

## QUICK GUIDE TO ADDRESS WOMEN'S ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON DEMOCRATIC REPUBLIC OF CONGO

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- A reference to "gaps", that is, issues on which the National Report should/could have applied a gender perspective but failed to do so.
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.
- In all cases we have included suggested questions and recommendations

References in the two working languages of the Council (English and French) have been kept in their original language.

**Issues** are highlighted. References from the National Report are *in Italics*.

**Recommendations - including those from UN treaty-monitoring bodies, are at the end of the document.**

All women's rights issues (included sexual rights' issues related specifically to women) are referred to in this Guide. Other sexual rights issues are referred to in the Sexual Rights Guides for each state under review

CEDAW ratified, OP-CEDAW not ratified, Rome Statute ratified, Palermo Protocol ratified.

### Gaps

The National Report should/could have applied a gender perspective -that is, make reference to how the issue affects women and men in particular ways- but failed to do so in the following sections: Le droit à la vie et la protection de l'intégrité physique (35-38), Les libertés publiques (39-46), Le droit d'accès à la justice et à un procès équitable (47-48), Le droit à l'éducation (49-54), Le droit à la santé (55-59), Le droit au logement, à l'eau et à l'électricité (60-64), Le droit au travail (65), Les droits collectifs (66-68), L'autonomisation du Ministère des droits humains (99-199).

ISSUE	N Report	Compilation	Summary
Development assistance for women's rights		Need for cooperation programmes on women's rights (12)	
Early / forced marriage			Recommendations to awareness-raising measures (37) Frequent early marriages (8)
Equality and Non discrimination	National / Provincial Council of Women (102 -103)	Lack of definition of discrimination in domestic law (9). Inequality and	

		oppression deeply rooted. Discriminatory laws (10)	
<b>Illiteracy</b>		High rate (49)	
<b>Laws that discriminate against women</b>		Need to reform Family Code (11)	Discriminatory Family, Penal and Labor Code. Need for reforms, regarding CEDAW (7)
<b>Maternal mortality /maternal health</b>		High rates. Need for accessible health system (48)	Alarming high levels. (55)
<b>Public and political participation</b>	Legal framework (71, 104)	Low representation in democratic institutions, armed forces, justice system, parliament (40)	Political under representation. Recommendations (46)
<b>Reproductive health/rights</b>	Protection Code for infants and pregnant women (72)		
<b>Rights of girls</b>			Girls under-represented in protection and community reintegration programmes (15) Street girls: sexual exploitation and trafficking (22) See also Women in conflict situations (14)
<b>Right to education</b>	Compulsory and free primary education (49). Increase of girls' access (52)	High costs. High drop-out: pregnancy and forced marriages among its causes. (49)	Education isn't compulsory and free. (56)
<b>Right to social security</b>			Discriminatory legislation for working women (7)
<b>Right to work</b>		Discriminatory Labor code under amending (44)	
<b>Sexual Violence</b>	Fight against sexual violence policy (112)	Law on Sexual Violence (55) Police, civilians as perpetrators (Para 22) Perceived as exclusively war-related; no regard on gender inequalities (10) Impunity of security forces. Out-of court proceedings. Intimidation and punishment. Lack of compensation for victims. (29)	No good implementation of laws (4) Perpetrators' impunity. Need for legal protection and full reparation for victims. (29)
<b>Violence against Women /Gender Violence</b>	National Agency of Fight against violence to women (110)		
<b>Women in conflict and post conflict</b>			Countryside prevalence. Sex Slaves. Rape as war weapon. Girls without schooling and young

situations			women among victims (12) Need for emergency care programmes for rape survivors and prevention mechanisms. (13) Extreme forms. 40% child soldiers are female. Young girls confined by armed groups (14)
Women in prison		Concern of non segregation of women and men (34)	Overcrowding conditions (35)

### Development assistance for women's rights

CEDAW invited the State to place emphasis on **women's human rights** in all **development cooperation programmes** with international organizations and bilateral donors. (Para 12, Compilation)

### Early / forced marriage

According to World Vision (WV), the new Child Protection Law which **outlawed the marriage of children before 18 years** is a welcome step, but must be accompanied by **awareness-raising measures**. (Para 37, Summary)

Le Bureau international catholique de l'Enfance (BICE) a rapporté que les **mariages précoces** demeuraient courants. (Para 8, Summary)

