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Responses to Information Requests

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30 October 2013

COG104610.FE

Republic of the Congo: Women in forced marriages, including state protection available and support services (2010-2013)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Situation of Women

Freedom House states that in the Congo "[d]espite constitutional safeguards, legal and societal discrimination against women persists. Equal access to education and employment is limited, and civil codes regarding marriage formalize women's inferior status" (Freedom House 2013).

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints for this Response.

2. Forced Marriage

According to a survey conducted by the Republic of the Congo's Ministry of Social Affairs, Solidarity and Humanitarian Action (ministère des Affaires sociales, de la Solidarité et de l'Action humaine) of 474 children [15 to 17 years old (Xinhua News Agency 13 June 2013)], the results of which were published in 2013 by Afrika7.com, an information site on Africa and the world, based in England (Afrika7.com n.d.), [translation] "about 44 percent of Brazzaville Congolese youth are victims of harmful practices" (ibid. 17 June 2013). An article published by the Xinhua News Agency states that, among the victims of harmful practices, 3.38 percent were [translation] "exposed to forced marriages" (13 June 2013).

In a telephone interview with the Research Directorate on 22 October 2013, the President of the Congolese Association to Combat Violence Against Women and Girls (Association congolaise de lutte contre les violences à l'égard des femmes et filles, ACOLVF) stated that [translation] "forced marriage is not a common practice" in the Congo, but the practice still occurs some in rural areas (ACOLVF 22 Oct. 2013). Two sources state that, generally, in the Congo, young women are free to consent or not to marriage (ibid.; AFJC 22 Oct. 2013).

The president of ACOLVF explained that, on rare occasions, young girls are forced by their parents to accept a marriage that they negotiated with the parents of a young man (ACOLVF 22 Oct. 2013). She stated that this is more likely to occur in the most remote villages, and the least educated, even illiterate, young girls are the most coveted (ibid.). The President stated that pressure may be put on a woman or a young girl and that [translation] "out of fear of reprisal," she will agree to marry (ibid.). These reprisals may be mainly in the form of exclusion from the family and loss of all familial contact for a long period of time (ibid.). In addition, the President pointed out that a young girl may decide to leave her city or village and that, in some cases, she [translation] "may be pursued by her family, but with time, her parents eventually understand and give up" the chase (ibid.).

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Child Marriage

According to the report *Child Marriage Profiles*, produced [in 2012] by the United Nations Population Fund (UNFPA), "Congo has one of the highest child marriage prevalence rates in the world. On average, one out of three girls will be married before their 18th birthday" (UN [2012a]). UNFPA states that,

[w]hile child marriage is common in Congo, prevalence is highest in Plateaux (56 %), followed by Sangha (55 %), Pool (54 %), Kouilou (43 %), Bouenza (41 %), Likouala (39 %), Cuvette (34 %), Niari (32 %), Cuvette Ouest (28 %), and Lekoumou (28 %). (ibid.)

In another report, *Marrying Too Young*, also produced in 2012, UNFPA states that, from 2000 to 2011, 33 percent of women aged 20 to 24 years were married or living common-law before 18 years of age (ibid. 2012b, 23). Without providing details, the UNFPA states that, in the rural regions of the Congo, during that same period, there has been a "decline in the prevalence of child marriage" (ibid., 24). In addition, UNFPA states that, in 2009, "about 33% of the women aged 20 to 24 were married/in union before age 18," which represented a six percent increase since 2006 (ibid.[2012a]).

The report titled *The State of the World's Children 2013*, produced in 2013 by the United Nations Children's Fund (UNICEF), states that, in 2011 in the Congo, seven percent of women 20 to 24 years old were married or living common law before 15 years of age (ibid. May 2013, 132).

Still according to UNFPA, "[c]hild marriage occurs more frequently among girls who are the least educated, poorest and living in rural areas" (ibid. [2012a]). In 2009, women 20 to 24 years of age living in rural areas were one and a half times more likely to be married before 18 years of age than those living in the city (ibid.).

