



RESPONSES TO INFORMATION REQUESTS (RIRs)

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The Board		17 April 2012	
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Biographies			
Organization Chart	Democratic Republic of the Congo: Domestic and sexual violence, including legislation, state protection, and services available to victims (2006-March 2012)		
Employment			
Legal and Policy	Research Directorate, Immigration and Refugee Board of Canada, Ottawa		
References			
Publications	1. Overview of Domestic Violence, Including Intimate-Partner Sexual Violence		
Tribunal			
Refugee Protection Division	<p>Various sources indicate that the prevalence of domestic violence is a problem in the Democratic Republic of the Congo (DRC) (RFDA 24 Feb. 2012; RI 10 July 2011; Peterman et al. June 2011, 1065). In interviews with the Research Directorate, women's organizations based in the DRC described domestic violence as [translation] "very prevalent" (RFDA 24 Feb. 2012) and [translation] "so prevalent that it is considered normal" (RFDP 1 Mar. 2012). According to one of the organizations, the Women's Network for the Defence of Rights and Peace (Réseau des femmes pour la défense des droits et la paix, RFDP), which works in South Kivu (Irenees.net n.d.), domestic violence may include physical and verbal abuse, including the abuse of young girls by their male relatives and guardians, as well as sexual violence (RFDP 1 Mar. 2012). US health specialists Amber Peterman, Tia Palermo and Caryn Bredenkamp, in their analysis of the DRC's 2007 Demographic and Health Survey (DHS) in the <i>American Journal of Public Health</i>, conclude that intimate-partner sexual violence is the most pervasive form of violence against women in the DRC and that it occurs with "extraordinarily high" frequency, making it a "particularly large problem in the DRC," especially when compared to other countries in the region (June 2011, 1065). Nevertheless, Peterman et al. indicate that spousal rape is "not a prosecutable offence" (June 2011, 1066). The representative of the Women's Network for Development (Réseau des femmes pour un développement associatif, RFDA), which is based in South Kivu (GRIP n.d.), explained, in her telephone interview with the Research Directorate, that [translation] "custom does not recognize domestic rape" (29 Feb. 2012).</p>		
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News	2. Sexual Violence, Including Intimate Partner Sexual Violence		
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Completed Access to Information Requests	Sources describe sexual violence against women in the DRC as "alarmingly" high (RI 10 July 2011; <i>The New York Times</i> 11 May 2011), "widespread" (Steiner et al. 2009), and "more common and increasingly brutal in recent years" (Peterman et al. June 2011, 1060). Some publications by human rights organizations and academic sources focus specifically on the prevalence of sexual violence in the eastern part of the DRC (RI 10 July 2011; Human Rights Watch Jan. 2012, 2;		

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Steiner et al. 2009). Peterman et al. note that most reports of sexual violence in the DRC are related to the armed conflict in the North and South Kivu, as well as neighbouring Maniema and Katanga provinces (June 2011, 1060). However, a report by UN experts on the DRC submitted to the UN Human Rights Council in 2011 states that sexual violence is "a cause of major concern," not only in the east but throughout the entire country (9 Mar. 2011, para. 7). Peterman et al. found that the highest number of rapes reported in the 2007 DHS by women aged 15 to 49 was in the provinces of Orientale, North Kivu and Équateur, and that spousal rape was particularly high in the provinces of Équateur, Bandundu, Katanga and Kasai-Oriental (June 2011, 1063).

Numerous sources indicate that there are no accurate, nationally representative numbers on the prevalence of sexual violence in the DRC (RI 10 July 2011; Bartels et al. May 2010, 38; Peterman et al. June 2011, 1060; *The Economist* 13 Jan. 2011). Several academic studies on the subject indicate that underreporting is a problem (Steiner et al. 2009; Bartels et al. May 2010, 38; Peterman et al. June 2011, 1065). The UN reportedly recorded 27,000 sexual assaults in South Kivu in 2006 (Bartels et al. May 2010, 38). Sources indicate that the UN Population Fund (UNFPA) reported 15,996 cases of sexual violence in 2008 (Peterman et al. June 2011, 1060) and 17,500 in 2009 (*The Economist* 13 Jan. 2011). Peterman et al. estimate that, based on the 2007 DHS, the number of women who have been raped is "several orders of magnitude higher than what has been cited in previous studies" and may range from 3.07 to 3.37 million (June 2011, 1063-4).

2.2 Women's Susceptibility to Sexual Violence

Some analyses of data on sexual violence find that women and girls of all ages are targets of sexual violence (Steiner et al. 2009; Bartels et al. May 2010, 42). However, other sources note the particular vulnerability of girls under 18 (Peterman et al. June 2011, 1060; Human Rights Watch Jan. 2011, 3; ABA June 2011). Of the almost 16,000 cases of sexual violence recorded by UNFPA in 2008, 65 percent of the victims were reportedly under 18 and 10 percent were under 10 (Peterman et al. June 2011, 1060). The American Bar Association's Rule of Law Initiative (ABA ROLI), which runs programs on sexual violence and access to justice in eastern DRC (n.d.), indicates that the average age of rape victims seems to be dropping and that rapes of girls aged eight to thirteen are "extremely common" (June 2011).

