

Immigration and Refugee Board of Canada

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Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment please email Basesdedonnees.DatabaseUnit@irb-cisr.gc.ca.

22 April 2014

COD104815.FE

Democratic Republic of Congo: Situation of sexual minorities, including legislation and treatment by society and the authorities; state protection and support services (2011-Feb. 2014)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Legislation

Sources indicate that homosexuality in itself is not a crime in the Democratic Republic of Congo (DRC) (Direct.cd 5 Mar. 2014; US 27 Feb. 2014, 28; UK Apr. 2013, 164). However, according to the US Department of State *Country Reports on Human Rights Practices for 2013*, individuals publicly engaging in activities or conduct of a homosexual nature are subject to prosecution under "indecency" provisions in the law (US 27 Feb. 2014, 28). GlobalGayz, a website focusing on the situation of sexual minorities around the world, also indicates that public displays of homosexual contact are subject to prosecution (21 Feb. 2012). Article 176 of the DRC's Penal Code stipulates the following:

[translation]

A person who engages in activities against public decency will be liable to a term of imprisonment of eight days to three years and/or fined twenty-five to one thousand zaires [former currency]. (DRC 1940)

According to the 2012 *Human Rights and Democracy* report published by the UKOffice, a bill which would criminalize homosexuality was introduced in 2010 but had made no progress as of the report's publication date (UK Apr. 2013, 164). Sources indicate that a Congolese member of Parliament (MP), however, introduced a bill to criminalize homosexuality in the DRC in late 2013 or early 2014 (Direct.cd 5 Mar. 2014; Radio Okapi 26 Feb. 2014; *Jeune Afrique* 18 Dec. 2013). According to the Radio Okapi site, the United Nations (UN) radio in the DRC (Radio Okapi n.d.), the MP justified the bill by stating that [translation] "homosexuality jeopardizes the perpetuation of the human race and African values" and that the bill is "important in order to protect Congolese youth from 'Western morals'" (ibid. 26 Feb. 2014).

According to Direct.cd, a website on current affairs in the DRC, the bill

[translation]

contains 38 articles in total that propose penalties against homosexual, transsexual or simply cross-dressing individuals. The bill also proposes penalties for promotion, public homosexual demonstrations (gay pride, marches, posters...), homosexual gatherings, advertising of a homosexual nature or tendency, and the adoption of children by homosexual individuals. (Direct.cd 5 Mar. 2014)

According to Direct.cd, the bill was scheduled to be reviewed by the National Assembly in the first quarter of 2014 (ibid.).

2. Treatment of Sexual Minorities by Society

Sources indicate that homosexuality is a "taboo" subject in the DRC (US 27 Feb. 2014, 30; FRP n.d.). The *Human Rights and Democracy* report shows that homosexuality is generally "not widely accepted" in the country (UK Apr. 2013,

164). In addition, an article on Yagg, a news site on international current affairs concerning sexual minorities, indicates that homosexuality is [translation] "very badly viewed" (30 Aug. 2012). Direct.cd also indicates that certain people [translation] "still have harsh views" of homosexuals and that "homosexuality is often likened to witchcraft, evil spirits and even mental illness" (5 Mar. 2014).

According to Œil d'Afrique, a website on African current affairs, a father was arrested by the police after throwing hot water on the body of his son, whose homosexuality he did not accept, which caused [translation] "severe burns" (Œil d'Afrique 22 June 2013). The father allegedly expressed regret for his actions, but was apparently not condemned by the residents of his neighbourhood because his son had allegedly been warned a number of times to [translation] "change his behaviour" (ibid.). In addition, according to Œil d'Afrique, [translation] "many people appreciated the father's reaction because this behaviour is criticized by a number of people who believe that it is not the culture" of the country (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate.

Direct.cd states that homosexuality has nevertheless increased in visibility in the DRC in recent years, particularly in Kinshasa, and that it is accepted by [translation] "a few Congolese" (5 Mar. 2014). According to Syfia Grands Lacs, a news agency covering the DRC, Rwanda and Burundi (Syfia Grands Lacs n.d.), there are some [translation] "timidly" open homosexuals in Lubumbashi, in Katanga province (18 Nov. 2011). In correspondence sent to the Research Directorate, a representative of Rainbow Sunrise Mapambazuko (RSM), a sexual minority rights organization in South Kivu province (Front Line Defenders 13 May 2013), also stated that the situation of sexual minorities

[translation]

in major cities such as the capital of Kinshasa and the city of Lubumbashi is different from the situation in South and North Kivu provinces, where we have recorded cases of rights violations of lesbian, gay, bisexual, transsexual and intersex (LGBTI) individuals every day. (RSM 18 Mar. 2014)

According to the RSM representative, there is greater tolerance of sexual minorities in large cities; however, in rural regions [translation] "the LGBTI issue is not well understood," and "in rural areas such as Kavumu and Uvira [in South Kivu], sexual minorities are tortured and mutilated in an effort to make them change their sexual orientation" (ibid.).

Corroborating information could not be found among the sources consulted by the Research Directorate.