### Equality and non-discrimination

*La République démocratique du Congo accorde une place particulière à la promotion du genre, tant elle tient à une **représentation équitable de la femme** dans les institutions de République. ( ) (Para 101, NR). Sous l'égide de ce Ministère (du genre, famille et enfant), ( ) un **Conseil national de la femme** a été créé et fonctionne suivant les arrêtés nos 11/CAB/V.M/AFF/SOF/98 du 13 mai 1998 et CAB/V.M/AFF/SOF/015/98 du 10 juillet 1998 (Para 102, NR), Des Conseils provinciaux ( ) existent également, même au niveau des quartiers (Para 103, NR).*

According to the 2009 joint report of seven thematic special procedures, **gender inequality** and **oppression of women** are **deeply rooted** in society, and continue to be sanctioned through **discriminatory laws**. (Para 10, Compilation)

### Illiteracy

CEDAW was concerned about the **high rate** of illiteracy among women ( ) (Para 49, Compilation)

### Laws that discriminate against women

In 2007, CEDAW called for the conduct of a comprehensive law review process (Para 11, Compilation). Selon la soumission conjointe 3<sup>1</sup>, le Code de la famille contient des

<sup>1</sup> Joint Submission 3: Franciscans International\*, co-written with Action Sociale pour la paix et le développement, Global Rights Congo, Justice and Peace Netherlands; co-signed by Action Sociale et Conseils pour la Paix, l'Environnement et le Développement, Action Chrétienne pour l'Abolition de la Torture / Nord Kivu, Aide et Action pour la Paix, Bureau International Catholique de l'enfance\*, Centre de Recherche sur

dispositions discriminatoires à l'encontre des femmes qui ont besoin de l'autorisation de leur mari pour effectuer diverses activités. La soumission conjointe, soulignant la présence de dispositions discriminatoires dans le Code pénal et dans le Code du travail (Para 7, Summary)

### Maternal mortality/maternal health

( ) The Committee on the Rights of the Child (CRC) expressed concern, with CEDAW, at the very high rates of ( ) maternal mortality ( ). WV indicated that the alarmingly high levels of ( ) maternal mortality and malnutrition rates were of great concern ( ) (Para 55, Summary)

### Public and political participation

Un projet de loi sur la mise en oeuvre de la parité homme - femme est en chantier, conformément à l'article 14 de la Constitution qui garantit à la femme le droit à une représentation équitable au sein des institutions nationales, provinciales et locales. (Para 71, NR). Parmi les attributions dévolues au Ministère du genre, famille et enfant, il y a : ( ) - L'aménagement du cadre légal et institutionnel pour assurer la participation de la femme au développement de la Nation et une représentation significative au sein des institutions nationales, provinciales et locales. (Para 104, NR)

CEDAW expressed concern about the small number of women in public life and decision making, and in leadership positions in the transition process. The seven special procedures indicated that the drafting of a gender parity law to implement the Constitution was still ongoing. Women remained grossly underrepresented in the newly established democratic institutions and within law enforcement, armed forces and the justice system. A 2008 United Nations Statistics Division source indicated that the proportion of seats held by women in Parliament decrease from 12 per cent in 2005 to 8.4 per cent in 2008. (Para 40, Compilation). Selon la soumission conjointe 3, la vie politique congolaise continue d'être dominée par les hommes (Para 46 Summary)

### Reproductive health/rights

La loi n° 09/01 portant code de protection de l'enfant a été promulguée le 10 janvier 2009. Cette loi réprime notamment l'abstention d'apporter secours à l'enfant en danger (art. 191 et 193) ainsi que l'abstention de porter des soins à une femme en instance d'accouchement (art. 146). VER (Para 72, NR)

### Rights of girls

( ) Amnesty International (AI) reported that child protection and community reintegration programmes remained under-resourced and entirely reliant on international and national non-governmental organizations (NGOs) and United Nations agencies. For Joint submission 5, these programmes showed considerable success, noting however that their framework seemed to be limited and that girls were under-represented ( ) (Para 15, Summary)

Istituto Internazionale Maria Ausiliatrice and International volunteerism, Organisation for Women, Education, Development (IIMA/VIDES) a souligné les violences et **exploitations sexuelles** dont sont victimes les **filles de la rue**, et la soumission conjointe 3 la **vulnérabilité** particulière des enfants des rues au travail forcé et à d'autres formes d'exploitation, notamment à la **traite** des êtres humains. (Para 22, Summary)

See also Women in conflict and post conflict situations, (14, Summary)

