into the primary healthcare system to address the gap in mental health services, as of January 2024, activities on efforts to integrate mental healthcare into primary healthcare were reported in only 51 of the 519 health zones across the country.³⁸¹ Additionally, OCHA's report on humanitarian response in the second trimester of 2023 stated that mental health was recognised by the Health Cluster as having minimal activities in eastern DRC, further demonstrating the lack of prioritisation by the state of its response to mental health.³⁸²

Considering that mental health facilities are largely located in big cities,³⁸³ it can be argued that access to mental healthcare services in the DRC is discriminatory in-practice, with persons in rural areas less likely to access these facilities. Additionally, the lack of specialised and skilled staff available to provide mental healthcare to the Congolese population, including children, and the “unequal” distribution of specialised staff across eastern DRC,³⁸⁴ contribute as an additional social barrier to the conversion of internally displaced children's right to mental health into “real freedom”.

In turn, societal understandings of mental illnesses as “mystical or due to curse” often prevent persons with mental illness from seeking professional medical assistance, preferring to see traditional or religious healers instead.³⁸⁵ Compounded by the understanding amongst most of the Congolese population that the consequences of war and conflict are often physical, as opposed to psychological,³⁸⁶ these understandings of mental health are thus significant social barriers to the conversion of the right to mental health to capabilities by internally displaced children impacted by sexual violence.

Furthermore, the fact that children are more likely to be attacked by civilians during daytime whilst travelling on roads or in a perpetrator's home suggests a societal “normalisation” of rape, exemplified through the reported increase in sexual violence

³⁸⁰ R. Balakrishnan et al., *Rethinking Economic Policy for Social Justice: The Radical Potential of Human Rights*, Routledge, <https://doi.org/10.4324/9781315737911>.

³⁸¹ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 6.

³⁸² Office for the Coordination of Humanitarian Affairs, “République Démocratique Du Congo: Tableau De Bord Humanitaire”.

³⁸³ Mukala Mayoyo et al., “Intégration de la Santé Mentale dans les Services de Soins de Santé Primaires en République Démocratique du Congo,” 77–87.

³⁸⁴ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 6.

³⁸⁵ *Ibid.*, 7.

³⁸⁶ On'okoko et al., “Mental Health in the Democratic Republic of Congo: A Post-Crisis Country Challenge”.

committed by civilians in eastern DRC.³⁸⁷ Considering that internally displaced children are often travelling on roads, and at times, unaccompanied, they prove exceptionally vulnerable to sexual violence. Studies conducted in eastern DRC have found that survivors of sexual violence from their childhood are more likely to suffer from depression, suicide and other mental health issues,³⁸⁸ thus demonstrating that the capabilities of children, particularly internally displaced children impacted by sexual violence, are severely limited by societal practices of sexual violence.

Thus, although the DRC has taken numerous steps to address sexual violence in the DRC through the adoption on the SNVBG, the lack of transparency on the budget allocated to implementing the SNVBG makes it difficult to assess the extent to which the state is committed to addressing sexual violence. The high occurrence of sexual violence in eastern DRC therefore suggests that efforts to tackle sexual violence, including its societal root causes, are insufficient.

7.2.2 Environmental Conversion Factors

Additional barriers exist in the form of environmental conversion factors. “Environmental conversion factors” refer to the “physical or built environment in which a person lives,” inclusive of geographical location, climate, pollution, vulnerability to natural disasters and more.³⁸⁹ The built environment thus considers “the stability of buildings, roads, and bridges, and the means of transportation and communication.”³⁹⁰ As previously discussed in Chapter Four, in eastern DRC, the inaccessibility of medical facilities due to the spread of conflict, inadequate transport infrastructure, the closure of roads, as well the targeting of medical facilities with acts of violence, resulting in their destruction, hinder the realisation of the right to mental health for internally displaced children.

These safety and security constraints also restrict the response of humanitarian actors throughout the region, preventing the provision of MHPSS services to populations in need. Considering that humanitarian actors, through the HNRP 2025 are targeting internally displaced children who are survivors of sexual violence with MHPSS interventions, the lack of safety and security in the region therefore acts as a significant environmental barrier to the conversion into capabilities of the right to mental health by affected internally displaced

³⁸⁷ Bartels et al., ““Now, the World Is Without Me”: An Investigation of Sexual Violence in Eastern Democratic Republic of Congo”.

³⁸⁸ Kangoy et al., “Mental Health Consequences of Being Raped in the Eastern Region of the Democratic Republic of Congo”.

³⁸⁹ Robeyns and Byskov, ed., *The Stanford Encyclopedia of Philosophy: The Capability Approach*.

³⁹⁰ Ibid.

children. Byskov et al. support this finding, stating that the extent to which a capability becomes real relies on the “robustness” of the enabling or disabling conversion factors.³⁹¹ Thus, the existence of conflict can be understood as a “disabling” factor to the conversion of the right to mental health into “real freedom” by these children.