Sources indicate that sexual minorities in the DRC face [translation] "discrimination" and "stigmatization" (RSM 18 March 2014; Yagg 30 Aug. 2012). According to *Country Reports for 2013*, "societal discrimination and abuse" against sexual minorities are "major problems" (US 27 Feb. 2014, 1). The RSM representative stated that [translation] "people who identify as LGBTI are traditionally outcasts of society and therefore cannot have a normal education, a job in which they are accepted for who they are, or access to credit or other economic assets" (RSM 18 Mar. 2014).

According to the RSM representative, the situation of transsexuals is [translation] "more critical" than the situation of other sexual minorities in the country (ibid.). These people are victims of discrimination and sometimes live in insecurity (ibid.). According to the representative, transsexuals [translation] "cannot access the same care as the other citizens of the country; ... many ... live with HIV/AIDS but do not receive treatment as a result of discrimination and the refusal of healthcare providers to help them" (ibid.). The representative added that, sometimes, [translation] "they are publicly undressed and beaten by the community, they are booed in the street, they are denied inheritance" (ibid.). The representative stated that there is a [translation] "slight tolerance" of lesbians compared to homosexual men and transsexuals, but also that lesbians may be victims of sexual violence and banished from their families (ibid.).

Corroborating information could not be found among the sources consulted by the Research Directorate.

3. Treatment of Sexual Minorities by the Authorities

Sources indicate that there is no law protecting sexual minorities in the DRC (ibid.; US 27 Feb. 2014, 30; FRP n.d.). According to the RSM representative, [translation] "sexual minorities are viewed poorly and mistreated by the government" (18 Mar. 2014). According to the article on Yagg, [translation] "gay individuals are quite simply absent from state action programs" in the DRC (30 Aug. 2012).

According to the *Country Reports for 2013*, sexual minorities are victims of "harassment" by security forces (US 27 Feb. 2014, 30-31). According to the RSM representative, sexual minorities are victims of arbitrary arrests by the police and hesitate to turn to them (18 Mar. 2014).

Sources indicate that two RSM activists were arrested by the police in May 2013 (ibid.; Front Line Defenders 13 May 2013). The two men were allegedly beaten during their detention (ibid.; RSM 18 Mar. 2014). According to the RSM representative, one of them was also sexually assaulted (ibid.). The representative also said that the two men were arrested because of their sexual orientation and activism (ibid.).

According to Gay Star News, a website on international current affairs concerning sexual minorities, in July 2013, in Bukavu, South Kivu, a residence sheltering approximately 20 young members of sexual minorities who had been rejected by their families was attacked by police officers and neighbours armed with hammers and machetes (9 Sept. 2013). The attack resulted in the destruction of property and physical and verbal attacks against the owner, and all but one of the residents abandoned the residence (ibid.). The police officers in question were reportedly members of the national police

division responsible for enforcing sanitation, building and municipal codes (ibid.). The owner, an activist from the sexual minority rights organization RSM, had previously received homophobic threats (ibid.).

Corroborating information could not be found among the sources consulted by the Research Directorate.

4. Support Services

According to the Fahamu Refugee Programme (FRP), a resource service for refugee protection claimants that is based in the UK, there are no support services for sexual minorities in the DRC (n.d.). However, *Country Reports for 2013* shows that the Ministry of Health worked with sexual minority rights NGOs to fight stigma and prevent the spread of HIV among men who have sex with men (US 27 Feb. 2014, 31).

According to the FRP, the only group dedicated to fighting for homosexuals in the DRC is the Groupe Hirondelles in Bukavu, South Kivu (n.d.). However, the RSM representative stated, without naming them, that in addition to the RSM, there were movements that identify openly as LGBTI in the DRC, in particular in the provinces of North Kivu and South Kivu (18 Mar. 2014).

According to Direct.cd.,

[translation]

for fear of being reprimanded by society, homosexuals have trouble organizing themselves into an organized structure to fight for their rights. It is a reality that forces them to remain in hiding. (5 Mar. 2014)

The RSM representative also stated that a human rights NGO that was working with the RSM to provide legal assistance to sexual minorities stopped working with the RSM because of threats that it received as a result of the partnership, but the representative did not provide details on the subject (18 Mar. 2014).

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 the following organizations were unsuccessful: Groupe hirondelles; Mouvement pour les libertés individuelles; Mouvement pour la promotion du respect et égalité des droits des minorités sexuelles; Padefeco.

Internet sites, including: Actions communautaires sida/Avenir meilleur pour les orphelins; Africa Time; African Veil; Africultures; Amnesty International; Digital Congo; ecoi.net; Erasing 76 Crimes; Freedom House; The Global Forum on; Human Rights Watch; International Gay and Lesbian Human Rights Commission; International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA); Ireland - Refugee Documentation Centre; LaLibre.be; *L'Observateur*; *Le Phare*; Pink News; *Le Potentiel*; *La Prospérité*; Slate Afrique; Tele Tshangu; United Nations amp;– Country of Origin Research and Information, Refworld, Reliefweb; Voice of Congo.

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