



UNIVERSITY *of the*
WESTERN CAPE

Faculty of Law

**Post-Conflict Gender-Justice: Access of Women Survivors of
Gender-Based Violence to the Judicial System: A Case Study of the
Democratic Republic of Congo (DRC)**

A research paper submitted to the faculty of law of the University of the Western Cape, in partial fulfilment of the requirements for the degree of Masters of law (LL.M International Protection of Human Rights and Humanitarian Law)

By

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DECLARATION

I, **Dignité Kangoboka Bwiza**, hereby declare that this dissertation ‘Post-Conflict Gender-Justice: Access of Women Survivors of Gender-Based Violence to the Judicial System: A Case Study of the Democratic Republic of Congo (DRC)’ is my original work and has never been presented in any other institution. I also declare that where another person’s work is used, it has been acknowledged in this dissertation.

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Signature: _____.

Date: _____.

Supervisor: Professor Letetia van der Poll

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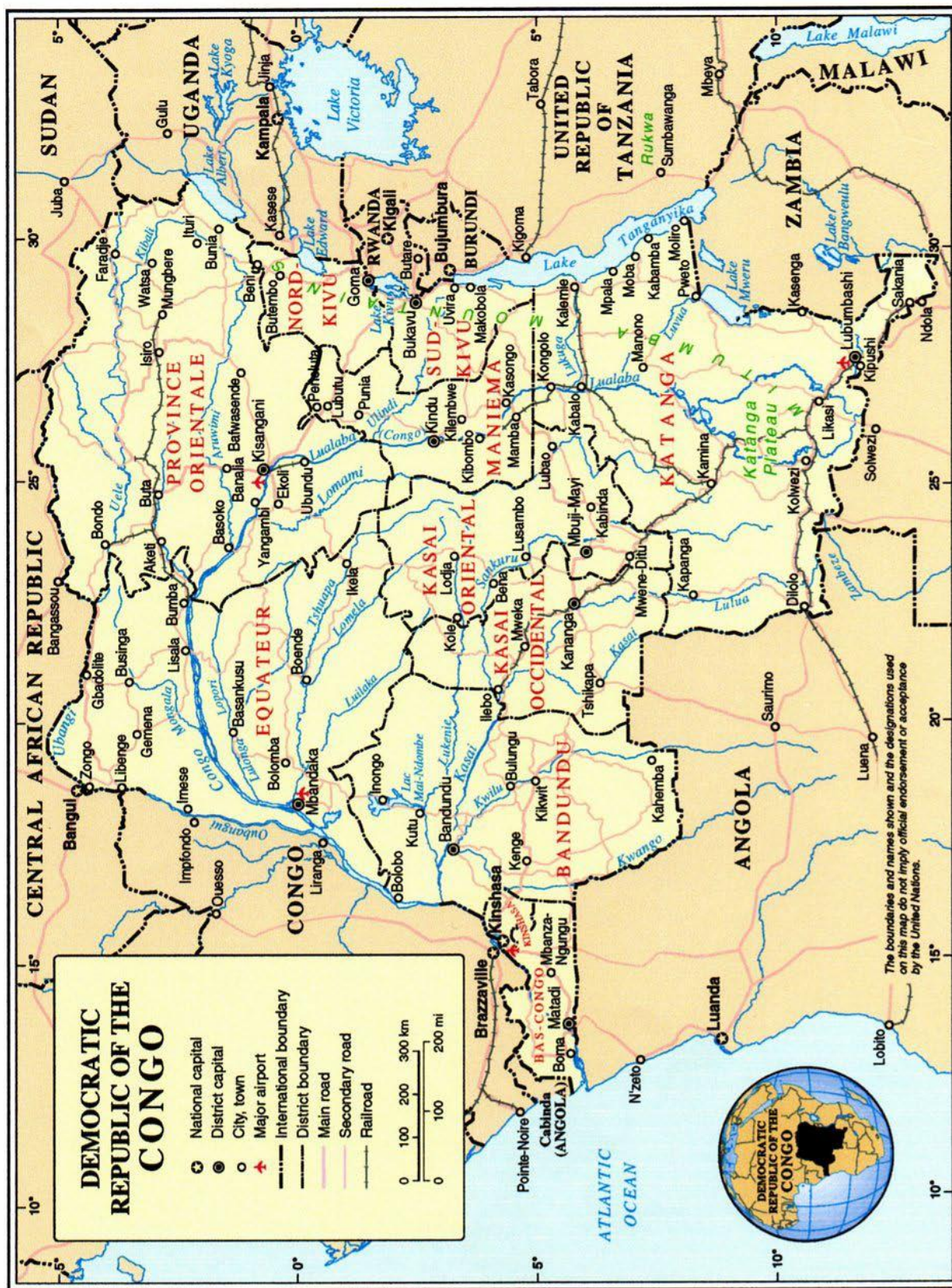
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August 2012, Cape Town, South Africa