7.2.3 Personal Conversion Factors

Sen highlights that personal conversion factors are unique and “internal” to individuals, ranging from “metabolism, physical condition, sex, reading skills, to intelligence”.³⁹² Whilst these personal conversion factors cannot be assessed in this study due to the reliance on secondary sources, they exemplify that individuals have diverse needs that ultimately contribute to the conversion of their rights into real freedoms. This idea of “diversity” is a central idea of the Capability Approach and is explored in-depth below.³⁹³

7.3 Disempowering Internally Displaced Children through the Neglect of Diversity

Diversity refers to people’s ability to convert resources into real opportunities and achievements. Nussbaum furthers this idea with a list of ten central human capabilities that include: “life; bodily health; bodily integrity; senses, imagination and thought; emotions; practical reason; affiliation; other species; play; and control over one’s environment.”³⁹⁴ Continuing that these capabilities are needed for a person’s life to be “not so impoverished that it is not worthy of the dignity of a human being,” Nussbaum refers to these capabilities as “moral entitlements of every human being on earth”.³⁹⁵

It can therefore be argued that IDP populations, including children, are often living without these “moral entitlements”. Considering that disease outbreaks were reported in nearly half of locations assessed by IOM in the eastern provinces of North and South Kivu, in early March 2025, largely impacting children with malaria, typhoid fever, acute malnutrition and measles, the “moral entitlement” to bodily health is therefore protected for internally displaced

³⁹¹ M.F Byskov, M. Kramm, and S. Östlund, S., ed., *Capabilities as Substantive Opportunities and the Robustness of Conversion Factors*, with the assistance of Sardoč, Springer, 2024.

³⁹² Sen, *Inequality Re-Examined*, 19-21.

³⁹³ Ibid.

³⁹⁴ Nussbaum, M. *Frontiers of Justice: Disability, Nationality, Species Membership*. Harvard University Press, 2006, 76-78.

³⁹⁵ Nussbaum, M. *Women and Human Development: The Capabilities Approach*. Cambridge University Press, 2000, 72.

children.³⁹⁶ Additionally, in only 12 percent of locations assessed by IOM did displaced communities have access to healthcare.

Compounded by personal conversion factors such as the challenge in paying for medical expenses; environmental conversion factors including a lack of transportation to medical centres, malnourishment and rising food prices, insufficient daily water quantities, damaged shelters and extreme weather events that largely affect the eastern provinces,³⁹⁷ it is apparent that the diverse needs of internally displaced populations are not sufficiently considered in the provision of healthcare services to the Congolese population.

Additionally, the development of PTSD, depression and/or anxiety disorder is likely following displacement, arising from direct exposure to conflict-related violence including physical and sexual violence, the destruction of a person's home and/or the disappearance or death of loved ones: IDPs therefore hold unique mental health needs that require a diverse response from the state. Additionally, girls are more vulnerable to sexual violence than boys.³⁹⁸ Considering that sexual violence is the highest predictor of negative mental health in populations in eastern DRC,³⁹⁹ this suggests that sex plays a significant part in whether a child develops negative mental health.

Scholars including London highlight that this interdependence of rights is important to consider in multi-sectoral approaches, emphasizing that to fulfil the right to health, other rights such as the right to transport might need to be addressed.⁴⁰⁰ Thus, the “process”, or how outcomes are achieved, is a significant part of the HRBA.⁴⁰¹ This finding contradicts the Capability Approach which argues that the “ends” as opposed to the “means” of interpersonal comparisons determine a person's capabilities.⁴⁰² Thus, an effective capability-enhancing policy would ultimately fight against a social climate of ill-health, as opposed to provide immediate solutions. This argument has been criticized by scholars who object that different approaches value certain means to well-being rather than the ends.⁴⁰³ However, Sen has highlighted that the reason for focusing on the ends rather than the means is based on the

³⁹⁶ International Organisation for Migration, “Rapid Displacement Analysis #24: North Kivu & South Kivu, Democratic Republic of the Congo”.

³⁹⁷ Ibid., 13.

³⁹⁸ Stark et al., “Prevalence and Associated Risk Factors of Violence Against Conflict-Affected Female Adolescents: A Multi-Country, Cross-Sectional Study”.

³⁹⁹ Lokuge et al., “Mental Health Services for Children Exposed to Armed Conflict: Medecins Sans Frontieres' Experience in the Democratic Republic of Congo, Iraq and the Occupied Palestinian Territory,” 269.

⁴⁰⁰ Leslie London, “What is a Human-Rights Based Approach to Health and Does it Matter?” *Health and Human Rights* 10, no. 1 (2008), 65–80, <https://doi.org/10.2307/20460088>.

⁴⁰¹ Ibid.

⁴⁰² Robeyns and Byskov, ed., *The Stanford Encyclopedia of Philosophy: The Capability Approach*.

⁴⁰³ J. Rawls, *A Theory of Justice*, (Cambridge, MA: Harvard University Press).

understanding that people have different abilities to convert means into valuable opportunities or capabilities. Sen's explanation is thus supportive in this study's findings as IDPs are severely limited in their capabilities to convert their human rights into real freedoms.

It is this overlooking of diversity through generic legislation and ineffective policies that can therefore be considered as discriminatory according to the HRBA, despite the DRC's efforts to implement the PNSM, SNVBG and other policies. Without effective laws and policies targeting internally displaced children, their capacities to live their "moral entitlements" are constrained. Furthermore, considering the accumulation of factors contributing to the vulnerability of internally displaced children, the extent to which children can "do" and "be" what they wish is severely limited by the state's insufficient response to their diverse needs.