In their analysis of the records of 1,851 women who reported to Panzi Hospital, in Bukavu, South Kivu, in 2006 for medical treatment for sexual assault, a team of Boston-based medical doctors, working with the medical director of Panzi Hospital, found that the "vast majority" of women studied were illiterate or had only a primary-level education, and that 77 percent derived their income from agricultural activity (Bartels et al. May 2010, 37, 40). Another study of Panzi Hospital records from 2004 to 2008 reported that single, married, widowed, and pregnant women, and women of all ethnicities in the region, were targets of sexual violence (HHI Apr. 2010, 35). Peterman et al., in their analysis of the 2007 DHS data, found that "[sexual] violence is somewhat random" and that education, wealth, and place of residence (urban or rural) did not affect women's vulnerability to sexual violence (June 2011, 1066). However, in her telephone interview with the Research Directorate, the RFDP representative said that women in rural areas were much more vulnerable to sexual violence than women in urban areas because they were less informed about their rights and were isolated from security services (1 Mar. 2012).

2.3 Characteristics of Sexual Violence and Notable Cases

Several sources indicate that rape is used as a "weapon of war" in areas of conflict in the DRC (ABA June 2011; RI 10 July 2011; Bartels et al. May 2010, 39).

For example, Minority Rights Group International reports that, according to various sources, specific groups of people have been targeted by armed groups with "particularly vicious or widespread 'retaliatory' rapes [due to] the victims' perceived sympathies with rival factions" (6 July 2011, 67). Refugees International (RI), an independent displaced-persons advocacy organization (n.d.), however, states that most of the sexual violence in the DRC is opportunistic and not related to a specific military strategy (10 July 2011). In correspondence with the Research Directorate, a representative of the ABA ROLI in the DRC said that the proportion of the ROLI's legal cases attributed to armed conflict or armed groups was around 10 to 13 percent (ABA 5 Mar. 2012).

Various sources describe the types of sexual violence observed and reported in the DRC (RI 10 July 2011; Human Rights Watch Jan. 2012, 2; Peterman et al. June 2011, 1060; HHI Apr. 2010, 16; Mukengere Mukwege and Nangini Dec. 2009, 1-2). These include mass rape (RI 10 July 2011; Human Rights Watch Jan. 2012, 2,4), gang rape (Peterman et al. June 2011, 1060; HHI Apr. 2010, 22), the forced participation of family members in rapes (ibid., 23), the mutilation of women's genitalia with weapons (ibid., 36; Peterman et al. June 2011, 1060; Mukengere Mukwege and Nangini Dec. 2009, 1-2), the intentional transmission of sexually transmitted diseases (ibid.), and sexual slavery (Peterman et al. 2010, 1060). Panzi Hospital medical director Denis Mukengere Mukwege and Helsinki University of Technology researcher Cathy Nangini, in an article on rape with extreme violence in South Kivu in *PLOS Medicine*, characterize the practice as a "new pathology [called] rape with extreme violence" (Dec. 2009, 1).

Sources report that in Walikale territory, North Kivu, at least 380 women, men, and children were raped by a coalition of armed groups in three days from July to August 2010 (UN 9 Mar. 2011, para. 7; Human Rights Watch Jan. 2012, 4-5). Perpetrators included members of the Democratic Forces for the Liberation of Rwanda (FDLR) and the Mai Mai Cheka armed groups (ibid. Jan. 2011, 2; UN 9 Mar. 2011, para. 7). Human Rights Watch reports that, in January and February 2011, at least 65 women and girls were raped by FLDR fighters during four attacks in Bwale, South Kivu (Jan. 2012, 2). Numerous sources also report that government soldiers inflict sexual violence on the civilian population (RI 10 July 2011; Steiner et al. 2009; Human Rights Watch Jan. 2012, 2; UN 9 Mar. 2011, para. 7; MRG 6 July 2011, 67). For example, in Fizi, South Kivu, government soldiers reportedly raped at least 67 women and girls on 1 January 2011 (Human Rights Watch Jan. 2012, 2). An army commander was subsequently convicted of crimes against humanity for ordering the attack (UN 9 Mar. 2011, para. 7; VOA 21 Feb. 2011). In Nakiele, South Kivu, an army colonel and at least 100 of the men under his command reportedly deserted the army and raped at least 120 women (ibid. 8 July 2011; RNW 5 July 2011).

