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COD100866.FE

Democratic Republic of Congo: The treatment of gays and lesbians and the state protection available against their discrimination and their being targeted (April 2003 - 2005)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

No recent information on the treatment of gays and lesbians in the Democratic Republic of Congo (DRC) could be found among the sources consulted by the Research Directorate.

However, a 5 January 2004 article appearing on Behind the Mask (BTM), a Website for gays and lesbians in Africa, indicated that "[h]omosexuality is totally taboo in the Congolese society and it has never been an issue of public debate in the country."

A 10 March 2005 article published on the Digitalcongo.net Website stated, however, that lesbianism or [translation] "homosexuality between women," though described as a phenomenon that is still [translation] "foreign to the Kinoin [from Kinshasa], Congolese and even African cultures . . . has swept through the sports world . . . [and that] many members of various sports teams in Kinshasa are lesbian" (*Numérica* 10 Mar. 2005). The Congolese newspaper, *Le Palmarès*, referred to homosexuality in an article published on 5 May 2004, which stated that a [translation] "curious social phenomenon is emerging rapidly in Kinshasa." The same article added that [translation] "male and female homosexuality is on the rise in Kinshasa," where [translation] "a considerable number of people - youths, adults, men and women - engage in homosexual practices" (*Le Palmarès* 5 May 2004). According to *Le Palmarès*, homosexuality is gaining ground in Kinshasa to the extent that [translation] "more and more 'queer' men and lesbian women flaunt themselves as such, show their faces and dare to speak 'well' of that abominable sexual act in the media" (*ibid.*).

With regard to the legal aspects of the matter, a recent article published in the 4 to 10 September 2005 issue of *Jeune Afrique/L'Intelligent* indicated that homosexuality is [translation] "presumed illicit" in the DRC (35). However, the article posted on BTM stated that "[b]y theoretic means, homosexuality is legal in Congo Kinshasa, but this is mostly due to the official belief that it doesn't exist in the country" (5 Jan. 2004). Moreover, the Congolese Transitional Constitution currently in force in the country specifically states in article 44 that [translation] "the state shall be obliged to protect the child against prostitution, procurement, homosexuality, incest, pedophilia, sexual harassment and all other forms of sexual perversion" (DRC 4 Apr. 2003).

The executive secretary of the Human Rights Centre (Centre des droits de l'homme et du droit humanitaire, CDH) in Lubumbashi indicated in correspondence sent to the Research Directorate on 3 December 2005 that, in reality, the Congolese penal code does not give a precise definition of homosexuality, but that it does classify it under sexual molestation.

The CDH executive secretary also stated that, as a human rights activist for 10 years and a jurist for the last two years, he has never seen charges of homosexuality filed with the courts or the public prosecutor's office, nor has he ever heard of any criminal prosecutions for homosexuality (3 Dec. 2005).

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 additional sources consulted in researching this Information Request.

References

Behind the Mask (BTM). 5 January 2004. "Congolese Anglican Church Condemns Homosexuality." <http://www.mask.org.za/SECTIONS/mind%20body%20spirit/christianity_22.htm> [Accessed 23 Nov. 2005].

Centre des droits de l'homme et du droit humanitaire (CDH), Lubumbashi. 3 December 2005. Correspondence from the executive secretary.

Democratic Republic of Congo (DRC). 4 April 2003. *Constitution de la transition*. (Ethno-Net Africa) <<http://www.ethnonet-africa.org/data/rdc/transi2003.htm>> [Accessed 25 Nov. 2005]

Jeune Afrique/L'Intelligent [Paris]. 4 to 10 September 2005. No. 2330. Alex Siewe. "Intolérance sans frontières."

Numérica [Kinshasa]. 10 March 2005. "Les lesbiennes envahissent les milieux sportifs de Kinshasa." <<http://www.digitalcongo.net/fullstory.php?id=50181>> [Accessed 29 Nov. 2005]

Le Palmarès [Kinshasa]. 5 May 2004. Adonis Bope Alphonse. "L'homosexualité séduit les Kinois." <<http://digitalcongo.net/fullstory.php?id=37155>> [Accessed 29 Nov. 2005]

Additional Sources Consulted

Oral sources: Amnesty International Groups for LGBT Concerns, Behind the Mask, and the International Lesbian and Gay Association (ILGA) did not reply within the time constraints of this Response.

Publications: *Africa Confidential*, *Africa Research Bulletin*, Resource Centre country file.

Internet sites, including: AllAfrica, Amnesty International (AI), ASADHO, Behind the Mask, European Country of Origin Information Network (ECOI.net),

European Parliament Intergroup on Gay and Lesbian Rights, Freedom House, Factiva, Human Rights Watch (HRW), International Lesbian and Gay Association (ILGA), 365Gay.com, United Kingdom Immigration and Nationality Directorate, United Nations Organization Mission in the Democratic Republic of Congo (MONUC), United States Department of State.

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