

1. Freedom from Torture is pleased to make this submission in connection with the second UPR of the DRC.

Freedom from Torture's direct work with survivors of torture from the DRC

2. Freedom from Torture has extensive experience of working with survivors of torture from the DRC who are in the UK for international protection purposes. Since our foundation in 1985, nearly 3,500 people from the DRC have been referred to our centres for rehabilitation treatment or forensic documentation of their torture injuries.
3. Since January 2010, our specialist clinicians have prepared medico-legal reports¹ (MLRs) for 83 survivors of torture from the DRC, more than half of whom were women.²

The DRC's progress in respect of torture and violence against women since its first UPR in 2009

4. Freedom from Torture is pleased to note that the DRC:
 - acceded to the Optional Protocol to the Convention Against Torture on 23 September 2010 (see accepted recommendations 2, 3, 6, 7 from the DRC's first UPR);
 - enacted legislation criminalising torture on 9 July 2011 and prosecutions and a small number of convictions have ensued³ (see accepted recommendations 8, 10, 12, 78, 79, 82, 83, 87, 92, 93 from the DRC's first UPR); and
 - adopted a national strategy against gender-based violence (2009-2010) and made operational its national agency for the elimination of violence against women as well as adolescent and young girls (AVIFEM) (see accepted recommendations 9, 27, 35, 36, 41-52, 85, 86, 88, 89 from the DRC's first UPR).
5. Nevertheless, as demonstrated by the steady stream of referrals to Freedom from Torture of torture victims from the DRC, torture and violence against women remain widespread in the DRC and we hope that Member States of the UN will use the second UPR of the DRC as an opportunity to encourage the DRC to take further action to make a reality of both the torture prohibition and the government's 'zero tolerance' policy to sexual violence.

Forensic evidence of ongoing torture in the DRC – spotlight on torture of women detained by the state, including the extensive use of rape and other forms of sexual torture

6. In this submission we present *primary evidence* of recent torture in the DRC based on a detailed analysis of 34 MLRs prepared by our doctors documenting torture committed in the DRC between 2006 and 2011. Twenty-five (74%) of these cases were detained at least once during 2009-2011.
7. Key findings of our research are as follows:

¹ Freedom from Torture's medico-legal reports are detailed forensic reports which document physical and psychological consequences of torture. They are prepared by specialist clinicians – who act as independent experts in this task to assist decision makers in the context of asylum and other legal proceedings – according to standards set out in the Istanbul Protocol and each is subject to a detailed clinical and legal review process. The possibility of fabrication of evidence is explicitly considered in each case.

² Since our foundation, nearly 3,500 people from the DRC have been referred to us for clinical services – this represents approximately 7% of the total referrals we have received. More than 10% of our current treatment clients are from the DRC and at least 7% of all medico-legal reports we produced over the past three years were from torture survivors from the DRC, more than half of whom were women.

³ See 'DR Congo: UN welcomes progress in ending impunity for torture' (9 July 2013) available at <http://www.un.org/apps/news/story.asp?NewsID=45372#.UjK2qD8oG2A>.

Detention context

8. The vast majority of the women in our sample were detained in *non-conflict* contexts: 26 (76%) were resident in Kinshasa when they were detained (for all episodes), while three were resident in Bas-Congo and five in the eastern provinces (North Kivu 3 cases, Orientale and South Kivu one case each). Just over half of the arrests were from public locations, including eight at Kinshasa's airports, while in all other cases women were arrested from/detained in their home or another private address.
9. Many suffered multiple detentions – across the 34 cases there was a total of 60 detention episodes.
10. Thirty-two (94%) of the 34 women in our sample stated that they were detained (on all occasions) by *state* actors – mainly from the military, police or intelligence services.⁴ There were no reported cases of detention by non-state forces or rebel groups, though in two cases the detaining authority was not known.
11. The majority of women were detained and tortured in formal or informal state security facilities (68%).⁵ The others were detained and tortured by state forces in their home or other private residence. Five women were initially detained in a prison or other state detention facility before being taken to another unknown facility, where they continued to be interrogated and tortured.
12. The most common reason for detention was the political profile of the woman and/or her family member(s). Twenty women (59%) reported that they, a family member or members, or both were a member or supporter of a political organisation including the Movement for the Liberation of Congo, the Union for Democracy and Social Progress and/or APARECO. Three women reported supporting civil society organisations concerned with women's rights. Activities that led to the arrest of those detained for a political or dissident profile included taking part in demonstrations, distributing or being in possession of political materials, organising conferences and public speaking. Five were detained on account of perceived personal/family support for rebel groups.