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints for this Response.

4. Legislation

Law No. 4-2010 of 14 June 2010 for the Protection of the Child in the Republic of the Congo (*Loi n° 4-2010 du 14 juin 2010 portant protection de l'enfant en République du Congo*) states the following:

[translation]

- A child has the right ... to refuse a pre-marriage and marriage (Art. 13);
- All children have the right to refuse a pre-marriage and marriage. Any marriage or pre-marriage entered into by a child under duress is null and void (Art. 37);
- The following are prohibited: genital mutilation, honour crimes, forced child marriage (Art. 62);
- Any individual who forces a child into a pre-marriage or marriage is punishable by imprisonment of three months to two years and a fine of 150,000 to 1,500,000 francs CFA [approximately C\$329 to C\$32,924 CAN (XE 30 Oct. 2013)] (Art. 108). (Congo June 2010)

Article 128 of Law No. 073/84 on the Family Code (*Loi no 073/84 portant Code de la famille*), which was sent to the Research Directorate by a lawyer at the Association of Women Jurists of the Congo (Association des femmes juristes du Congo, AFJC), who is a law professor at the Higher Institute of Management (Institut supérieur de gestion) at the Université Marien Ngouabi, states the following:

[translation]

Marriage is prohibited for men under 21 years of age and for women under 18 years of age. Nevertheless, the Public Prosecutor of the District or County People's Court may grant exceptions to age for serious reasons. (Congo 1984)

In correspondence with the Research Directorate on 29 October 2013, the AFJC lawyer stated that jurisprudence considers pregnancy to be a serious reason that may warrant an exception as to age for a marriage.

Information on the sentences imposed under this legislation could not be found among the sources consulted by the Research Directorate.

4.1 Polygamy

Article 136 of Law No. 073/84 on the Family Code (*Loi no 073/84 portant Code de la famille*) provides that [translation] "the declaration of the option of polygamy is made by the prospective spouses before the civil registrar at the time of their declaration of marriage, and in the case of marriage abroad, before the diplomatic or consular officer who has territorial authority" (Congo 1984).

According to *Country Reports on Human Rights Practices for 2010*, published by the United States Department of State, and the 2012 edition of this same publication, "marriage and family laws discriminate against women" (US 8 Apr. 2011, 18; *ibid.* 19 Apr. 2013, 19). The authors explain that "[a]dultery is illegal for both ... [p]olygyny is legal while polyandry is not" (*ibid.*, 8 Apr. 2011 18; *ibid.* 19 Apr. 2013, 19). An article published 18 October 2011 by Congo-site.com, the national news and advice portal on Congo Brazzaville, states that the Family Code [translation] "impedes the emancipation of women in the Congo" because it authorizes polygamy (5 Mar. 2010). An article from Libre Afrique, an information site on Africa (Libre Afrique n.d.), states that polygamy is allowed by the Family Code of 1984 (*ibid.* 8 Jan. 2013). Further information on the practice of polygamy could not be found among the sources consulted by the Research Directorate within the time constraints for this Response.

5. State Protection

A report prepared in 2010 by the International Federation of Human Rights (Fédération internationale des ligues des droits de l'homme, FIDH) states the following:

[translation]

Congolese women have difficulty accessing justice to exercise their rights, particularly because of the lack of information about their rights and the laws protecting them, the costs of the proceedings and the distance from courts and tribunals. In addition, there are only about ten high courts for four courts of appeal (assize courts), hence the frequent use of customary justice or informal resolution. (5 Mar. 2010)

Similarly, an article published by the Association for Progressive Communications (APC), which is both a network and an association that empowers local groups to use technology to build their communities and advance their rights (APC n.d.), states that

the Penal Code of 1810, the Family Code of 1918 and the Child Protection Act of 2010 ... provide protection for women and girls in general However, access to justice for women and girls is not easy as the laws and regulations are often not implemented. Moreover, these laws and regulations are outdated. (*ibid.* 15 July 2013)

Further information on state protection could not be found among the sources consulted by the Research Directorate within the time constraints for this Response.