MAP OF THE DRC



Source: United Nations Cartographic Section

MAP OF PROVINCES OF THE DRC



Source : World Atlas

LIST OF ABBREVIATIONS

ABA-ROLI	American Bar Association- Rule of Law Initiative
AFDL	Alliance des Forces Démocratiques pour la Libération du Congo-Zaire
AMG	Auditorat Militaire de Garnison
Art.	Article
AU	African Union
CDF	Congolese Franc
CNDP	Congrès National pour la Défense du Peuple
Doc.	Document
DRC	Democratic Republic of the Congo
FARDC	Forces Armées de la République Démocratique du Congo
FDLR-FCA	Forces Démocratiques pour la Libération du Rwanda-Forces Combattantes Abacunguzi
FPLC	Front Patriotique pour la Liberation du Congo
GA	General Assembly
GBV	Gender-Based Violence
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
ICTJ	International Centre for Transitional Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia

IHL	International Humanitarian Law
IHRL	International Human Rights Law
MLC	Movement of the Liberation of Congo
MONUC	United Nations Organisation Mission in the Democratic Republic of the Congo
MONUSCO	United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo
No.	Number
Para	Paragraph
RCD	Rassemblement Congolais pour la Démocratie (Congolese Rally for Democracy)
Res.	Resolution
RPA	Rwandan Patriotic Army
SC	Security Council
TCC	Troop Contributing Countries
TMG	Tribunal Militaire de Garnison
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNHROHC	United Nations Human Rights Office of the High Commissioner
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHRC	United Nations Human Rights Committee
USDS	United States Department of State

KEY WORDS

- 1 Post-conflict
- 2 Gender-justice
- 3 Gender-based violence
- 4 Women
- 5 Access to criminal justice
- 6 Case law
- 7 Democratic Republic of the Congo

ABSTRACT

During armed conflicts, women experience more abuses than their male counterpart. Besides, the disruption of national security systems resulting from the social and political troubles, exposes women to more violation of their human rights in the post-conflict setting.

During the last decade, the international community has employed noteworthy efforts to protect women from the effects of armed conflicts, and to ensure the prosecution of violators of women's rights in post-conflict situations. This included *inter alia*, the adoption of binding treaties calling for protection of women against sexual and gender based violence (GBV), and the creation of an international Criminal Court and International tribunals to prosecute persons for the most serious crimes of international concern, including sexual and gender violence.

During the armed conflict that occurred in the Democratic Republic of Congo (DRC) between 1996 and 2003, a significant number of GBV acts were committed against women. Reports and statistical data from humanitarian organisations working in the DRC indicated an increase of GBV acts against women after the official cessation of the conflict. Moreover, reports indicated the emergence of GBV acts against women in areas that did not witness such acts during the conflict.

The research paper interrogates, from a criminal justice angle, the response given to GBV acts perpetrated against women in the post-conflict setting. Furthermore, the research questions the access of women to justice and interrogates the challenges bedevilling this access at the national and international level. In addition, the research formulates recommendations aimed at enhancing the access of women survivor of GBV to justice, and for an effective prosecution of perpetrators of such acts.