

**REFUGEE WOMEN AND
DOMESTIC VIOLENCE:
COUNTRY STUDIES**

Democratic Republic of Congo

A report by

Refugee Women's Resource Project

Asylum Aid

March 2002

Acknowledgements

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Explanatory note

This is a section of *Refugee Women and Domestic Violence: Country Studies Part 2*, published by RWRP in March 2002. Part 1 of this report was published in September 2001. That report examined the situation in 5 countries – Albania, Bosnia & Herzegovina, China, Iran and Pakistan – and also included an introduction, which outlined the aims and objectives of the report and an overview of the issue of domestic violence in the context of refugee and asylum law.

The report from which this is an extract contains an additional 2 country studies – Colombia and Democratic Republic of Congo – as well as updates on the 5 previous country reports.

RWRP plans to publish additional country reports and updates at 6-monthly intervals.

Copies of Parts 1 and 2 of the report, provided in a ring binder to which this and subsequent issues can be added, can be obtained from RWRP at the address on the previous page at £10 each. Alternatively, the reports can be downloaded from our website.

Please note: we have highlighted in bold sections of the text which we consider may be particularly relevant for ease of reference.

**Refugee Women's Resource Project
March 2002**

DEMOCRATIC REPUBLIC OF CONGO

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DEMOCRATIC REPUBLIC OF CONGO

1. Introduction

1.1 Political background

The Democratic Republic of Congo (DRC) remains in 2002 in a state of civil war, with less than half of the territory under government control, with millions of displaced persons and in the midst of a humanitarian crisis. Attempts to facilitate talks in South Africa between the warring parties (the 'Inter-Congolese Dialogue') were ongoing as at March 2002.¹

The volcanic eruption in Goma in January 2002 added to the problems faced in the country, with 40% of the town destroyed and tens of thousands of people made homeless.²

Much of the reporting on the country focuses therefore on the conflict, political and humanitarian issues, and few studies have looked at the situation of women in particular, making specific information on the situation facing women experiencing domestic violence difficult to find. It is important to note that women's position in the DRC cannot be viewed apart from the broader political, social and economic context, which is by all accounts desperate for the majority of the population.

Human Rights Watch summarised political developments in 2001 as follows:

*"With the accession of Joseph Kabila as president of the Democratic Republic of Congo (DRC), hopes were raised in January for an end to the disastrous war that has cost more than two million lives. **During the four years of war, all parties routinely attacked civilians, killing, raping, and maiming thousands. Hundreds of thousands of civilians died of hunger, diseases, or exposure as a result of the war.** Belligerents this year implemented some terms of the 1999 Lusaka Accords meant to end the war: troops disengaged along the front lines, some Ugandan and Rwandan government soldiers returned home, some 1,500 Rwandan rebels laid down their arms, and United Nations troops (U.N. Organization Mission in Congo, MONUC) began monitoring compliance with the accord. But late in the year fighting still raged almost daily in the eastern provinces and the inter-Congolese dialogue among Congolese actors about the future of their country was suspended days after it began. The DRC government, supported by Zimbabwe, Angola, and Namibia, controlled the western half of the country. Rebel movements, the most important being*

¹ See United Nations Office for the Co-ordination of Humanitarian Affairs (OCHA), Integrated Regional Information Networks (IRIN) at www.irinnews.org for up-to-date information

² BBC News On-Line, 23/1/02

http://news.bbc.co.uk/1/hi/english/world/africa/newsid_1778000/1778107.stm

*the Congolese Rally for Democracy (RCD), backed by Rwanda, and RCD-Kisangani and the Movement for the Liberation of the Congo (MLC), both backed by Uganda, controlled the east. **The Congolese government and rebel authorities declared support for political openness and Kabila implemented some reforms, but all continued to limit dissent and harass and punish journalists and human rights defenders.***

[...]

*“President Kabila, chosen by consensus among leading domestic and foreign players rather than by any constitutional mechanism, inherited autocratic powers from his father, the late President Laurent-Desiré Kabila. According to Decree Law No. 3 of 1997, all executive, legislative, and judicial powers rest in his hands. **Kabila promised human rights reforms but delivered relatively little. He did impose a moratorium on the execution of death sentences in March which was still in effect in late November and in May he began demobilizing child soldiers from the Congolese army. But the security agencies continued the numerous abuses for which they were notorious in the past.**”³*

1.2 Human rights practice

Widespread human rights abuses continue throughout the country, according to all reports found.

Amnesty International gives the following information in its 2001 report:

“War continued to ravage the Democratic Republic of the Congo (DRC). Thousands of civilians were unlawfully killed and tens of thousands more, displaced from their homes and cut off from humanitarian aid within the DRC, were facing starvation by the end of 2000. Tens of thousands fled to neighbouring countries. Torture, including rape, was widespread. All sides used the war to justify the repression of political dissent and the imprisonment of opponents was routine. At least 35 executions were carried out by the DRC government. The armed opposition also carried out executions.

[...]

*“**Deliberate reprisals against the civilian population were a common reaction by all sides to military setbacks and many unarmed civilians were extrajudicially executed in revenge attacks. There were also many rapes.** By the end of 2000 as many as two million civilians were internally displaced and unable to support themselves. Many were facing starvation.*

[...]

*“Areas under government control
Political prisoners*

³ Human Rights Watch (2002), *World Report 2002*, New York, available at <http://hrw.org/wr2k2/africa3.html>

A law passed in 1999, which effectively amounted to a ban on opposition parties, led to the imprisonment of prisoners of conscience and the repression of political activity. A presidential amnesty for political prisoners announced in February led to the release of some 300 detainees from Kinshasa's central prison, the Centre pénitentiaire et de rééducation de Kinshasa (CPRK). However, some individuals who should have benefited remained in detention. Others were rearrested soon after their release and other politically motivated arrests continued throughout 2000.

“Torture and ill-treatment

Torture and ill-treatment continued to be widespread in unofficial detention centres run by the security services, where detainees were almost invariably held incommunicado. Beatings, including whippings administered with cordelettes (belts), were particularly common. Psychological torture was also frequent, with many detainees being threatened with death and some subjected to mock executions.

“Conditions in many detention centres were appalling and constituted cruel, inhuman and degrading treatment. Detainees were routinely refused medical care. Some detainees died as a result of torture.

“Unlawful killings

Unarmed civilians were reportedly killed by government forces as a result either of direct attacks or of indiscriminate bombings. However, it was often difficult to obtain independent confirmation of incidents in conflict zones.

“Areas controlled by opposition groups and foreign forces

The RCD factions and their foreign allies were responsible for widespread abuses in eastern DRC, in particular the unlawful killing of civilians, arbitrary arrests, unlawful detention and torture, including rape (see Rwanda and Uganda entries). Such abuses were often committed in response to attacks by armed groups opposed to the RCD-Goma, which included the Rwandese interahamwe and ex-FAR (former Rwandese government army), Congolese armed groups known as the mayi-mayi, and Burundian, mainly Hutu, armed groups. All of these groups were responsible for grave human rights abuses.

“Torture/ill-treatment

There was widespread torture, including rape, of detainees held in RCD-Goma custody.”⁴

⁴ Amnesty International (2001), *Report 2001: Congo (Democratic Republic of the)*, London, Amnesty International, available at <http://www.web.amnesty.org/web/ar2001.nsf/webafrcountries/CONGO+democratic+republic?OpenDocument>

It was also noted that the government established the Ministry of Human Rights in July 1998 to protect the freedom of all citizens, but in the same year **the government announced a new policy requiring all NGOs to be vetted by the authorities (who would register them and certify their good standing)**. In fact only a few NGOs had been certified and many Congolese human rights workers had since fled to neighbouring countries. **All media releasing news on human rights had been silenced.**⁵

Human Rights Watch notes continued concerns regarding the Military Order Court:

“Kabila's promises to limit the powers of the abusive Court of Military Order brought no reform by late October. In November 2000, the court found former presidential security adviser Anselme Masasu and eight of his subordinates guilty of conspiracy and ordered their execution, a sentence which was carried out before the moratorium mentioned above⁶. In September 2001, in Katanga province, the court sentenced eight people to death and eighteen others to between five and twenty years imprisonment on charges of plotting to overthrow the government. All were said to have been tortured and to have had no legal counsel before the trial. There is no appeal to decisions by this court.”⁷

A report by the United Nations (UN) Special Rapporteur, August 2001, summarises the situation as follows:

“The various wars, especially the one started by Rwanda and Uganda in 1998, continue to leave a trail of thousands of dead and wounded, burnt-out homes, orphans and, especially, poverty in a country with tremendous mineral and agricultural wealth. The Democratic Republic of the Congo currently ranks 142nd out of 152 on the Human Development Index of the United Nations Development Programme (UNDP).