7.4 Silencing Rights-Holders through the Removal of Agency

Sen highlights that there are two of kinds of freedoms, namely "well-being freedom" and "agency freedom," both of which can be assessed according to whether they have been achieved amounting to "well-being achievement" and "agency achievement".⁴⁰⁴ These achievements are a core part of diversity, which refers to range of needs of individuals and their ability to convert resources into real achievements.⁴⁰⁵

Thus, in considering the capabilities of internally displaced children to convert their right to mental health into "real freedom", the question arises as to how these barriers remove the voice of children and indeed, their agency as rights-holders? The justiciability of human rights through access to justice is an essential part of safeguarding human rights,⁴⁰⁶ whilst ensuring that children's voices and participation are prioritised in these processes is imperative under HRBA.⁴⁰⁷

Furthermore, the Committee on the Rights of the Child in General Comment No. 15 emphasizes that states should ensure access to courts for children and their caregivers, removing barriers to access remedies regarding such violations. However, it is apparent through state practice that very few cases have been brought before the Congolese Courts, despite the

⁴⁰⁴ Amartya Sen, *Well-Being, Agency and Freedom: The Dewey Lectures 1984*. 82(4), *Journal of Philosophy*, 1985.

⁴⁰⁵ Ibid.

⁴⁰⁶ United Nations General Assembly, *Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels*, paras. 13-14.

⁴⁰⁷ UN Sustainable Development Group, "HRBA Portal: UN Practitioners' Portal on Human Rights Based Approaches to Programming 'The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies'".

implementation of numerous measures to provide children access to justice. Whilst Article 84 of the Law on the Protection of the Child states that “In each territory and in each town, a specialised court shall be created, known as a juvenile court in accordance with Article 149, paragraph 5 of the Constitution,” there are very few Children’s Courts that are operational throughout the country. An additional scarcity of judicial bodies in remote and rural areas across the country, suggests further discrimination in state practice towards children living in rural areas.

Research states that children and their parents or guardians are often unaware of the law’s provisions for children as rights-holders,⁴⁰⁸ thus demonstrating failure by the state to uphold its obligations to the CRC under Article 42m which states that: “States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.” Article 12 of the CRC furthers that “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child,” and “For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.” Thus, if children and their guardians are unaware that they are rights-holders, their voices in judicial proceedings and on matters pertaining to their human rights are ultimately silenced.

Additionally, the Law on the Protection of the Child does not include a provision on whether children’s right to assistance is free or subsidised, hindering the ability of children without monetary support to access the national justice system. As internally displaced children generally experience poverty, as demonstrated through IOM’s findings, this omission ultimately hinders their capability to convert their right to mental healthcare into “real freedom” through the Congolese Courts.

Furthermore, despite the establishment of the NHRMC, which serves to investigate complaints by individuals or groups of people who are victims of a rights violation,⁴⁰⁹ and assist victims of violations to take judicial action,⁴¹⁰ the lack of transparent information available to the public on how many victims have been assisted prevents important

⁴⁰⁸ White & Case LLP, and Emery Mukendi Wafwana & Associés, “Access to Justice for Children: Democratic Republic of the Congo,” 5.

⁴⁰⁹ Loi Organique n°13/011 Portant Institution, Organisation et Fonctionnement de la Commission Nationale des Droits de l’Homme.

⁴¹⁰ Ibid., Title II, art. 6.

conversations on children's right to access justice, and ultimately, their participation in this right and to mental healthcare. Delays in justice proceedings due to a lack of professionals trained to deal with children's cases,⁴¹¹ despite the provision by Article 113 of the Law on the Protection of the Child which states that judgments in criminal courts and Children's Courts shall be rendered "within eight days following the hearing",⁴¹² have further contributed to the silencing of children's voices in Court and violations to their human rights.

Hindered by corruption and the resultant withholding of Court resources,⁴¹³ it is evident that the state's interventions are insufficient to enable agency and the conversion of the right to mental health for internally displaced children who are survivors of sexual violence into "real freedom" resulting in "well-being achievement".

Furthermore, through the DRC's failure to both ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure and make a declaration under Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights to expand Court jurisdiction to "allow individuals and NGOs to bring cases directly before the Court", alternative pathways for children to access justice, participate and exercise agency in the violation of their human rights have been blocked.

Whilst Nussbaum argues that all persons should be entitled, as a matter of justice, to all moral entitlements, she fails to mention who is responsible for holding the obligation to realise these capabilities.⁴¹⁴ This proves a limitation in the application of the Capability Approach in this study's analysis of the justiciability of the right to mental health. O'Neill thus argues establishing responsibility should be foundational to explorations of justice.⁴¹⁵

7.5 Conclusion

Thus, generic laws and policies that do not directly address the right to mental health of children who have been displaced and are survivors of sexual violence do not effectively enable their agency to achieve well-being. Furthermore, social, environmental and personal conversion factors hinder the ability of these children to realise their right to mental health; whilst inaccessible judicial systems silence the voices of these children. In applying Sen and

⁴¹¹ Democratic Republic of the Congo, "Second Periodic Report of the Democratic Republic of Congo to the UN Committee on the Rights of the Child".

⁴¹² Law on the Protection of the Child, Title III, Chapter III, art. 113.

⁴¹³ Democratic Republic of the Congo, "Second Periodic Report of the Democratic Republic of Congo to the UN Committee on the Rights of the Child".

⁴¹⁴ Robeyns and Byskov, ed., *The Stanford Encyclopedia of Philosophy: The Capability Approach*.

⁴¹⁵ O'Neill, O. *Towards Justice and Virtue*, (Cambridge: Cambridge University Press), chap. 5.