Sources also note a rise in the number of civilian perpetrators of sexual violence (RI 10 July 2011; HHI Apr. 2010, 39; ABA June 2011). Peterman et al. note that men from local communities "often join the military on rape raids or exploit the conflict to sexually assault women without fear of punishment" (June 2011, 1065). Meanwhile, according to Minority Rights Group International,

[a]nalysts believe that the widespread use of rape, inflicted by all sides and affecting all ethnic groups, has led to the 'normalization' of rape even among the civilian population and has resulted in greater levels of sexual violence generally. (6 July 2011, 67)

3. Attitudes Towards and Reporting of Domestic and Sexual Violence

The representatives of the women's and legal aid organizations in the DRC indicated that it is very rare for women to report domestic violence (RFDP 1 Mar. 2012; RFDA 29 Feb. 2012; ABA 5 Mar. 2012). The representative of the RFDA explained that, if an accusation of domestic violence led to divorce, the woman would have no rights to shared property or wealth, would lose custody of her

children, would be required to repay the bride price given upon marriage, and would be shunned by the community (24 Feb. 2012). In correspondence with the Research Directorate, a representative of the North Kivu-based HEAL Africa organization (n.d.a), which provides medical and social support to victims of abuse (n.d.b), many women do not know that conjugal sexual violence is illegal and that they can report it (29 Feb. 2012).

Only a small proportion of women who have experienced sexual abuse seek treatment or report the crime (Peterman et al. June 2011, 1065; Steiner et al. 2009). Sources note that women who have been sexually assaulted are frequently stigmatized by their community and abandoned or rejected by their husband or family (ibid.; ABA June 2011; *The Economist* 13 Jan. 2011). Women may also fear the authorities to whom they should report abuse (Peterman et al. June 2011, 1066; ABA 5 Mar. 2012).

4. State Protection

According to RI, the DRC government adopted a "comprehensive strategy on sexual violence" in the east that was drafted by the UN Action on Sexual Violence in Conflict and covers "prevention and protection, multi-sectoral assistance to survivors, fighting impunity, security sector reform, and data and mapping" (10 July 2011). The same source states that the strategy has encouraged government ownership at the provincial level, but that "commitment by the national government is still totally insufficient" (RI 10 July 2011). A team of researchers from Germany, the UK and the DRC, in research published in *Conflict and Health*, refer to the "collapse of public health services" when they assert that humanitarian organizations provide services to rape victims due to the lack of government programs that deal with the impacts of sexual violence (Steiner et al. 2009).

5. Legislation

The 2006 Constitution declares the government's commitment to eliminating all forms of discrimination against women and to combating all forms of violence against women in the public and private sphere (DRC 2006b, Art. 14). However, there is no mention of domestic violence in the DRC's Penal Code (ibid. 1940), amended in 2006 (ibid. 2006a), or its Family Code, amended in 2003 (ibid. 1987). In its combined sixth and seventh periodic report to the UN Committee on the Elimination of Discrimination against Women in 2011, the DRC recognizes the existence of physical and emotional domestic abuse, but does not mention any legislation against such violence (DRC 20 Dec. 2011).

In 2006, the DRC passed a law introducing amendments on to the Penal Code to provide protection against sexual violence (DRC 2006a). The sexual violence law, as it is known, outlaws rape and other forms of sexual assault, sexual harassment, sexual slavery, forced marriage, sexual mutilation, the deliberate transmission of sexually transmitted diseases, sexual relations with minors (children under 18) and forced pregnancy, among other acts (ibid.). The law does not specifically prohibit spousal rape (ibid.). The representative of the RFDA explained that the law covers sexual violence that may occur in the domestic sphere, but because Congolese culture does not recognize spousal rape, women do not report it (29 Feb. 2012).

One source indicates that there is "very little enforcement" of the laws protecting women (HEAL Africa 29 Feb. 2012) while others note that the laws have not had very much impact (*The Economist* 13 Jan. 2011; *FMR* Nov. 2010, 13). The representative of HEAL Africa also noted that in Maniema in particular, tribal law is often the primary law and that women have "very few (if any) rights in that system" (29 Feb. 2012).

6. Police and Judiciary

6.1 Access to Justice

Numerous sources indicate that justice for victims of sexual and domestic violence is difficult to achieve (RFDA 24 Feb. 2012; RFDP 1 Mar. 2012; RI 10 July 2011; Enough Feb. 2012, 2; *The Economist* 13 Jan. 2011). The Enough Project, a Washington-based analysis and advocacy organization working on genocide and crimes against humanity (n.d.), points to a culture of impunity within the Congolese justice system, stating that police, prosecutors and judges are corrupt (Feb. 2012, 3, 5). Sources also report that a lack of institutional resources or capacity may be a barrier to justice (Enough Feb. 2012, 5; *The Economist* 13 Jan. 2012). The *Economist* states that the court system is "in pieces" and that police have no money or training (ibid.). Enough also indicates that formal legal mechanisms in rural areas are virtually non-existent (Feb. 2012, 5). The representative of the ABA ROLI said that there are not enough courts in North Kivu, South Kivu, Maniema and the Ituri region, meaning that women must travel distances of up to 400 kilometres to access them (5 Mar. 2012). Additionally, sources indicate that informal settlements known as "*arrangements à l'amiable*" are used to resolve sexual violence cases (RI 10 July 2011; ABA 5 Mar. 2012); the ABA ROLI representative notes that these informal settlements are a traditional practice that occasionally take place against the will of the woman (ibid.).