“Congolese throughout the country feel humiliated and abandoned, and those under foreign occupation are living in terror and insecurity.

[...]

“There has been no improvement in the situation of women and children.”⁸

⁵ United Nations (2000a), Committee on the Elimination of Discrimination Against Women, *Conflict in Democratic Republic of Congo Key Element of Anti-Discrimination Committee Discussion*. Press Release WOM/1163 – 20000125, available at Reliefweb, www.reliefweb.int/w/Rwb.nsf/s/BDC061AB414A97E9C1256720034BE80

⁶ Kabila imposed a moratorium on executions of the death sentence in March 2001.

⁷ Human Rights Watch (2002), op. cit.

⁸ United Nations (2001a), *Situation of human rights in the Democratic Republic*

1.3 Democratic Republic of Congo and international legal instruments

The Democratic Republic of Congo is a party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (CESCR), the International Covenant on Civil and Political Rights (CCPR) and its First Optional Protocol, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention Against Torture (CAT), and the Convention on the Rights of the Child (CRC). **However, many reports due to be submitted to the supervising committees remained outstanding at December 2001.**⁹

1.4 Women's human rights

1.4.1 Lack of rights in a male-dominated society

The Democratic Republic of Congo has historically been a patriarchal society. Jennifer Langer notes in her recent publication of testimonies of refugee women, whilst commenting that these practices varied according to tribe or region:

*"In the past, marriages were arranged and often the girl was married at or before puberty. The Bakua Lolonji who are Baluba of Kasai, stipulated that a girl had to be a virgin on marriage and in that case her mother was rewarded with a goat. There were two systems: the main one being the patriarchal custom in which the children belonged to the father. The matriarchal custom, in which they belonged to the mother, was prevalent in the West of Congo. **In both cases, the woman was totally powerless.** Where the children belonged to the mother, their uncle had total power over his sister's children and the uncle still plays an important role in his nieces' lives, mostly in terms of their marriages. This is beginning to disappear in the capital but is unchanged in the villages. **The woman always had to sacrifice herself to the demands of her husband.** In the countryside the woman was often treated like a slave and had to work ten hours a day to provide for her family. She had to sell produce to pay for her children's studies and clothes. If her children were unsuccessful, the mother would be blamed. **Fidelity was non-existent with women finding out that their husband had perhaps four additional children with another woman.** A man often had four or five partners in addition to his wife. **Divorce was practically impossible. If life became unbearable for the woman, she left the marital home but***

of the Congo, Report to the General Assembly, 31 August 2001, A/56/327 (E/CN.4/2001/40/Add.1, sect. IV), Geneva, available at www.un.org

⁹ United Nations (2001b), *For the Record*, available at www.un.org/forthecord2001

her parents would not provide support as they were ashamed. In terms of the inheritance, males, not females, were the beneficiaries. On the death of her husband, the widow was ill-treated by her in-laws who forced her to cry continually and if she did not do so, they exposed her to the sun semi-naked. After the funeral, she was evicted and her possessions confiscated. The widow was expected to marry one of her brothers-in-law.”¹⁰

1.4.2 Current concerns

Recent observers have also raised concerns on women's rights. The UN Committee on the Elimination of Discrimination Against Women considered the reports submitted by the DRC government on the implementation of CEDAW¹¹ at meetings in January and February 2000. They raised many criticisms including the following:

*“The principal areas of concern identified by the Committee included: remaining discriminatory provisions in the Family Code, the Penal Code and the Labour Code; inadequate resources for the national machinery and the Ministry of Social Affairs and the Family to implement their plan of action; **the persistence of traditional customs and practices (e.g. dowry, polygamy, forced marriage, female genital mutilation); reports of women being raped, assaulted or severely tortured during the war; the situation of refugee and displaced women suffering from the consequences of war, and the psychological and mental trauma experienced by women and girls as a result of the forced conscription of children; the extent of prostitution, often resulting from poverty, and particularly prostitution of girls; the under-representation of women in political life and in the country's governing bodies, including those of the judicial system.***

*“Other concerns identified by the Committee were: **the low rate of school enrolment of girls, their high drop-out rate and the high female illiteracy rate, especially in rural areas; de jure and de facto discrimination against women with regard to the right to work; the requirement of the husband's authorisation of a wife's paid employment and reduction of pay during maternity leave; the high rates of maternal and infant mortality, the low rate of contraceptive use, particularly in rural areas; the decline in health services; the situation of rural women; the acceptance in rural areas of customs and beliefs that prevent women from inheriting or gaining ownership of land and property; food taboos, which are not only detrimental to the***

¹⁰ Langer, Jennifer (2002), ed., 'Women in the Conflict in the Democratic Republic of Congo', in *Crossing the Border: Voices of Refugee and Exiled Women*, Nottingham, Five Leaves.

¹¹ The UN Convention on the Elimination of Discrimination Against Women

health of women, especially mothers, but also have serious consequences for the health of future generations.”¹²

The UN Special Rapporteur stated in his report of February 2001 with regard to the government-controlled area:

“The situation of women remained unchanged in 2000. The employment and education situation described in earlier reports has deteriorated even further as a result of the war.

“Women have an 8 per cent rate of infection with the human immunodeficiency virus (HIV) owing to poverty, according to some sources. In the past year alone, some 20,000 new cases have been reported. This tragedy is caused not only by a lack of education, but also, and especially, by sexual contact, often under duress, with Rwandan and Ugandan soldiers, whose countries have a high rate of infection with acquired immunodeficiency syndrome (AIDS).

“Even though women are included in the Cabinet, the Government practices discrimination. [...] Only 24 of the 300 members appointed to the Constituent and Legislative Assembly are women.”¹³

As for areas controlled by RCD forces, the same report notes:

“The best known case of an attack on women is the incident that took place at Mwenga, where 15 women were buried alive after having been burned. Other cases include the detention of feminist activists (PAIF); the rape and beating of secondary school students who were detained for insisting that their examinations were valid in the Democratic Republic of the Congo; and repeated instances of rape of women detainees, particularly in “Chien méchant”¹⁴. Those who resist are generally beaten. Rapes by Ugandan soldiers have also been reported in Butembo, especially in Kihinga, Ruenda, Isango, Mutiri, Mukuna and Butalirya districts.”¹⁵

¹² United Nations (2000b), Committee on the Elimination of Discrimination Against Women, *Reports to Treaty Bodies, meetings to consider the initial, second and third periodic reports for DR Congo (CEDAW/C/ZAR/1, 2 and 2/Add.1 and Corr.1, and CEDAW/C/COD/1)* : UN For the Record Volume 2, Geneva, available at www.un.org

¹³ United Nations (2001c), *Report on the situation of human rights in the Democratic Republic of the Congo*, Garreton, Roberto, Special Rapporteur, E/CN.4/2001/40, Economic and Social Council, Commission on Human Rights, 1 February 2001, available at www.unhcr.ch/huridocda/huridoca.nsf/

¹⁴ The police stations known as “Chien méchant” (“Vicious Dog”) and “Bureau II” have been identified as the main centres of torture in Goma (Source: United Nations (2001c))

¹⁵ United Nations (2001c), op. cit.