Nussbaum's Capability Approach and relevant principles of the HRBA, it is evident that state interventions are discriminatory at times, and thus, insufficient to meet the needs of internally displaced children who are survivors of sexual violence in eastern DRC.

However, whilst the Capability Approach proves effective in analysing the conversion of rights into "real freedoms", its emphasis on substantive freedoms, as opposed to "formal freedoms", runs the risk of neglecting the important relationship between "formal freedoms" and "real freedoms". As demonstrated in this study, the existence of "formal freedoms" such as the right to mental healthcare influences the capabilities of persons to achieve real freedoms, emphasizing that the relationship between these two freedoms is of equal significance when using the HRBA.

In contrast, the emphasis on "conversion factors" revealed an important causal link between social, environmental and personal factors and the realisation of human rights. Highlighting that real freedoms are dependent on the capabilities to achieve well-being, this link demonstrates that obligations towards "human rights" includes addressing the culmination of different factors that contribute whether a person can fully live this freedom. Whilst this link is in alignment with the HRBA's understanding that human rights are indivisible, Sen and Nussbaum's approach enables a deeper exploration of the concept of accountability to human rights.⁴¹⁶

Significant to the practicality of this study, Sloth-Nielsen, supported by van den Hole,⁴¹⁷ suggest that the domestic enforcement of legal obligations requires "ongoing norm setting and clarification" as new issues develop, societal changes emerge and other factors broaden the scope of children's rights, continuing that the implementation of children's rights can never be considered as "finished business".⁴¹⁸ Thus, whilst this analysis explores the current conversion factors hindering the realisation of the right to mental health, it must be noted that these factors will continuously change with time and the development of the local context.

⁴¹⁶ Enrica Chiappero-Martinetti, et al., eds., *The Cambridge Handbook of the Capability Approach*.

⁴¹⁷ van den Hole, W. *Children's Rights from a Legal Perspective in Routledge International Handbook on Children's Rights Studies*, (Routledge, New York), 2014.

⁴¹⁸ Sloth-Nielsen, "Monitoring and Implementation of Children's Rights," 31-64.

8. RECOMMENDATIONS

8.1 Introduction

To ensure the safeguarding of the right to mental healthcare of internally displaced children surviving sexual violence, it is imperative that gaps are addressed in national legislation, and access to justice is improved.⁴¹⁹ Additionally, as the DRC works towards including mental healthcare in primary healthcare, in efforts to achieve UHC, research suggests that measures to “promote and to improve” mental health services are essential to implement.⁴²⁰ This will require an upscaling of the state’s response to the mental health of internally displaced children impacted by sexual violence, through the provision of integrated services that seek to both prevent and treat mental health conditions.⁴²¹

Below are actionable recommendations proposed by researchers and by this study, to be considered by both the state and humanitarian actors, to ensure that the right to mental healthcare of internally displaced children impacted by sexual violence is realised:

8.2 State Institutions

8.2.1 Address gaps in national legislation on mental healthcare of internally displaced children, including those impacted by SGBV

It is recommended that the DRC adopt legislation, based on the legal framework provided by the Kampala Convention, that directly addresses the rights of IDPs⁴²² including the right to mental healthcare of displaced children impacted by SGBV.⁴²³ Whilst general protections for IDPs are provided in the Constitution⁴²⁴ and the Law on the Protection of the Child,⁴²⁵ the protection of IDPs is largely reliant on international commitments and broader constitutional protections.⁴²⁶

⁴¹⁹ World Health Organisation (WHO) and United Nations Office of the High Commissioner for Human Rights, “Mental Health, Human Rights and Legislation: Guidance and Practice,” United Nations, 2023, https://www.ohchr.org/sites/default/files/documents/publications/WHO-OHCHR-Mental-health-human-rights-and-legislation_web.pdf.

⁴²⁰ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 7.

⁴²¹ Ibid.

⁴²² Internal Displacement Monitoring Centre, “As DRC Ratifies the Kampala Convention, IDMC Asks: What Difference Will It Make?” News release, July 24, 2014, accessed June 3, 2025, <https://reliefweb.int/report/democratic-republic-congo/drc-ratifies-kampala-convention-idmc-asks-what-difference-will-it>.

⁴²³ Kampala Convention, art. IX(2)(e).

⁴²⁴ Constitution of the Third Republic of the DRC, art. 47.

⁴²⁵ Law on the Protection of the Child, art. 2(2).

⁴²⁶ Internal Displacement Monitoring Centre, “As DRC Ratifies the Kampala Convention, IDMC Asks: What Difference Will It Make?”.

Additionally, the Law on the Protection of the Child could be revised to include a positive right to access mental healthcare services.⁴²⁷ Whilst the Law currently protects children from psychological harm, including internally displaced children, it does not guarantee that children are able to access mental healthcare services. Thus, this revision could ensure that internally displaced children are both protected *and supported* to access their right to mental healthcare services.⁴²⁸ Additionally, as a particularly vulnerable group, special protections and mental healthcare services must be guaranteed for internally displaced children who are survivors of sexual violence.⁴²⁹

8.2.2 Prioritise state reporting on the Kampala Convention

Considering that nearly eight million people are currently displaced in the DRC,⁴³⁰ state reporting on the Kampala Convention, which provides a comprehensive legal framework for the protection and promotion of the rights of IDPs, including children,⁴³¹ should be prioritised. Additionally, timely reporting will require the effective monitoring of human rights violations against IDPs by the state and thus, the resultant provision of actionable recommendations by the African Union to address these violations.⁴³² However, further resources will need to be allocated by the state to enable effective state reporting process which is complex, time-consuming and resource heavy.⁴³³

8.2.3 Ratify the Optional Protocol to the CRC on a Communications Procedure

To bridge the gap in the Congolese judicial system, it is further recommended that the state honour its commitment to ratify the Optional Protocol to the Convention on the Rights of the

⁴²⁷ Getinet Ayano, “Significance of Mental Health Legislation for Successful Primary Care for Mental Health and Community Mental Health Services: A Review,” *African Journal of Primary Health Care & Family Medicine* 10, no. 1 (2018), <https://doi.org/10.4102/phcfm.v10i1.1429>.