6. Resources for Victims of Forced Marriage

During a telephone interview with the Research Directorate on 22 October 2013, the AFJC lawyer pointed out that, in the last ten years, only one report of forced marriage was made to the AFJC, and it happened in 2012. She stated that, in this specific case, help was given to the young girl, who was Malian and a minor, and that she was provided with secure shelter before her repatriation to Mali (AFJC 22 Oct. 2013). In addition, she was also offered assistance in reintegrating into her familial environment (*ibid.*). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints for this Response.

According to Irénées.net, [translation] "a website of documentary resources, the purpose of which is to promote an exchange of knowledge and expertise in order to find peace," AFJC is a non-profit association created in April 1990 that [translation] "works to promote women in the Congo and raises awareness about the role and place of women in society" (Irénées.net Apr. 2011a). Located in Brazzaville and Pointe-Noire, it offers training workshops on women's rights and accompanies to court people who are engaged in a divorce proceeding (*ibid.*).

Irénées.net also states that ACOLVF is a non-profit association that was created in Brazzaville in February 2000 (*ibid.* Apr. 2011b). Recognized as [translation] "a public utility organization by the Congolese state," ACOLVF is "in charge of coaching and reintegrating victims of armed conflict and focuses on preventing and combating violence against women and girls" (*ibid.*). Located in Brazzaville and in the region of Pool, it assists victims of sexual violence and provides them with medical care and psychological and legal counselling (*ibid.*).

The President of ALCOVF stated that, in the Congo, mainly since the coming into force of the Family Code [in 1984], there have been debates and awareness campaigns that focus on the problems experienced

by women (ALCOVF 22 Oct. 2013). She stated that women are [translation] "more informed of their rights" and that those living in rural areas are seeking the same rights as women living in urban areas (ibid.).

Further information on resources for victims of forced marriages could not be found by the Research Directorate among the sources consulted within the time constraints for this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Oral sources: Attempts to contact representatives of the Fédération démocratique internationale des femmes and the Cour constitutionnelle du Congo were unsuccessful. The following people and representatives of the following organizations were unable to provide information for this Response: Association Congo Assistance; Comité national des droits de la femme; Girls not Brides; Interdisciplinaire groupe de recherche sur l'Afrique contemporaine; International Women's Health Coalition; ministère de la Promotion de la femme et de l'Intégration de la femme au développement; Observatoire congolais des droits de l'homme; Office of the High Commissioner for Human Rights; Organisation panafricaine des femmes; Union pour l'étude et la recherche sur la population et le développement; United Nations Population Fund; World Health Organization; World Vision.

Internet sites, including: Africa 4 Women's Rights; African Centre for Democracy and Human Rights Studies; African Child Policy Forum; Africa's Prosperity; Afrik.com; Afriques en lutte; Afrol News; AllAfrica; Amnesty International; Azur Développement; ChildInfo.org; Congo – Centre national de la statistique et des études économiques; Congo-Internet; Congo Liberty; Conseil norvégien pour l'Afrique; Conseil pour le développement de la recherche en sciences sociales en Afrique; ecoi.net; Factiva; Famafrique; Girls Not Brides; Human Rights Watch; International Labour Organization; International Women's Health Coalition; Ireland – Queen's University of Belfast; Minority Rights Group International; Ordre national des avocats du Congo-Brazzaville; Organisation de la presse africaine, Panapress; Radio France internationale; Reach Out; Réseau des organisations féminines d'Afrique francophones; Slate Afrique; Social Institutions and Gender Index; United Nations – Committee on the Elimination of Discrimination Against Women, Integrated Regional Information Networks, Refworld; United States – Library of Congress; Women in Law and Development.

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