2. Domestic violence

Domestic violence is known to be common but underreported.

The 2002 U.S. State Department report notes:

“Domestic violence against women, including rape, is common, but there are no known government or NGO statistics on the extent of this violence. The police rarely intervened in domestic disputes. Rape is a crime, but the press rarely reported incidents of violence against women or children. Press reports of rape generally appear only if it occurs in conjunction with another crime or if the crime allegedly was committed by Rwandan, Ugandan, or Burundian troops in rebel-controlled areas of the country.”¹⁶

The UN Human Rights Committee commented in 1999 that, according to a report presented to them by the World Organisation Against Torture,

“In Maniema, a village in the Democratic Republic of the Congo, 80% of women suffered violence from their husbands.

...

“The report [by World Organisation Against Torture] is based on a survey of 78 countries.... The report examines "state-condoned violence" against women, including imprisonment and torture. Egypt, Sudan and the Democratic Republic of the Congo were singled out for criticism in these areas.”¹⁷

A report by the UN Office for the Coordination of Humanitarian Affairs (OCHA) published in March 2001 states:

“The UNICEF and the ministry of social and family affairs survey carried out in 1999 revealed that women are still victim [sic] of violence namely: forced abortions, marital authorization to work or travel, forced prostitution, rapes, assault and grievous bodily harm.”¹⁸

The DRC government representative who presented reports to the UN CEDAW committee in 2000 stated that:

¹⁶ U.S. Department of State (2002), *2001 Country Reports on Human Rights Practices: Democratic Republic of Congo*, Washington, Bureau of Democracy, Human Rights and Labor, available at www.state.gov/g/drl/rls/hrrpt/2001/af/8322.htm

¹⁷ UN Human Rights Committee, 1999, commenting on Benninger-Budel, Carin and Lacroix, Anne-Laurence (1999), *Violence against Women: A Report*, World Organisation Against Torture, available at www.omct.org

¹⁸ United Nations (2001d), Office for the Co-ordination of Humanitarian Affairs (OCHA), *Women Facing War in Congo*, Dossou, Sylvie, Information officer, OCHA – Kinshasa, available at www.reliefweb.int/ocha_ol/index.html

“Whether violence against women takes the form of wife-beating, rape, genital mutilation or the image of women in the media, women victims of violence often do not report it to the authorities unless there is extensive physical injury.

*“The report says legal clinics are places where female victims of violence can tell their stories and receive counselling and psychotherapy. Some 418 people were registered and heard by experts over a period of close to one month. **Those hearings revealed that violence arose in connection with matters of inheritance, divorce, polygamy, refusal to acknowledge paternity, alcoholism, dowry, lack of family communications, abuse of marital authority, interference by in-laws, management of the family budget and the weight of taboos and tradition.**”¹⁹*

¹⁹ United Nations (2000a), Committee on the Elimination of Discrimination Against Women, op. cit.

3. Domestic violence and the law

3.1 Legal provisions

The law does not address the issue of domestic violence. There is no specific legislation relating to it, either in the Penal Code or the Family Code. Articles 46, 47 and 48 of the Penal Code relate to general offences of assault and battery, but **assault in the context of a family or intimate relationship is not mentioned.**²⁰ **Neither is there any reference to other types of violence such as verbal or psychological abuse.**

3.2

Rape

Rape is an offence under articles 169 and 170 of the Penal Code. It is not apparent whether rape in marriage is considered to be an offence. There is no mention of other types of sexual abuse.²¹

²⁰ Takizala, Alexis, Lawyer, and Viviane Rumbu Mayand, Barrister, Court of Appeal, and member of human rights NGO Centre des Droits de l'Homme et du Droit Humanitaire, Lubumbashi, DRC: Correspondence with author, January 2002.

²¹ Takizala, Alexis (2002), op. cit.

4. The reality of seeking protection

4.1 The response of the police and the courts to cases of domestic violence

According to legal sources in DRC, **a victim of domestic violence who seeks the help of the police or the law cannot get her case heard, either due to the financial power of the perpetrator, or due to the so-called right of correction which custom affords to a husband over his wife.**²²

The police rarely intervene in household disputes or cases of domestic violence, and the tendency of the courts is to shelve the victim's complaint if she agrees to return to the marital home and to be compensated by the offending spouse according to custom. The courts barely even require a husband to take care of his wife when injuries have occurred.²³

4.2 The judicial and legal system

4.2.1 The judiciary – dysfunctional and corrupt

The U.S. State Department report comments:

“The law provides for an independent judiciary; however, in practice the judiciary was not independent of the executive branch, which manipulated it during the year. The Government failed to establish mechanisms to ensure the independence of the judiciary; a judicial reform decree, reportedly awaiting presidential approval since 1997, still had not been promulgated by year's end. The judiciary was ineffective and corrupt. The civil judiciary, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, largely was dysfunctional. Military courts continued to try both military and civilian defendants.

“Civil and criminal codes are based on Belgian and customary law. The legal code provides for the right to a speedy public trial, the presumption of innocence, and legal counsel at all stages of proceedings; however, the Government did not respect these rights in practice. Defendants have the right to appeal in all cases except those involving national security, armed robbery, and smuggling, all of which are adjudicated in theory by the Court of State Security, and except those cases adjudicated by the special

²² Takizala, Alexis (2002), op. cit. Original text in French: *“Une victime de la violence domestique qui a recours à la police, voire même à la justice, peut ne pas faire entendre sa cause soit à cause du pouvoir financier de l'auteur de la violence, soit en vertu du soi-disant droit de correction que la coutume reconnaît au mari à l'endroit de la femme.”*

²³ Takizala, Alexis (2002), op. cit. Original text in French: *“La police intervient rarement dans les querelles de ménage ou violence domestique ; et la tendance dans les parquets c'est de classer sans suite la plainte de la victime si celle-ci consent à regagner le toit conjugal et à être indemnisée par l'époux offensant selon les règles de la coutume. C'est à peine si l'on recommande au mari de faire soigner sa femme en cas de blessures.”*

*military tribunals, whose jurisdiction is ill defined. The law provides for court-appointed counsel at state expense in capital cases, in all proceedings before the Supreme Court, and in other cases when requested by the court. In practice the Government did not respect fully these provisions. **Corruption remained pervasive, particularly among magistrates, who were paid very poorly and only intermittently, and who also were trained poorly.** The system remained hobbled by major shortages of personnel, supplies, and infrastructure.*
[...]

***In the territories occupied by the various rebel factions, particularly the RCD/Goma, the system of justice essentially remained nonfunctional.** Judges and other public servants were not paid their salaries. There were credible reports of judges accepting bribes in return for favorable decisions.*²⁴

4.2.2 Discrimination against women enshrined in the law

In addition to the above-mentioned serious flaws in the operation of the judicial system, **the law in general is weighted against women.**

The U.S. State Department comments:

“Women are required by law to obtain their spouse's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or applying for a passport.”²⁵

The UN's CEDAW Committee noted among its concerns:

*“discriminatory provisions in the Family Code, the Penal Code and the Labour Code [...] **de jure and de facto discrimination against women with regard to the right to work; the requirement of the husband's authorisation of a wife's paid employment and reduction of pay during maternity leave**”*²⁶

4.3 Difficulties in reporting rape and sexual violence

In their report on rape by members of the armed forces in DRC, covered in detail in Section 5, Amnesty International notes attitudes to women who have experienced sexual violence, which would make it very difficult for a woman raped in a situation of domestic violence to pursue a complaint:

²⁴ U.S. Department of State (2002), op. cit.

²⁵ U.S. Department of State (2002), op. cit.

²⁶ United Nations (2000b), Committee on the Elimination of Discrimination Against Women, op. cit.