⁴²⁸ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 1.

⁴²⁹ World Vision, “Children’s Rights in the Democratic Republic of Congo: Stakeholder Report - Submission by World Vision for Universal Periodic Review, Sixth Cycle, November 2009,” November 2009, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session6/CD/WV_COD_UPR_S06_2009.pdf.

⁴³⁰ World Food Programme, “Democratic Republic of Congo: Country Brief”.

⁴³¹ Adama Dieng, “Protecting Internally Displaced Persons: The Value of the Kampala Convention as a Regional Example,” *International Review of the Red Cross* 99, no. 904 (2017), 263–82, <https://doi.org/10.1017/S1816383117000613>.

⁴³² Women's Rights Unit, “State Reporting,” Centre for Human Rights, University of Pretoria, 2025, <https://www.chr.up.ac.za/wru-projects/state-reporting#:~:text=State%20reporting%20serves%20a%20number%20of%20important%20functions,States%20parties%20may%20benefit%20from%20their%20concrete%20recommendations.>

⁴³³ Sahovic et al., “The Rights of the Child in International Law (Rights of the Child in a Nutshell and in Context: All About Children's Rights),” 341–42.

Child on a Communications Procedure,⁴³⁴ through which an alternative complaint mechanism and method to access justice will be provided for children, including IDPs, whose rights have been violated under the CRC.⁴³⁵

8.2.4 Improve access to justice for internally displaced children

In line with Article 84 of the Law on the Protection of the Child, it is recommended that the state enhances efforts to ensure that specialised Children’s Courts are both created and operationalised in each territory of the country.⁴³⁶ Additionally, to ensure that children and their parents or guardians are aware that they rights-holders, targeted awareness-raising would need to be conducted.⁴³⁷

Furthermore, as guaranteed in the Law on the Protection of the Child,⁴³⁸ the inclusion of a clear provision on whether children’s right to assistance in counsel is free or subsidised could enhance children’s access to the judicial system.⁴³⁹

Additional budget allocated to counter barriers including corruption, delays in court hearings and a lack of professionals trained to handle sensitive cases involving children is recommended to further enhance children’s access to justice,⁴⁴⁰ including internally displaced children impacted by sexual violence.

8.2.5 Enhance the leadership and prioritisation by the government of mental health responses to victims of sexual violence

Consistent with the findings of Mutombo et al.,⁴⁴¹ this study emphasizes the need for the government to both prioritise and increase budget allocation to nationwide mental health response. The increase in budget should be a matter of urgency and channelled through the National Program for Mental Health to strengthen the integration of mental healthcare in

⁴³⁴ United Nations Office of the High Commissioner for Human Rights, “Committee on the Rights of the Child Considers the Reports of the Democratic Republic of the Congo: Child Rights: DRC”.

⁴³⁵ Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.

⁴³⁶ Lerato Brown, “Child-Friendly Courts: Transforming Justice for Lesotho’s Children,” World Vision, January 21, 2025, <https://www.wvi.org/stories/lesotho/child-friendly-courts-transforming-justice-lesothos-children>.

⁴³⁷ Karsten Hundeide, and Nicoletta Armstrong, “ICDP Approach to Awareness-Raising About Children’s Rights and Preventing Violence, Child Abuse, and Neglect,” *Child Abuse & Neglect* 35, no. 12 (2011), 1053–62, accessed June 18, 2025, <https://doi.org/10.1016/j.chiabu.2011.09.008>.

⁴³⁸ Law on the Protection of the Child, Title III, Chapter III, art. 1044.

⁴³⁹ World Vision, “Children’s Rights in the Democratic Republic of Congo: Stakeholder Report - Submission by World Vision for Universal Periodic Review, Sixth Cycle, November 2009”.

⁴⁴⁰ Lisa Edmunds, “Court Delays in Family Law: How New Reforms Are Tackling the Backlog,” <https://www.unit.law/insights/court-delays-in-family-law-how-new-reforms-are-tackling-the-backlog>.

⁴⁴¹ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders’ Analysis,” 1.

primary healthcare,⁴⁴² relying on the improvement of existing programs and infrastructure, as opposed to the implementation of new programs and infrastructure.

