**Inputs of the Synergie des Femmes contre les Violences Sexuelles, DRC - a member of the Global Network of Women Peacebuilders (GNWP)**

**Questionnaire on criminalization and prosecution of rape**

**Definition and scope of criminal law provisions**

1. Please provide information on criminal law provision/s on rape (or analogous forms of serious sexual violence for those jurisdictions that do not have a rape classification) by providing full translated transcripts of the relevant articles of the Criminal code and the Criminal procedure code.**Article 170 of the Congolese Criminal Code**.
2. Based on the wording of those provisions, is the provided definition of rape:
   1. Gender specific, covering women only YES/**NO**
   2. Gender neutral, covering all persons **YES**/NO
   3. Based on the lack of consent of victim **YES/** NO
   4. Based on the use of force or threat **YES**/ NO
   5. Some combination of the above. **YES** / NO
   6. Does it cover only vaginal rape? YES **/NO**
   7. Does it cover all forms of penetration? **YES**/NO. If yes, please specify.
   8. Is marital rape in this provision explicitly included? YES / **NO**
   9. Is the law silent on marital rape? **YES**/NO
   10. Is marital rape covered in the general provisions or by legal precedent even if it is not explicitly included? YES**/NO**
   11. Is marital rape excluded in the provisions, or is marital rape not considered as a crime? YES /**NO**
3. Are there any provisions excluding criminalization of the perpetrator if the victim and alleged perpetrator live together in a sexual relationship/have a sexual relationship/had a sexual relationship? If so, please submit it. **NO**
4. What is the legal age for sexual consent?**18 years**
5. Are there provisions that differentiate for sexual activity between peers? If so, please provide them.**No, there are no legal provisions that differentiate sexual activity between peers**
6. Provide information on criminal sanctions prescribed and length/duration of such criminal sanctions for criminalized forms of rape.**Anyone found guilty of rape will be punished with a penal servitude of five to twenty years and a fine of not less than one hundred thousand constant Congolese francs. (Article 170 al. D, Congolese Penal Code Book II)**
7. What does the legislation in your country provide in terms of reparation to the victim of rape and/or sexual violence after conviction of the perpetrator

**In Congolese law, no law provides for compensation for the victim of rape and / or sexual violence after conviction of the perpetrator, however the victim can file a civil action during the proceedings to obtain damages.**

**Aggravating and mitigating circumstances**

1. Does the law foresee aggravating circumstances when sentencing rape cases? If so, what are they

**If the rape or indecent assault caused the death of the person on whom it was committed, the culprit will be punished with penal servitude for life (Article 171, Congolese Penal Code Book II)**

* 1. Is rape by more than one perpetrator an aggravating circumstance? **YES**/NO
  2. Is rape of a particularly vulnerable individual an aggravating circumstance, or the imbalance of power between alleged perpetrator and victims? (for example, doctor/patient; teacher/student; age difference) **YES**/NO
  3. Is rape by spouse or intimate partner an aggravating circumstance? **NO**

1. Does the law foresee mitigating circumstances for the purposes of punishment? YES/**NO** If yes, please specify.
2. Is reconciliation between the victim and the perpetrator allowed as part of a legal response? YES/**NO** If so, at what stage and what are the consequences?
   1. Regardless of the law, is reconciliation permitted in practice? YES/**NO** and what is the practice in this regard?
3. Is there any provision in the criminal code that allows for the non-prosecution of perpetrator? YES/**NO** If yes, please specify.
   1. if the perpetrator marries the victim of rape? YES/**NO**
   2. if the perpetrator loses his “socially dangerous” character or reconciles with the victim? YES/**NO**

**Prosecution**

1. Is rape reported to the police prosecuted ex officio (public prosecution)? **YES**/NO
2. Is rape reported to the police prosecuted ex parte (private prosecution)? YES/**NO**
3. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of women? YES/**NO**
4. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of children? YES/**NO**
5. Please provide information on the statute of limitations for prosecuting rape.**10 Years**
6. Are there provisions allowing a child who was the victim of rape and to report it after reaching adulthood? YES/**NO**
7. Are there mandatory requirements for proof of rape, such a medical evidence or the need for witnesses? **YES**/NO If yes, please specify.**Article 14 (bis), Article 14 (ter) of the Congolese Criminal Procedure Code.**
8. Are there rape shield provisions aimed at preventing judges and defense lawyers from exposing a woman’s sexual history during trial? **YES**/NO**Article 74 (bis) of the Congolese Code of Criminal Procedure.**
9. Are there procedural criminal law provisions aimed to avoid re-victimizations during the prosecution and court hearings? **YES**/NO. If yes, please specify.

**Article 74 (bis) of the Congolese Code of Criminal Procedure.**

**War and/or conflict**

1. Is rape criminalized as a war crime or crime against humanity? **YES**/NO
2. Is there a statute of limitations for prosecuting rape in war or in conflict contexts? YES/**NO**
3. Is there explicit provisions excluding statutes of limitation for rape committed during war and armed conflict? YES/**NO**
4. Has the Rome Statute of the International Criminal Court (ICC) been ratified? **YES**/NO

**Data**

1. Please provide data on the number of cases of rape that were reported, prosecuted and sanctioned, for the past two to five years.

**The Synergy of Women for Victims of Sexual Violence has supported 276 cases in legal and judicial care with the contribution of its members over the past 3 years, 142 cases have been accompanied by Women Lawyers for the Rights of Women in judicial proceedings including 46 criminal cases, 96 civil cases, 7 High Court, 2 acquittals, 5 outstanding in the Court of Appeal, 0 in the Court of Appeal, 26 in the High Court, 5 outstanding from the Tribunal de Grande Instance, 5 from the Tribunal de Paix, 9 taken under advisement, 11 withdrawals, 39 reconciliation between parties successfully, 4 to the police, 42 outstanding loans to the firm. 106 cases were treated by CEPADHO from Beni and 3 cases from Goma.**

**Other**

1. Please explain any particular and additional barriers to the reporting and prosecution of rape and to the accountability of perpetrators in your legal and social context not covered by the above.

**The impunity of perpetrators of sexual violence by the government of the Democratic Republic of the Congo.**