“Investigations into cases of rape are extremely difficult particularly because of the social stigma associated with it. In many cases, women are reluctant to report rape because they may be abandoned by their husbands or they may even be accused of having been targeted because of their loose morals.”²⁷

4.4 Other support services

4.4.1 The role of Non-Governmental Organisations (NGOs)

There is no mention in any of the sources consulted of any refuges or shelters for abused women. This is in contrast to the fact that various countries which generally may lack services for women, do have (limited) shelter provision, including Grenada, Malaysia and Mongolia. Algeria, Angola and Benin are listed among others who have some support services for women experiencing domestic violence, according to the UN report on state responses to violence against women in the family. No information was provided for the study by either the DRC government or any NGOs and the country was therefore not included in the report.²⁸

There are a number of NGOs in DRC active in the field of combating violence against women, mainly providing legal advice and running awareness-raising campaigns; however they appear to carry out their work under difficult conditions and there is evidence of harassment from state officials.

Human Rights Watch in its 2000 report notes attacks on women’s groups as part of widespread attacks on civil society. In 1999 RCD officials cancelled a previously authorised march against violence towards women in South Kivu, and prevented one of the organisers from leaving the country, accusing her of inciting women to revolt. In 2000, after she had given radio interviews about plans for a similar march, officials threatened her employers with the closure of their organisation unless they dismissed her, and she was duly sacked from her job. One of her fellow activists was interrogated by police and accused of “*preparing genocide*” with the activities planned.²⁹

PAIF (Promotion and Support for Feminine Initiatives), an NGO based in Goma, which works for women’s legal rights, ran a year-long Campaign Against Violence Against Women in 2000. However, in January 2000

²⁷ Amnesty International (2001c), *Democratic Republic of Congo: Torture: a weapon of war against unarmed civilians* AI Index: AFR 62/012/2001, London, Amnesty International, available at www.amnesty.org

²⁸ United Nations (2001e), *Report of the Special Rapporteur on violence against women, its causes and consequences: Violence against women in the family*, Coomaraswamy, Radhika E/CN.4/1999/68, Economic and Social Council, Commission on Human Rights, 10 March 1999, available at www.unhcr.ch/huridocda/huridoca.nsf/

²⁹ Human Rights Watch (2000) *World Report 2000, Democratic Republic of Congo*, Chapter V, ‘Civil Society Under Attack’ New York, Human Rights Watch, available at www.hrw.org

Immaculee Birhahka, President, and the PAIF vice-president were arrested and tortured. They were subjected to continual harassment after their release.³⁰

The UN Special Rapporteur noted that in the government-controlled area:

“Women’s organizations have lost their voice to a parastatal group known as the Regroupement des femmes congolaises (REFECO); in addition, women human rights activists have been arrested (Jeanine Mukanirwa was arrested in December [2000]).”³¹

³⁰ Unitarian Universalist Service Committee (2001), report on their website at www.uusc.org/alerts/recent/index_frames.html?congo.html . Unitarian Universalist Service Committee is a nonsectarian organization that promotes human rights and social justice worldwide.

³¹ United Nations (2001c), op. cit.

5. The situation of separated and divorced women

5.1 The viability of 'internal flight'

The information presented in this section of the report, as well as that contained in Section 1, would be relevant in any consideration of whether internal flight would be an option for a woman fleeing domestic violence in DRC. The civil war, related violence and human rights abuses in both government-controlled and foreign-occupied territories, coupled with the huge numbers of displaced persons and the humanitarian crisis, are factors that would need to be taken into account in such a case.

The huge problems faced by the majority of the population can only be exacerbated by the discrimination and isolation that would face a single woman who attempted to move to another part of the country after experiencing domestic violence. These problems would only be in addition to those women generally experience in the light of overall discrimination against women as outlined above. Leaving the threat of further violence aside, given the evidence in this report, it seems clear that the likelihood of her finding employment and adequate living conditions would be small.

5.2 Risk of violence including sexual violence

5.2.1 General risk of rape

A single woman who was returned to DRC, or attempted to move to another part of the country, might be particularly vulnerable to suffering rape and sexual violence. The U.S. State Department notes the following:

*"The significant risk of rape, sometimes perpetrated by uniformed men, restricted freedom of movement at night for women in some neighborhoods. Groups of citizens implemented neighborhood watch programs, but **women in some parts of Kinshasa and Lubumbashi did not leave their homes at night due to fear of attack.**"³²*

5.2.2 Rape by members of the armed forces

Again, a single woman may be subject to greater risk of assault by either government or non-government soldiers. Amnesty International's report from 2001 clearly shows the high incidences of such abuses.

*"2.4 Rape by government soldiers
Many women have been subjected to rape and other forms of sexual violence by members of the security forces. However, rape is thought to be seriously under-reported. Investigations into cases of rape are extremely difficult particularly because of the social stigma associated with it. In many cases, **women are reluctant to report rape because they***

³² U.S. State Department (2002), op. cit.

may be abandoned by their husbands or they may even be accused of having been targeted because of their loose morals. In a number of cases women who have been raped are stigmatized as likely to have contracted HIV and hence shunned by those who get to know about the rape. Fear of stigma and reprisals usually leads women to request that their identities are not revealed in public reports such as this one.

“Several days after the arrest of Jean-Calvin Kandolo³³ [...], two soldiers staying in his home raped a girl who had gone there to visit his younger brother, Papy Kandolo. The girl reported the abuse to the commanders at the GLM who took no action to investigate the rape and bring the perpetrators to justice.

“Numerous cases of rape by military recruits reportedly took place in areas around N’djili airport near Kinshasa in early 2000. Among the victims was a woman who was abducted by three recruits near Tata Raphael stadium on 16 February. A woman friend found with her was also reportedly gang-raped. In the nearby village of Dingi Dingi a woman was raped by soldiers on 20 February 2000. Her husband was reportedly severely beaten during the rape.

**“4.2 Rape and other forms of sexual violence by armed opposition groups
“Rape, particularly of girls and women of all ages has been extensively used by armed opposition groups and foreign government forces supporting them in eastern and other parts of the DRC.**

“Rape has effectively been used as a weapon of war against sections of the population that are known for or suspected of supporting their opponents, including by humiliating them. Women and girls of all ages are the most vulnerable to this form of torture, but it is also used by the armed groups as a reprisal against their male opponents, as well as a demonstration of their military superiority over their opponents who are shown to be unable to protect the women.

“Many human rights defenders told Amnesty International delegates that sexual violence included other acts of torture. The torture also included in some cases hot pepper being put in the woman’s genitals. In a number of cases women were shot in the genitals after being gang-raped. A woman in Fizi, South-Kivu, was one such victim and she had to spend as long as five months in hospital and underwent as many as five operations to treat her extensive injuries.

“A woman member of the immigration security service in Goma, was reportedly raped by Bureau Deux (“B2” - military intelligence unit) guards

³³ Kandolo was an alleged assassin of President Kabila

after she had been arrested on 9 April 2000 in connection with possession of tracts critical of the RCD-Goma. She was arrested together with two workers of the electricity company. She and her co-detainees were whipped daily while being held incommunicado.

“Mayi-mayi and Rwandese Hutu insurgents too have carried out numerous rapes and other forms of sexual violence. For example, an insurgent group known as Tamwara reportedly terrorized villages in Masisi, North-Kivu, by raping women. The perpetrators reportedly pierced holes in women’s external genitalia and cut their breasts.

“In April 2000 Rwandese Hutu insurgents attacked villages in Masisi and raped women. In one case a woman was reportedly raped by nine men in front of her children. After the rape her husband abandoned her.

“A 28-year-old woman and her 14-year-old daughter were raped on 1 September 2000 by soldiers speaking Kinyarwanda . In a desperate effort to protect her daughter she told the attackers to rape her and not her daughter, but the soldiers raped both of them. Her mother too was raped. After the rape, Munyere was abandoned by her husband.