Additionally, this study highlights the role of SGBV in predicting negative mental health,⁴⁴³ emphasizing the need for targeted interventions on internally displaced children impacted by SGBV to prevent the development and/or treat resultant mental illnesses.⁴⁴⁴ Furthermore, these interventions need to account for both conflict-related sexual violence and the impact of IPV within households.⁴⁴⁵

8.3 State Institutions and Humanitarian Actors

8.3.1 Strengthen the integration of mental healthcare at the provincial level

Considering that the integration of mental healthcare into primary healthcare has commenced in over 51 mental health zones, these efforts should result in IDPs accessing mental healthcare services closer to their habitations.⁴⁴⁶ If implemented effectively, the provision of mental healthcare in health zones could help NGOs and other stakeholders to ensure that responses are not duplicated but conducted in a coordinated manner.⁴⁴⁷

8.3.2 Train communities to screen for mental health issues

Research suggests that training community members to promote mental health within their communities can be helpful, particularly in the screening of IDPs requiring mental healthcare.⁴⁴⁸ Thus, although the DRC already involves community healthcare workers, this network could be expanded with the support of humanitarian actors to target internally displaced children surviving sexual violence.⁴⁴⁹

⁴⁴² Ibid., 8.

⁴⁴³ Lokuge et al., “Mental Health Services for Children Exposed to Armed Conflict: Medecins Sans Frontieres' Experience in the Democratic Republic of Congo, Iraq and the Occupied Palestinian Territory,” 269.

⁴⁴⁴ Ibid.

⁴⁴⁵ Guedes et al., “Bridging the Gaps: A Global Review of Intersections of Violence Against Women and Violence Against Children”.

⁴⁴⁶ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 6.

⁴⁴⁷ Ibid., 8.

⁴⁴⁸ Echeverri et al., “Mental Health Capacity Building in Refugee Primary Health Care Settings in Sub-Saharan Africa: Impact, Challenges and Gaps”.

⁴⁴⁹ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 8.

8.3.3 Sensitize IDP communities on mental health to reduce stigma

A regional study conducted in South Africa demonstrates that raising awareness on mental health amongst communities has been effective in reducing associated stigma.⁴⁵⁰ Thus, both the DRC and stakeholders, including humanitarian actors, should work together through a “joint behaviour change communication plan” to sensitize IDP communities on mental healthcare, particularly for children impacted by sexual violence.⁴⁵¹

8.3.4 Increase efforts to ensure the safety and security of medical facilities, healthcare workers and humanitarian workers

Notably, due to the spread of conflict in eastern DRC, provisions for the safety and security of medical facilities, healthcare and humanitarian workers are essential to provide, to ensure the continuity of mental health services to vulnerable populations.⁴⁵² Thus, it is recommended that with the support of humanitarian actors such as MONUSCO, state efforts are enhanced to ensure the safety of civilians, including through the improvement of road infrastructure, when possible.

8.4 Humanitarian Actors

8.4.1 Enhance advocacy efforts, prioritisation and budget allocation to MHPSS

Considering the reduction in humanitarian aid funding in the DRC and across the globe,⁴⁵³ humanitarian actors are recommended to include and prioritise ‘advocacy’ in the DRC’s HNRP 2025, in line with the first goal of the Global Protection Cluster’s “Child Protection Area of Responsibility Strategy 2020-2024”.⁴⁵⁴ Although parallel advocacy efforts take place at both a global and national level, this inclusion will better ensure that coordinated and effective advocacy efforts are prioritised amongst humanitarian actors to ensure the protection and promotion of the rights of vulnerable groups.⁴⁵⁵

⁴⁵⁰ Ritsuko Kakuma, S. Kleintjes, C. Lund, N. Drew, A. Green, and A. J. Flisher, “Mental Health Stigma: What Is Being Done to Raise Awareness and Reduce Stigma in South Africa?” *African Journal of Psychiatry* 13, no. 2 (2010).

⁴⁵¹ Mutombo et al., “Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis,” 8.

⁴⁵² John Zarocostas, “Humanitarian Needs in DR Congo Escalating,” *The Lancet* 402, no. 10395 (2023), 15, [https://doi.org/10.1016/S0140-6736\(23\)01356-9](https://doi.org/10.1016/S0140-6736(23)01356-9).

⁴⁵³ Molly Lihs, “Humanitarian Crisis in the Democratic Republic of the Congo: What the Pause on U.S. Foreign Aid Could Mean for the DRC,” 2025, accessed June 3, 2025, <https://huquq.com/humanitarian-crisis-in-the-democratic-republic-of-the-congo-what-the-pause-on-u-s-foreign-aid-could-mean-for-the-drc/>.

⁴⁵⁴ Child Protection Area of Responsibility, *Strategy 2020-2024*, 10.

⁴⁵⁵ United Nations High Commissioner for Refugees, “Advocacy in Emergencies,” accessed May 31, 2025, <https://emergency.unhcr.org/protection/protection-mechanisms/advocacy-emergencies>.

It is further recommended that humanitarian actors allocate additional budget to MHPSS targeting internally displaced children impacted by SGBV. Whilst the CP AoR’s interventions do target these children, the overall response is limited and under-funded to meet the demand for mental healthcare of internally displaced children impacted by SGBV.⁴⁵⁶

Conclusion

In conclusion, the following recommendations are made to the state and humanitarian actors:

State	<ol style="list-style-type: none"> 1. Address gaps in national legislation on mental healthcare of Internally displaced children, including those impacted by SGBV 2. Prioritise state reporting on the Kampala Convention 3. Ratify the Optional Protocol to the CRC on a Communications Procedure 4. Improve access to justice for internally displaced children 5. Enhance state leadership and prioritisation of mental health responses to victims of sexual violence
State and Humanitarian Actors	<ol style="list-style-type: none"> 1. Strengthen the integration of mental healthcare at the provincial level 2. Train communities to screen for mental health issues 3. Sensitize IDP communities on mental health to reduce stigma 4. Increase efforts to ensure the safety and security of medical facilities, healthcare workers and humanitarian workers
Humanitarian Actors	<ol style="list-style-type: none"> 1. Enhance advocacy efforts, prioritisation and budget allocation to MHPSS

⁴⁵⁶ ReliefWeb, “Area of Responsibility for Child Protection (CP AoR)”.