### **Right to education**

*La Constitution dispose que toute personne a droit à l'éducation scolaire. Il y est pourvu par l'enseignement national qui comprend les établissements publics et les établissements privés agréés. ( ) l'enseignement primaire est obligatoire et gratuit dans les établissements publics (art. 38 de la loi portant protection de l'enfant) (Para 49, NR) ( ) De plus, il a été observé un net accroissement du taux d'accès à l'éducation de base, surtout pour **les filles**, avec concours notamment de l'UNICEF et de la Coopération britannique (Para 52, NR)*

While noting the constitutional provision for free public primary education, CRC was concerned that **schooling costs** remained **relatively high** ( ). CEDAW was concerned ( ) the **high drop-out rate of girls**, including for reasons such as **pregnancy and early and forced marriage** (Para 49, Compilation).

La soumission conjointe 3 a rapporté que l'éducation primaire **n'était ni gratuite ni obligatoire**, que la crise du système éducatif touchait les infrastructures et le fonctionnement même du système ( ). (Para 56, Summary)

### **Right to Social Security**

La Coordination de Commissions Justice, Paix et Sauvegarde de la Création de l'Eglise du Christ au Congo/ Mission Evangélique Unie (ECC/MEU) a rapporté que les femmes qui travaillent **n'ont pas droit à des indemnités de logement ni aux allocations familiales**. (Para 7, Summary)

### **Right to work**

CEDAW expressed concern that **Labour Code** provisions continued to **discriminate** against women. In 2008, the ILO Committee referred to **legislation** appearing to require/requiring women to **obtain their husband's authorization** to take up salaried employment, to be recruited as a career member of the public service or appointed as a magistrate. In 2009, the ILO Committee welcomed the Government's statement that the provisions were void and modifications were under way, and requested receiving the **amended texts**. (Para 44, Compilation)

### **Sexual Violence**

*La décision relative à la «tolérance zéro» en matière de lutte contre les violences sexuelles prise par le Gouvernement en mars 2009. Cette mesure, dont l'option a été levée en Conseil des ministres, est destinée à décourager les personnes qui s'adonnent à cette pratique et à **lutter contre l'impunité** en général (Para 118, NR). Les synergies provinciales de lutte contre l'impunité des violences sexuelles : ( ) différents acteurs sont impliqués dans cette lutte : délégués Gouvernement provincial, de l'Assemblée provinciale, du barreau, de la magistrature, des ONG des médecins, etc..(Para 112, NR)*

CRC welcomed the adoption of, inter alia, () the **Law on Sexual Violence** (2006) (Para 55, Compilation). AI stated that () important laws have been adopted, including two laws on Sexual Violence (2006), among others. These laws have **not** been **implemented in a satisfactory manner**. (Para 4, Summary)

**Widespread** sexual violence was a matter of grave concern for the Secretary-General. This issue was also addressed by the High Commissioner, special procedures, and treaty bodies (). In 2008, the Secretary-General referred to the disturbing increase of **police personnel** involved **as perpetrators**, especially against **women in detention**. The Special Rapporteur on Violence against Women noted that **civilians** were increasingly among the **perpetrators of rape**. Sexual violence in **schools and universities** was also highlighted by the independent expert. Recommendations were made by United Nations mechanisms on that issue. In 2009, the Secretary-General reported on a **comprehensive strategy on combating sexual violence**, which had been endorsed by the Government (Para 22, Compilation).

Sexual coercion of women and girls is a **long-standing** phenomenon that **existed before the conflict**. The special procedures regretted the tendency to perceive sexual violence as an exclusively war-related phenomenon with **little or no regard** to the **serious inequality** between men and women (Para 10, Compilation)

The Special Rapporteur on Violence against Women noted that **impunity for rape** remained **massive** especially for **State security forces**. According to the seven special procedures, a road map against impunity for sexual violence was adopted by the Government, and in July 2006, the Laws on Sexual Violence introduced major improvements to the Penal Code and the Code of Penal Procedure, which **had yet to lead to real changes on the ground**. The independent expert stressed that in breach of these Laws, many **out-of-court settlements** related to sexual violence were concluded by traditional chiefs or local administrative officials, and accompanied by **intimidation and punishment** of the victim. He noted that in South Kivu, between 2005 and 2007, less than 1 per cent of rapes **led to complaints** being filed with the local judicial authorities. In 2009, however, the Secretary-General noted some progress. According to special procedures, the **State has been sentenced** to pay compensation to a number of women **raped by State agents**; however, **none of them received actual compensation**. (Para 29, Compilation)