“Some of the victims were killed after they were raped by RCD combatants. A 35-year-old woman and four other women were gang-raped on 15 May 1999 by as many as 10 combatants each. Three of the women, Saniya Kaota, 55, Monique Kwabo and Magdalene Marko, 60, were shot and then killed with machetes. The 35-year-old woman and another woman were unable to walk after the attack and were taken to a dispensary by their relatives to be treated for their injuries. In many cases of rape the victims could only tell that the perpetrators were armed but could not identify which armed group they belonged to. For example, Amnesty International met with a victim who told them that in Kashebere territory of North-Kivu, an estimated 50 soldiers attacked a village at 5am, but said that the events took place so rapidly that she could not recognize the soldiers. The victim told Amnesty International that she and four of her friends were taken into a bush and raped. She said that each woman was raped by as many as 10 men and that after the rape three of the women were killed. The two others remained in the village.

“She told Amnesty International: “We were unable to walk after our ordeal. Our families took us to a dispensary to be cared for. After that we travelled on foot to Goma, where we live in extreme poverty. Until now we haven’t had a medical examination to see whether we have AIDS. It was the RCD-Goma who were surrounding the village. Three of the women were shot and then finished off with machete blows.”

“As in many cases of torture mentioned above, most cases of rape have not been investigated and the perpetrators remain unpunished.

The climate of fear and the social stigma surrounding rape is such that many women feel unable to report the abuse to their relatives or even to human rights organizations. As awareness of rape as a punishable human rights abuse has increased, a few women are becoming brave enough to testify. However, the victims generally request not to be named to reduce the possibility of reprisals and to protect themselves from the stigma.”³⁴

The UN Special Rapporteur on Violence Against Women noted the following in 2001:

“All of the armed forces fighting in the three-year war in the Democratic Republic of the Congo have committed serious abuses against women and frequently targeted women for rape and other sexual violence. Armed groups, in particular Hutu rebels, have used rape systematically against civilians. Some women and girls are held as sexual slaves. There have also been reports that detained men, women and children have been subjected to sexual violence.

“The Special Rapporteur received reports of dozens of cases of rape and other human rights violations against women in areas controlled by the Goma-based Congolese Rally for Democracy (Rassemblement congolais pour la démocratie, RCD) and its Rwandan allies. In one particularly gruesome incident, in September 1999, RCD soldiers reportedly beat, stripped and raped five women in the village of Mwenga who had been detained reportedly because an RCD soldier’s wife accused them of sorcery. The soldiers then put hot pepper in the women’s vaginas, put them in a pit and buried them alive. Between April and July 1999, 115 rapes by combatants were registered in just the two regions of Katana and Kalehe in South Kivu. Thirty rapes were reported during the 5 April 1999 attack on Bulindi and Maitu. Since April 2000, over 40 women have been held hostage by Mai Mai armed groups in Shabunda, South Kivu, and are believed to be at great risk of sexual violence.

“The Special Rapporteur on the human rights situation in the Democratic Republic of the Congo also reported that he had received many reports that rape, even of girls, still occurs in prisons and during military operations in the country. The Special Rapporteur noted specific charges of rape by Congolese Armed Forces soldiers as they fled from Equateur in the beginning of 1999. He also received reports of rape of

³⁴ Amnesty International (2001c), op. cit.

women in Kabamba, Katana, Lwege, Karinsimbi and Kalehe, and by Ugandan soldiers in towns in Orientale province.”³⁵

5.2.2 Health consequences of rape

Oxfam note the additional possible serious health consequences of sexual violence:

*“Human rights organisations have also registered many cases of soldiers raping women. **In addition to mental and physical injury and the risk of pregnancy, rape victims are particularly vulnerable to contracting HIV because body tissues are more likely to be torn.** There are six foreign armies fighting on Congolese soil, and on average, soldiers’ rates of infection can be up to four times higher than those of civilians. **HIV infection rates vary from 50 per cent of Angolan soldiers to 80 per cent of Zimbabwean soldiers.**”*

“Bernadette Mulelebwe, the Director of Christian Aid’s partner Fondation Femme Plus, told of a woman who came to her office in Kinshasa. ‘She came here from the east with her children. She had been raped six times – at six checkpoints she had been raped. Now she is HIV-positive and her little daughter is also infected. How many other women have been in that situation?’”³⁶

5.3 The consequences of divorce

Little information is available on societal attitudes to divorced women; however it **has been noted that severe consequences of divorce emanate from both national and customary law.** The U.S. State Department comments:

*“The law permits a widow to inherit her husband’s property, to control her own property, and to receive a property settlement in the event of divorce. In practice sometimes consistent with customary law, women are denied these rights. **Widows commonly are stripped of all possessions--as well as their dependent children--by the deceased husband’s family.** Human rights groups and church organizations are working to combat this custom, but **there generally is no government intervention or legal recourse available.** In addition women often do not realize that they can improve their legal claims by obtaining official documents that declare*

³⁵ United Nations (2001f), *Report of the Special Rapporteur on violence against women, its causes and consequences: Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000)*, Coomaraswamy, Radhika E/CN.4/2001/73, Economic and Social Council, Commission on Human Rights, 23 January 2001, available at www.unhcr.ch/huridocda/huridoca.nsf/

³⁶ Oxfam (2001), *No End in Sight: The Human Tragedy of the Conflict in the Democratic Republic of Congo*, Oxford, Oxfam, available at www.oxfam.org.uk

*them to be married legally to a man. Women also are denied custody of their children in divorce cases, but they retain the right to visit them. Polygyny is practiced, although it is illegal. Father-child relationships resulting from polygynous unions are recognized legally, but only the first wife is recognized legally as a spouse.*³⁷

5.4 Property rights

Little information is available on women's property rights. However, the UN's CEDAW Committee, in their consideration of the progress of women's rights in DRC, criticised

“the acceptance in rural areas of customs and beliefs that prevent women from inheriting or gaining ownership of land and property”³⁸

In fact, according to the U.S. State Department, **property rights for women are limited under the law and not just by “customs and beliefs”**. These restrictions are not restricted to women in rural areas only:

“Women are required by law to obtain their spouse's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or applying for a passport.”³⁹

Property rights after divorce are mentioned in section 5.3 above.

5.5 Economic security

5.5.1 A country in crisis

Oxfam's report of August 2001 describes the catastrophic situation for the Congolese people:

“The humanitarian crisis in the DRC has been described as one of the worst in the world. The fighting has led to appalling levels of hunger, disease, and death, and to countless abuses of human rights. More than two million people are internally displaced, most of whom are in eastern DRC. They have sought refuge with friends, family, or strangers, straining resources to such an extent that many of their hosts are also dragged into abject poverty.

“Women and children bear a disproportionate burden of suffering in emergency situations. Among the displaced are a large number of children, many of whom are separated from their families. The crumbling

³⁷ U.S. Department of State (2002), op. cit.

³⁸ United Nations (2000b), Committee on the Elimination of Discrimination Against Women, op. cit.

³⁹ U.S. Department of State (2002), op. cit.

state infrastructure in health and other sectors has been completely unable to cope with the growing suffering of the population.⁴⁰

The United Nations Special Rapporteur stated in his report of February 2001:

*“The war has had a catastrophic impact on the country, which has been destroyed. Over half the Congolese have been affected by it. **All public moneys are being diverted to the war effort. There have been terrible epidemics. Only 9 per cent of all health districts have refrigerators for keeping medicines.** In Kinshasa, 70 per cent of its 7 million inhabitants have less than a dollar a day to feed themselves. Cultivation is at a standstill, reducing the food supply to such an extent that 17 per cent of the population (16 million people) are undernourished, according to a report by the Secretary-General. The number of shégués (street children) has risen alarmingly.”*⁴¹

The U.S. State Department report for 2001 states:

*“The country's economy is dominated by subsistence agriculture, a large informal sector, and widespread barter; most sectors of the economy continued to decline. Production and incomes continued to fall. Annual per capita national income for the population of approximately 52 million remained at less than \$100 (32,000 Congolese francs). **Physical infrastructure was in serious disrepair, financial institutions remained in a state of collapse, and public education and health deteriorated.** The ongoing restriction on commercial travel on the Congo River during the year negatively impacted the economy. **The insolvent public sector could not provide even basic public services.** External economic assistance remained limited, and the State's revenues from diamond exports, its leading source of foreign exchange, declined.”*⁴²

A report by the International Crisis Group in December 2000 describes the extremely harsh conditions in the country:

“The pulverisation of the Congo has created a humanitarian tragedy in the country. The International Rescue Committee, an American NGO, estimated in a May report that the conflict had caused 1.7 million deaths by either direct or indirect means. Of these, some 200,000 were killed in fighting; the rest died as a result of malnutrition and disease.