9. CONCLUSION

In conclusion, it is evident that the DRC's interventions are insufficient to meet the needs of internally displaced children surviving sexual violence in eastern DRC. This is a significant finding due to the escalation in rape against children at the height of the conflict in eastern DRC in early 2025. Sexual violence is the highest predictor of PTSD, depression and anxiety in eastern DRC, with evident inter-generational consequences if left untreated.⁴⁵⁷ As over three million children are currently anticipated to be displaced, the demand for mental health services amongst children who are survivors of sexual violence is high. Therefore, considering the legal framework provided by both international and regional treaties, and the ineffective implementation of the corresponding obligations assumed by the state, this study suggests that the state is neglecting⁴⁵⁸ its legal obligations towards internally displaced children impacted by sexual violence.

Although the DRC has legislated the protection of children from psychological harm through the Law on the Protection of the Child, domestic law remains insufficient in granting the right to access mental healthcare services for children, including IDPs. Additionally, the lack of prioritisation by the state of mental health through the allocation of less than one percent of the national budget to mental healthcare in 2022, a severely constrained judicial system, and non-compliance⁴⁵⁹ with state reporting on relevant international and regional treaties suggest further neglect by the state.

However, through the PNSM, the DRC has made notable efforts to promote the integration of mental health provisions into the primary healthcare system, including in eastern DRC, although progress remains slow. Despite the establishment of the National Strategy to Combat SGBV and the reparation fund for victims of sexual violence, FONAREV, information on the implementation of the strategy and provision of reparations to victims is publicly unavailable. This lack of information ultimately hinders progress⁴⁶⁰ towards combatting SGBV and providing justice and reparations to survivors.

⁴⁵⁷ Guedes et al., "Bridging the Gaps: A Global Review of Intersections of Violence Against Women and Violence Against Children".

⁴⁵⁸ Paul V. Karenga, and V. I. Sidlawinde, "States' Obligations Under International Human Rights Law," In *A West African Model to Address Human Trafficking*, edited by Paul V. S. Karenga, Springer International Publishing, 2022, 227-49.

⁴⁵⁹ Cosette D. Creamer, and Beth A. Simmons, "Ratification, Reporting, and Rights: Quality of Participation in the Convention Against Torture," 580.

⁴⁶⁰ William N., Dunn, "Monitoring Observed Policy Outcomes," *Public Policy Analysis*, 2018, 250–319.

Humanitarian actors are therefore playing a critical role to address gaps in the government's response to the mental health of internally displaced children impacted by sexual violence. Through the CP AoR, over 3,371 child survivors of sexual violence were reached with psychosocial care in eastern DRC between January and March 2025. Whilst this reflects significant progress, the need for MHPSS is far greater than the combined capacity of the state and humanitarian actors. Considering the global cut in humanitarian funding, there is a need to increase coordinated advocacy efforts amongst humanitarian actors for internally displaced children impacted by sexual violence; a provision that is not included in the country's HNRP 2025.

This study therefore emphasizes that the cost of silence regarding the mental health of internally displaced children surviving sexual violence will be felt not only by children who are displaced today, but by generations to come. In applying both the HRBA and the Capability Approach, it is evident that the lack of prioritisation of the right to mental health of children who are displaced is both discriminatory in-practice and hinders the capabilities of these children to convert their "formal freedoms" into "real freedoms" and achieve well-being .

Thus, it is recommended that the state address gaps in legislation on internally displaced children's right to mental healthcare and improve access to justice for these children, including through the allocation of additional budget.⁴⁶¹ With the support of humanitarian actors, the strengthening of the integration of mental healthcare into primary healthcare at the provincial level is recommended, as well as enhanced efforts to train and sensitize IDP communities on mental health.⁴⁶² Coordinated advocacy is also recommended to humanitarian actors to ensure the prioritisation of funds⁴⁶³ in response to the mental health needs of internally displaced children impacted by sexual violence.

Additionally, this research was limited by a significant gap in literature on the right to mental health of children in the DRC. Very few studies consider the DRC's legal obligations towards children, and few studies consider the realities of the implementation of the DRC's national policies on the Congolese population. Whilst much literature exists on the impact of conflict-related sexual violence on populations in eastern DRC, very few directly address the impact on children, including internally displaced children in eastern DRC.

⁴⁶¹ World Health Organisation, Budget Matters for Health: Key Formulation and Classification Issues: Health Financing Policy Brief No 4: Budgeting Health.

⁴⁶² Mutombo et al., "Mental Healthcare Among Displaced Congolese: Policy and Stakeholders' Analysis," 8.

⁴⁶³ United Nations High Commissioner for Refugees. "Advocacy in Emergencies."

It is therefore recommended that research is conducted from a socio-legal perspective on children's rights in the DRC, with emphasis placed on mental health and internally displaced children's rights, to address this gap. Furthermore, additional studies on the effects of sexual violence, including IPV,⁴⁶⁴ on internally displaced children could contribute in a meaningful manner towards the academic discussion on the impact of sexual violence amongst Congolese populations in eastern DRC.