Joint submission 5, AI and International Federation of Action by Christians for the Abolition of Torture / Action by Christians for the Abolition of Torture-RDC (FIACAT/ACAT-RDC) reported that **few perpetrators** of sexual violence had been **brought to justice**. Le gouvernement n'a pas pris les mesures nécessaires pour assurer l'application des lois sur les violences faites aux femmes, selon la soumission conjointe 4. (Para 29, Summary)

### **Violence against Women/Gender Violence**

*La création de l'Agence nationale de lutte contre les violences faites à la femme (AVIFEM) : Le projet de ce décret a été approuvé par le Conseil des ministres le 28 août 2009. (Para 110, NR).*

ECC/MEU a fait état du grand nombre de **violences conjugales**, généralement classées sans suite, et du **harcèlement sexuel** dans les milieux professionnel universitaires et scolaires. (Para 8, Summary)

### **Women in conflict and post conflict situations**



AI reported that sexual violence is prevalent countrywide, particularly in the conflict zones. Le BICE a souligné que ce phénomène prend des proportions alarmantes et touche notamment les filles déscolarisées et/ou de jeune âge. According to AI, soldiers and police, as well as Congolese and foreign armed groups, are among the main perpetrators, although an increasing number of rapes by civilians was also reported. A number of armed groups also abducted women and girls to use them as sex slaves. Selon la Fédération internationale de l'Action des Chrétiens pour l'Abolition de la Torture et l'Action des Chrétiens pour l'Abolition de la Torture-RDC (FIACAT/ACAT-RDC), le viol est utilisé comme arme de guerre au Sud-Kivu ( ). (Para 12, Summary)

Most rape survivors suffer severe physical and psychological problem but only very few institutions are able to provide adequate treatment, as reported by Joint Submission 1. AI added that rape survivors were stigmatized and suffered exclusion (Para 13, Summary). ( ) Serious crimes against child combatants were reported by Joint submission 5, including extreme forms of violence, killings and torture. Approximately 40 percent of child soldiers are female. World Vision (WV) was concerned that armed groups were reluctant to release young girls. (Para 14, Summary)

### Women in prison

In 2006, CAT expressed concern regarding the treatment of prisoners ( ) and to minors and women often not being segregated from adults and men. (Para 34, Compilation)

### Suggested questions and recommendations

#### CEDAW and CERD

- To adopt a definition of discrimination in domestic law, consistent with the respective Conventions monitored by them. (Para 9, Compilation)

#### CEDAW and HR Committee

- To reform the Family Code as a priority (Para 11, Compilation)

#### CEDAW and CRC

- To continue with efforts to reduce gender disparities in education (Para 49, Compilation)

#### CRC

- To ensure access to free primary education without discrimination; increasing expenditure on the education sector (Para 49, Compilation)

#### Amnesty International (AI)

- To establish, including with international support, emergency programmes of appropriate medical and psycho-social care for rape survivors; and developing effective mechanisms to prevent violence against women and girls (Para 13, Summary)

#### AI and Human Rights Watch (HRW)

- To Ensure that all victims of sexual violence enjoy equal and effective protection under the law and have equal access to justice; facilitating prosecution of perpetrators and providing full reparation for victims and survivors. (Para 29, Summary)

#### FIACAT/ACAT- RDC

- Prendre des mesures pour lutter contre la **surpopulation carcérale** et de garantir la séparation des femmes et des hommes, des enfants et des adultes (Para 35, Summary)

#### International Centre for Transitional Justice (ICTJ)

- Assurer la **représentation des femmes** dans les instances de **prise de décision**

#### Joint Submission 2

- L'élaboration d'une loi spécifique renforçant la **mise en oeuvre de la parité**, conformément à la Constitution. (Para 46 Summary)

#### Joint Submission 3

- Réformer le **Code pénal** et dans le **Code du travail**, conformément à la Convention internationale sur l'élimination de toutes les formes de discrimination à l'égard des femmes. (Para 7, Summary)
- Mettre en place, comme il en a pris l'engagement, une agence nationale de lutte contre les **violences sexuelles** faites aux femmes () (Para 13, Summary)

#### Sexual Rights Initiative

- To take urgent actions to address a sexual and reproductive health system, ensuring minimum standards of quality and equipment, and the access of all pregnant women, in order to decrease high maternal mortality rates. It might include sexual education and awareness raising on contraceptives methods and new existing laws on early marriages.
- To develop a special and comprehensive national programme of formal and informal education to address the high rate of illiteracy among women and drop-out rate among girls.