[...]

“Up to 2 million persons have been displaced by the conflict, including an estimated half million in the first six months of 2000 alone. A quarter of a million have fled to neighbouring countries as

⁴⁰ Oxfam (2001), op. cit.

⁴¹ United Nations (2001c), op. cit.

⁴² U.S. Department of State (2002), op. cit.

refugees. In addition, refugees from other conflicts such as Angola (18,000 in October 2000 alone) have fled into the DRC. A FAO mission to the remote central Maniema region estimated that **68 per cent of the population had been forced to flee their homes at some point since August 1998, and that 110,000 were still hiding in the forest.** Displaced populations are utterly destitute.

[...]

“Finally, the entire population has suffered a reduced access to both health care and education – creating the conditions for long-term impoverishment, spread of disease and even the perpetuation of the conflict for a younger, unschooled generation.”⁴³

5.5.2 Internal displacement

The large number of people who have been forced to flee their homes adds to the pressure on scarce resources and leaves women and children particularly vulnerable. Oxfam’s report states:

“The most recent conflict has led to large-scale population movements within the DRC and over the borders into neighbouring countries. In March 2001, there were an estimated 2,040,000 internally displaced people (IDPs) within the DRC – an increase of 240,000 since November 2000. According to the Office for the Co-ordination of Humanitarian Affairs (OCHA), the war in the DRC has created the highest number of IDPs ever registered in Africa in the context of a single conflict.

“Approximately 1.6 million of the total number of internally displaced people are in rebel-held areas, and approximately one million are currently located in North and South Kivu, a figure that has risen from 400,000 in mid-1999. It is estimated that four-fifths of families in rural areas of the Kivus have been displaced at least once during the past five years, sometimes to less than a kilometre from their homes.

“Less than half the internally displaced people have access to direct relief assistance, which means that more than one million people are displaced with no kind of external assistance or support.

“Displacement presents a number of protection concerns, especially for the most vulnerable members of the population. In conflict settings, a large percentage of displaced people are typically women and children. With the loss of large segments of the male population to the armed forces, between 60 and 80 per cent of the displaced population in areas such as Maniema, Kalonge, Bunyakiri, and Shabunda is reported to be made up of women-headed households. Of particular concern for children is separation from their families during flight, placing them at

⁴³ International Crisis Group (2000) Scramble for the Congo: Anatomy of an Ugly War Africa Report 26, pp 67 – 68 available at www.icg.org.

greater risk of exploitation and abuse. **In the DRC, separation and abandonment of children during flight has led to dramatic increases in the number of street children in all urban areas**, including those which had previously not known such problems, such as Lubumbashi. In a conflict which has exploited thousands of children as soldiers, separation also dramatically increases the risk of recruitment into armed groups – not necessarily only by force, but by presenting what may appear to be the only viable economic option in which children can ‘voluntarily’ participate. There is no discrimination in the risk that separation poses for children in the DRC conflict. There were round-ups of street children in 2000, and recruitment drives in Kinshasa in 1998 attracting an estimated 6,000 children seeking an income. In addition, the Interahamwe incorporated an estimated 8,000 Hutu children left behind by their refugee parents in 1996-97.

“Humanitarian agencies have noted that most displaced people have tended to remain close to their areas of origin, usually in nearby forests, and were relatively easy to find and provide with whatever assistance was available. However, since 2000, changes in the frontline and in the strategy of armed groups, particularly militias, have caused changes in the patterns of displacement, driving people much further from their areas of origin, and making their identification and the provision of assistance far more complicated. The majority of displaced people in the DRC do not reside in camps but take refuge with families or friends in other villages or towns. In many places, villages have doubled or tripled in size, placing a great burden on host communities. The host community in many areas has become as impoverished and destitute as the displaced. One of the most vulnerable groups of people includes those who have taken refuge in the dense forests, especially around Shabunda, Ituri, and along the Bokungu-Ikela axis in Equateur. These people are often from towns or villages, and are totally unequipped for life in such harsh conditions. Forced to eat wild plants and attempt to cultivate, they have no access to medical services or clothes. They are usually in a very poor physical state but are often too embarrassed to seek assistance, even when it is within reach.”⁴⁴

5.5.3 Food shortages

Food shortages, both in rural and urban areas, are giving rise to great concern among agencies working in DRC. Oxfam’s report published in January 2002 states:

“A recent Food and Agriculture Organisation (FAO) report shows how the proportion of undernourished people has grown from 35 per cent in 1990-92 to 64 per cent in 1997-99, making the DRC the world’s poorest country in this respect. In 2001, the Office for the Coordination of Humanitarian

⁴⁴ Oxfam (2001), op. cit.

*Affairs (OCHA) identified 16 million people as having the most critical food needs. People in parts of the country which used to provide food for export, such as areas of the Kivus and Ituri, are now wracked by hunger. Severe malnutrition rates as high as 25 per cent have been recorded in some of these areas.*⁴⁵

The International Crisis Group states:

“Economic conditions have worsened due to the conflict, even for populations that have not been displaced. Normal trade routes have been cut or disrupted by battle lines..... As a result, markets have collapsed for food surplus areas, while food prices have skyrocketed in food deficit areas.

“The World Food Program estimates that approximately 16 million –one third of the DRC population - are affected by food shortages, with two million of these facing ‘critical’ shortages.

[...]

“A novel characteristic of DRC’s humanitarian disaster is the prospect of urban famine and suffering in the capital, Kinshasa – which is one of Sub-Saharan Africa’s largest cities with a population of 4.5 to six million. UNDP reported in mid-2000 that the food supply to the capital was 100,000 tons below the pre-war level. In 1999, the agency estimated that food supply was 400,000 tons, or 30 per cent, below pre-war levels – which were still regarded as significantly below adequate. Other estimates of the situation are less dire. But even if food is present in the market, the recent 53 per cent depreciation in the official value of the FC [Franc Congolais], as well as the annualized inflation rate of 298.6 per cent, combine to put its price out of reach of the average Congolese household.”⁴⁶

5.5.4 Access to safe water

Oxfam’s report states:

“The DRC has enormous water reserves, and the Congo River has the potential to produce enough hydro-electric power to supply the whole of southern Africa. Yet the majority of its own population lack access to clean drinking water. Water-related disease, in addition to poor hygiene and sanitation, is one of the main causes of illness in the DRC. In 1999, UNICEF estimated that in the DRC as a whole, only 45 per cent of the population had access to safe drinking water. In rural areas, the

⁴⁵ Oxfam (2002), Poverty in the Midst of Wealth: the Democratic Republic of Congo, Briefing Paper no. 12, Oxford, Oxfam UK.