This socio-legal study is therefore unique in that, using an HRBA, it provides a legal framework against which the state can be held accountable for its neglect of the right to mental health of internally displaced children impacted by sexual violence. In applying the Capability Approach, it further contributes to the academic discussion on the assessment of the conversion of "capabilities" into "real freedoms" from a human rights perspective.⁴⁶⁵ Additionally, beyond the research question, it demonstrates limitations to the humanitarian response in eastern DRC and provides recommendations as to how these limitations can be addressed. This study can therefore be used to inform scholars and academics on the immediate research gaps in the DRC; state legislators and policymakers on legislative gaps and barriers to policy implementation respectively; and humanitarian actors and donors on how to better support state interventions.

Notably, given the documented consequences of conflict on internally displaced children, this study recommends a strengthening of state and humanitarian interventions to address the mental health needs of internally displaced children who are survivors of sexual violence in eastern DRC.

⁴⁶⁴ Kimber et al., "The Association Between Child Exposure to Intimate Partner Violence (IPV) And Perpetration of IPV in Adulthood-a Systematic Review".

⁴⁶⁵ Vizard, "The Capability Approach and Human Rights."

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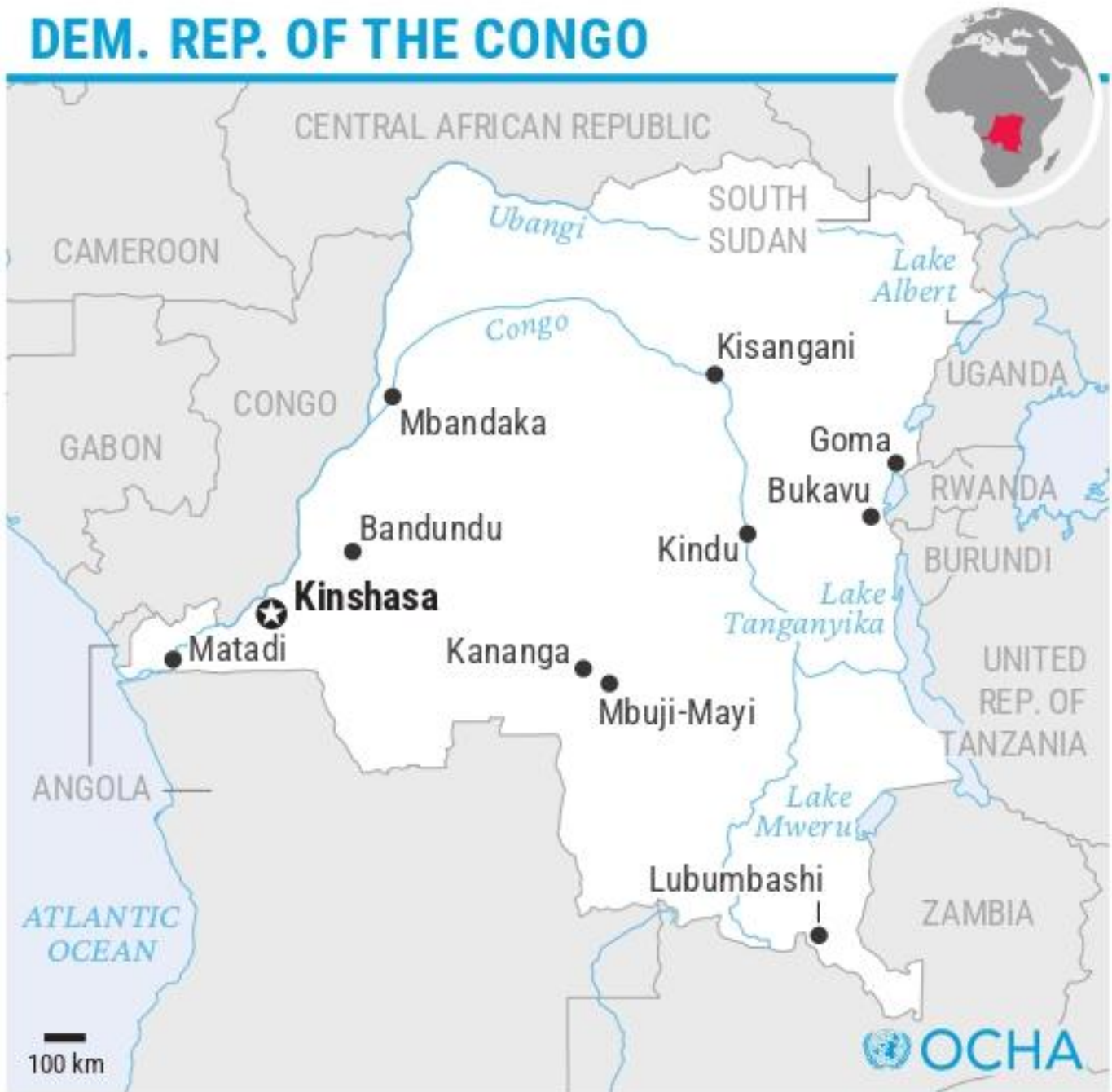
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DEM. REP. OF THE CONGO



Map Sources: ESRI, UNGIS.

The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations. Map created in Jan 2025.

⁴⁶⁶ United Nations Office for the Coordination of Humanitarian Affairs, “Democratic Republic of the Congo: Location Map (2025),” <https://www.unocha.org/publications/map/democratic-republic-congo/democratic-republic-congo-location-map-2025>.