Victims' inability to pay for legal services and procedures has also been identified as an obstacle (RI 10 July 2011; RFDA 24 Feb. 2012; ABA 5 Mar. 2012). According to the representative of the RFDA, women who wish to prosecute their attackers are assisted by local women's rights NGOs because police demand bribes for their assistance (24 Feb. 2012). The representative added, however, that women would also have to pay for legal aid from NGOs and fees charged within the justice system; thus, women without money cannot exercise their legal rights (RFDA 24 Feb. 2012). Her assessment was corroborated by the representative of the ABA ROLI, who added that women may also not be able to afford transportation to attend the various follow-up legal dates that are necessary to attend (5 Mar. 2012).

6.2 Prosecutions

Sources note that there have been some successful prosecutions of perpetrators of sexual violence (Human Rights Watch Jan. 2011, 4; RI 10 July 2011; UN 9 Mar. 2011, para. 7). However, RI states that "there are still so many cases where justice is not seen to be done that these few successful prosecutions are failing to shift the common perceptions over the lack of justice in sexual violence cases" (10 July 2011). The *Economist* notes that there have been fewer than 20 prosecutions of rape as a war crime or a crime against humanity (13 Jan. 2011). According to the ABA, the ROLI in the DRC has helped file over 2,800 complaints of rape with the police in North and South Kivu and Maniema (June 2011). These complaints have resulted in 645 cases going to trial and 434 convictions (ABA June 2011). Human Rights Watch reports that, in March 2011, the High Military Court in Kinshasa began the trial of the first general to be arrested for the war crime of rape (Jan. 2012, 4).

The representative of HEAL Africa stated that she was unaware of any prosecutions in the DRC for domestic abuse (29 Feb. 2012). The ABA ROLI representative said that domestic violence cases are rarely brought to its legal clinic, although there have been some successful prosecutions for domestic violence in North and South Kivu, Maniema and Ituri (5 Mar. 2012).

7. Support Services

RI notes that there is no reliable mapping of services for victims of sexual violence (10 July 2011). However, several organizations in the eastern DRC provide medico-social services: the Malteser International organization reportedly runs a medico-social support program for victims of sexual violence that includes free medical care in 23 centres (Steiner et al. 2009). Panzi Hospital also provides

gynecological care to women with rape-related injuries (Bartels et al. May 2010, 39). HEAL Africa runs a referral hospital in Goma, North Kivu, that provides post-rape treatment, including the repair of fistula (HEAL Africa n.d.b; *ibid.* 29 Feb. 2012) (a hole between a woman's vagina and the bladder or rectum, or both [US n.d.]); it also operates 31 safe houses in North Kivu and Maniema that offer counselling and information for women (HEAL Africa n.d.b; *ibid.* 29 Feb. 2012). The HEAL Africa representative noted, however, that, outside of the regions they cover, there are "vast territories in the country with little or no services at all" (*ibid.*).

The ABA ROLI offers legal advice in South Kivu and also operates temporary "mobile courts" that are set up in remote areas to increase access to the judicial system (June 2011). The representative of the RFDA said that there are many Congolese organizations promoting women's rights, but that women who work for them are perceived negatively and may be put in danger due to their work (24 Feb. 2012).

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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Additional Sources Consulted

Oral sources: Representatives of Solidarity with the Victims and for Peace and Actions des Femmes pour le Développement, as well as a researcher at the University of Ottawa, were unable to provide information within the time constraints of this Response. Attempts to contact Héritiers de la Justice, Eveil de la Femme and Panzi Hospital were unsuccessful.

Internet sites, including: Africa Canada Accountability Commission; Africa for Women's Rights; Amnesty International; Congolese Women's Campaign Against Sexual Violence in the DRC; CNN.com; Droit-Afrique.com; Droitcongolais.info; Forum internationale des femmes congolaises; Freedom House; Friends of the Congo; GBV Prevention Network; Hot Peach Pages; Kabissa; Leganet.cd; Power of Peace; MEASURE DHS; United Nations — Economic and Social Council, UN Population Fund, Secretary General's Database on Violence Against Women, Stabilization Mission in the Democratic Republic of the Congo; The World Law Guide; World Legal Information Institute.

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