⁴⁶ International Crisis Group (2000) op. cit.

percentage was thought to be as low as 26 per cent. These percentages are expected to be substantially lower today.”⁴⁷

Lack of access to clean water has a particular impact on women and girls:

“In addition to health problems, the time required to walk to a water source or to queue at a busy water point has a significant impact on women and children, particularly girls, who are responsible for collecting water for the household’s daily needs. Time spent performing this task takes women away from caring for the family or carrying out income-generating activities, and takes girls away from school. In Kisenso, a poor area of Kinshasa, urban families spend two and a half hours each day collecting water. Furthermore, the amount that they collect is insufficient to maintain adequate hygiene standards in addition to that needed for drinking and cooking.”⁴⁸

5.5.5 Lack of health care

Poor access to health care for the majority of the population is one of the major concerns raised by aid agencies. Oxfam’s report states:

“Poor diets, difficult living conditions, and the collapse of routine vaccination programmes have weakened people, especially children, to such an extent that measles, whooping cough, and bubonic plague have re-emerged as major threats. There are 2000 doctors for a population of 50 million people, and a maternal mortality rate which is one of the worst in the world. Sixty-five per cent of the population has no access to safe water, and 40 per cent of primary school-age children have no access to education. In addition, there are approximately 400,000 internally displaced children. One in five children die before they are five years old.”⁴⁹

Their report of the previous year states:

“In government-held areas, the share of central government expenditure allocated to the health sector is less than one per cent – and has been barely more than this since Independence in 1960.⁵⁰ As a result, the health system has always been run as a ‘private’ service, with patients required to pay. In areas under RCD control, there is no budget for health

⁴⁷ Oxfam (2001), op. cit.

⁴⁸ Oxfam (2001), op. cit.

⁴⁹ Oxfam (2002), op. cit.

⁵⁰ The World Health Organisation gives a figure of 0.1% for 1997 (Source: World Health Report 2001, available at www.who.int/whr/2001/archives/2000/en/pdf/StatisticalAnnex.pdf . The UK government’s expenditure on healthcare in 1999/2000 was 14.3% of the total government budget (source: Jones, Robert, ‘UK Healthcare: Some International Comparisons’ in British Economy Survey, Volume 30 no. 1, Section 9, Autumn 2000, available at www.statsed.co.uk/bes/bes_autumn2000/vol_index.htm)

services. Additional support to the 307 Health Zones into which the country is divided comes mainly from churches and other organisations. However, in 2000, 100 Health Zones received no external assistance, either from the government or from outside agencies. In addition, there is a severe lack of human resources. In 1998 there were only 2056 doctors for a population of 50 million people, and of these, 930 were in Kinshasa.⁵¹

“The increase in poverty has meant that a high percentage of people cannot afford essential medicines. On the outskirts of Kisangani, the staff at the Segama health centre estimate that only 40 per cent of the population can afford to pay the US\$0.15 consultation fee. Of these, only one in four can afford US\$0.11 to buy the medicines that are prescribed. As a result, many people resort to trying to treat themselves, which can have disastrous consequences. In Kimbanseke, a poor commune in Kinshasa, four per cent of the population is deaf, significantly higher than the international average of two per cent. One of the reasons is abusive self-medication of drugs such as the antibiotic called gentamycine. Rather than spend money on going to a health centre, people buy the drug in local pharmacies or the market and treat themselves. Incorrect use of the drug can cause deafness.

“Health Infrastructure

One of the main problems with the health system is its infrastructure. The complete lack of investment has resulted in hospitals, clinics, and health posts falling into an increasingly dilapidated state. Many lack essential medical equipment, sanitation, and even clean water. This is true in major towns as well as in the more remote rural areas. The hospitals and health centres are often places where disease is spread.

“In Mbuji Mayi, where Oxfam GB is currently rehabilitating health centres and providing clean water, many hospitals lack the most basic hygiene requirements. There are no washing facilities, latrines, septic tanks, or incinerators. Roofs and ceilings are falling down, walls are cracked, termites have destroyed carpentry, and the buildings are inhabited by rats and birds. The Miabi rural hospital, which serves 45,000 people, receives only one or two new cases a day, partly because of the unbearable smell caused by bats living in the roof. In Bas Congo, the hospital in Ngidinga is reduced to collecting rainwater, because REGIDESO no longer provides water to the town. In Gombe Matadi, the hospital relies on unprotected springs a kilometre away. In Ituri (Province Oriental), 15 health centres serving a population of more than 120,000 people have no access to water at all.

⁵¹ The UK has 33,200 doctors (2002 figures) for a population of approximately 60 million (source: National Statistics at www.statistics.gov.uk/nsbase/ukinfigs/)

“In rebel-held areas the situation is even worse, because a large number of the medical facilities in areas which were already under-resourced have also suffered war damage. In Masisi (North Kivu), 40 per cent of all health infrastructure has been destroyed, including the hospital in Mweso which was gutted and used by soldiers. In the Djugu territory in Ituri, many health centres were completely destroyed as the inter-ethnic war raged through its towns. All that now remains is rubble, medical staff having fled or been killed. In rebel-held parts of Kabinda Health Zone (Kasai Oriental), the disengagement of warring parties in March has allowed medical staff from health outposts to reach the town for the first time in more than a year. They reported that in 12 areas only one of the health centres has any medicine, and the rest are not functioning at all. Many have been looted, and have little or no essential equipment.”⁵²

5.5.6 Maternity services

These problems impact particularly on women. Oxfam’s report notes serious concerns on women’s health services:

“The conflict has caused a large increase in the numbers of women who can not get adequate health care when they deliver, many of whom die at home. In Rethy (Ituri), maternal mortality rose from 50/100,000 live births in 1997 to 905/100,000 in 1999, indicating that many mothers get to hospital in difficulties owing to prolonged labour. In the Kivus in 2001, the rates are as high as 3000/100,000 live births.

“This problem is by no means confined to rural areas and to the east of the country. A study on maternal mortality in Kinshasa published in June 2001 found that the rate during 2000 was 1393/100,000 live births (representing 20 deaths per day), and that the main cause of death (31 per cent) was haemorrhaging. The cost of travel, in addition to the hospital fees upon arrival, often prevent women from seeking assistance unless a serious problem occurs, at which point it can be too late for relatives to find enough money to pay the fees and purchase the necessary medicines.”⁵³

5.5.7 Humanitarian situation unlikely to improve

As seen above, all sources mentioned concur on the gravity of the situation for the Congolese people. However, sufficient aid is not currently forthcoming and the situation looks unlikely to improve in the foreseeable future, as stated in Oxfam’s report:

“Despite these indicators, [poverty, food shortages, healthcare etc mentioned above] the UN Consolidated Appeal (CAP) in 2001 received

⁵² Oxfam (2001), op. cit.

⁵³ Oxfam (2001), op. cit.

only 60 per cent of requirements; key sectors of health and education were grossly under-resourced. [...] While there have been some notable increases in assistance from some donors, these remain modest and are in no way commensurate with the level of need in a country the size of Western Europe. An unacceptably wide gap persists between the level of need and the response of the international community.

“Action is also needed to improve co-ordination of humanitarian response and to improve access. While access has improved somewhat in the west (and contributing therefore to the larger CAP), access remains a serious constraint in the east due to insecurity and poor infrastructure.”⁵⁴

5.5.8 The economic position of a single woman

From the information above, it is clear that survival is a struggle for the population in general. **A woman on her own would be in an even more difficult situation; the U.S. State Department’s description of women’s position in the labour market clearly shows the difficulty a single woman would have in earning a living:**

“Women are relegated to a secondary role in society. They constitute the majority of primary agricultural laborers and small-scale traders and almost exclusively are responsible for child rearing. In the nontraditional sector, women commonly receive less pay for comparable work. Only rarely do they occupy positions of authority or high responsibility. Women also tend to receive less education than men.”⁵⁵

The same report also notes women being forced into prostitution for economic reasons:

*“Prostitution is not a crime (except for children under the age of 14), and there has been an increase in prostitution due to poor economic conditions. **Women sometimes are forced into prostitution by their families out of economic necessity.** There was no information available as to the extent of prostitution in the country.”⁵⁶*

⁵⁴ Oxfam (2002), op. cit.

⁵⁵ U.S. Department of State (2002), op. cit.

⁵⁶ U.S. Department of State (2002), op. cit.

6. Case law

6.1 UK

Two positive decisions by the UK's Immigration Appeal Tribunal, although not cases of women who had suffered domestic violence, highlighted respectively the likelihood that those returned from overseas would be held in immigration detention, and that ill-treatment, including sexual abuse, in detention is common.

It could be argued therefore that any woman returned to DRC would be at risk of detention and therefore by definition at risk of rape or sexual abuse.

Mamie Ekima Bokaki (00/TH/00843)

Immigration Appeal Tribunal

Mr. M. Shrimpton (Chair), Mr. A. Jeevanjee, Mr. A. A. Lloyd, JP

16 March 2000

This appeal was by a woman from DRC who had been detained for political reasons and had escaped from detention. **The Tribunal accepted that “at the present day there is a realistic possibility that the Appellant would be further detained and ill-treated. There is more than a realistic possibility that if the Appellant were to be detained, the ill-treatment would include sexual abuse.”**⁵⁷

Andre Bashiya ([2002]UKIAT00186)

Immigration Appeal Tribunal

Mr. K Drabu (Chair), Mr. C Thursby, Mr. T S Culver

21 January 2002

In this case, the Home Office was appealing against a previous decision in the respondent's favour by an Adjudicator. Mr Bashiya was represented by Asylum Aid's appeals caseworker, who presented evidence that **“the government of the DRC has established a policy of migratory detention centres in which all returned asylum seekers would be placed with the goal of identifying the underground networks of migration.”**⁵⁸ The Tribunal agreed with the decision of the Adjudicator who had allowed the original appeal on both refugee and human rights grounds, and dismissed the Home Office appeal.

⁵⁷ Appeal No: HX7300196 (00/TH/00843). Source: Electronic Immigration Network (EIN), www.ein.org.uk

⁵⁸ Appeal No: CC-09828-01([2002]UKIAT00186). Source: Electronic Immigration Network (EIN), www.ein.org.uk

6.2 USA

The Centre for Gender and Refugee Studies at the University of California reports a case where a woman from DRC gained protection under the Convention Against Torture.

The case of D.K.

“Ms. K- is from the capital city of Kinshasa in the Democratic Republic of Congo (formerly Zaire). She is 50 years old and has been in INS detention since March of 1998. She married her husband, an officer in former President Mobutu’s military, in 1974, at the age of 25. They have four children together, the youngest of which is eight years old. Throughout their marriage, Ms. K-’s husband exerted complete control over her and, in 1988, forced Ms. K- to quit her job as a bank secretary. In 1991, her husband ordered her to have an abortion six months into her pregnancy and was only able to avoid having to comply because the doctor said it would threaten her life to abort at that point in the pregnancy.

“In 1995, Ms. K-’s husband shot a colleague but, through his connections to then ruler Mobutu’s family, he was able to escape prosecution. After this incident her husband became emboldened in his abuse against Ms. K-. He began physically abusing her on a regular basis. He would kick her and beat her, often in front of their children. Ms. K-’s husband repeatedly raped her, inflicting her with infections and sexually transmitted diseases. He frequently threatened to kill her with his gun. During one particularly violent incident, Ms. K-’s husband knocked out her tooth, dislocated her jaw, and punched her in the eye so hard that she required stitches. At her asylum hearing, she testified she had undergone surgery on her left eye and due to the physical abuse by her husband had problems with her nose, neck, head, spinal column, hip, and foot. Finally in 1998 her husband beat, punched, and kicked her so badly she lost consciousness.

*“Ms. K- knew it was futile to go to the police for help not only because of her husband’s connections to Mobutu’s family, but also because, as she testified at her hearing: “women are nothing” in the Congo. Under Congolese law a married woman is considered legally incompetent. A woman cannot obtain a divorce without her husband’s consent. A married woman cannot obtain a job, open a bank account, or rent an apartment without her husband’s written permission. **According to the U.S. State Department’s Democratic Republic of the Congo (DROC) - Formerly Zaire: Profile of Asylum Claims & Country Conditions (March 1998), as quoted by the Immigration Judge: “Domestic violence, including rape and beatings, is widespread but rarely reported. The problem is handled within the extended family and only in the most extreme instances is the matter brought to the police. There are no provisions under the law for spousal battery. There are no crisis centers or***

hotlines. The problem of violence against women is largely ignored by the general population and the media."

"After the beating in January of 1998, Ms. K- went into hiding and then fled to the United States in search of a safe haven from her husband. In March of 1998, she arrived at the airport in the United States and promptly expressed her need for asylum protection. [The immigration judge, in her written decision](#), said she believed Ms. K-'s story and characterized the abuse she suffered as "atrocities," but nevertheless denied her application for asylum. On appeal, the Board of Immigration Appeals (BIA) acknowledged that Ms. K-'s husband had "committed brutal and deplorable acts of domestic violence against her." They extended their sympathy to her, but also [denied her asylum](#). The BIA found that Ms. K-'s case was controlled by its decision in [Matter of R-A-](#) and quickly dismissed her appeal. In so doing, the Board never even considered Third Circuit case law, in which gender itself has been previously found to constitute a particular social group for purposes of asylum.

"Ms. K-'s case was remanded to the Immigration Judge for consideration of her claim under the Convention Against Torture (CAT). In August 2000, [the judge granted Ms. K- relief under CAT](#). The INS chose to appeal that decision; as of March 2001, that appeal remains pending at the BIA.

"After over two years and four months in INS detention, Ms. K- was released in August 2000 after she was granted CAT relief. Her appeal of the denial of asylum in her case remains pending at the Third Circuit Court of Appeals (March 2001)."⁵⁹

⁵⁹ Centre for Gender and Refugee Studies (2001) *Ms. K's Story*, University of California Hastings, available at www.uchastings.edu/cgrs/campaigns/k-.htm

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Appendix A

A1 Home Office Country Information and Policy Unit, October 2001: Country Assessment, Democratic Republic of Congo (Excerpt)

“Women

5.49 Many women suffer from domestic violence and rape but there are no known government or NGO statistics to verify this. The police rarely intervene in domestic disputes and the press rarely report incidences of violence against women. Women mainly work as agricultural labourers and small-scale traders. They are relegated to a secondary role and rarely occupy positions of authority or responsibility. The law discriminates against women in many areas of life. Women are required by law to obtain their husband's permission before selling or renting property, opening a bank account, accepting employment, or applying for a passport. Widows often have their possessions and their children taken from them with no legal recourse and women are denied custody of their children in divorce cases although they have the right to visit them. Polygyny is practiced although it is illegal. Father/child relationships resulting from polygynous unions are legally recognised but only the first wife is legally recognised as a spouse. Prostitution is not a crime and there has been an increase in prostitution due to poor economic conditions. Some women become prostitutes by their families due to economic necessity.

5.50 Many women have been subjected to rape and other forms of sexual violence by members of the security forces. The incidence of rape is thought to be seriously under-reported. Investigations into cases of rape are extremely difficult particularly because of the social stigma associated with it. In many cases, women are reluctant to report rape because they may be abandoned by their husbands or they may even be accused of having been targeted because of their loose morals. In a number of cases, women who have been are stigmatised as likely to have contracted HIV and hence shunned by those who get to know about the rape. Fear of stigma and reprisals usually leads women to request that their identities are not revealed in public reports.”

A2 Home Office Country Information and Policy Unit, December 2001: Operational Guidance Note, Democratic Republic of Congo (Excerpt)

“Granting of ELR

“There is no countrywide exceptional leave policy in operation in respect of DRC but the grant of 4 years ELR for humanitarian or compassionate reasons may be justified on a discretionary basis on individual cases.

“ELR can be granted to cases that come under the categories listed unless there are doubts about nationality:

“Individuals belonging to the Tutsi ethnic group who have had their applications for asylum rejected. (These would be the by-now rare cases where the claimant is a Tutsi but has not applied for asylum on the basis of Tutsi ethnicity)

“People who lived in rebel-held areas with no relatives or friends in Kinshasa or the Government-held area who could be expected to provide them with shelter and support if returned to the country

“Single women, especially with children, with no relatives and friends in Kinshasa or the government-held area who could be expected to provide them with shelter and support if returned to the country.”