Identity of perpetrators

13. In most cases the rank or identity of the perpetrator was unknown, however five of the women detained in Kinshasa or Bas Congo described the perpetrator as a 'Chief', 'Major' or 'Commander' and in the eastern provinces one was described as 'the General'. Two women were also attacked by other detainees; one was raped and the other beaten by fellow

⁴ Although the specific state force was not identified in all 60 detention episodes, of those 42 episodes where this information was given, 38% were detained by the Armed Forces of the DRC (FARDC) and 7% by the Office of Military Detection of Antipatriotic Activities (DEMIAP). Most other detentions were carried out by the Congolese National Police (PNC) (29%) or by the National Intelligence Agency (ANR) (21%). Two women reported being detained by the Republican Guard (GR) and the Directorate General of Migration (DGM).

⁵ In Kinshasa, named detention facilities included: 'Kinshasa Penitentiary and Re-education Centre' (CPRK), 'Kalamu prison', 'Kibomango camp' (GR), 'Camp Kokolo' (FARDC), the 'DEMIAP prison' and the 'SGA building' in Gombe (reportedly living quarters for soldiers). Named police facilities included the Kinshasa Provincial Inspectorate ('IPK), the 'police headquarters' (Quartier Général de la Police Nationale Congolaise - Direction de Kinshasa), as well as Gombe and Limite police stations. Those detained by intelligence services reported either being held in the 'ANR facility' (National Intelligence Agency) or in 'Kin Maziere', both in Kinshasa. In eastern DRC, named detention facilities included 'Munzenze prison' and 'Chien Mechant' prison, both in Goma and 'Ketel camp' in Kisangani. In Bas-Congo named detention facilities included 'Matadi prison', 'Luzumu prison' and 'Moloyi camp'.

detainees under the direction of guards. In six cases the perpetrator was not known because the woman was held in total darkness or because the perpetrators disguised their identity.

Lack of due process rights

14. All 34 women appear to have been detained without due process and were tortured each time they were detained. According to the information available to Freedom from Torture, all were detained arbitrarily (without due process according to international human rights standards) and the vast majority were held *incommunicado*;
15. Of the 29 women detained 54 times in Kinshasa and Bas-Congo, only two were 'charged', 'convicted' and 'sentenced'. Of these, one was interrogated in front of a 'judge' in the prison and sentenced to three years imprisonment, though the charge is not known. The other received an unofficial hearing in the prison conducted by soldiers during which she was reportedly condemned to death. Neither reported access to legal counsel.
16. The majority of the 60 detention episodes lasted for three months or less. In nearly a quarter of the cases women reported being released from detention after the payment of a bribe. Ten others secured a conditional release, with conditions including that they would cease political activities. Almost a third reported escaping from detention with or without assistance, while a few were released without explanation.

Detention conditions

17. Detention conditions were reported in most cases to be extremely poor including lack of space, over-crowding, mixed gender cells, unhygienic and harsh conditions. The majority of women reported poor quality, inadequate food and infrequent and insufficient access to water. One woman was told by guards that she could only have drinking water in exchange for sex; when she refused she was then raped. Another reported being given urine instead of water to drink. Seven women said that they received no food or water at all during their detention.
18. Most women received no medical treatment while in detention, despite the injuries they sustained during torture. Four reported being transferred to hospital from detention; one woman was treated in the prison clinic and another was visited by a doctor in prison.

Forensic evidence of torture

19. Methods of physical torture forensically documented by our doctors included: blunt force trauma such as beating, whipping and assault in all cases (100%); **rape (often multiple) in all but one case (97%)** as well as other forms of sexual torture including molestation, violence to genitals and/or penetration with an instrument; burning (53%); and various forms of psychological and environmental torture.
20. Many reported more than one form of sexual torture, multiple perpetrators and multiple incidences throughout the time they were detained. Of those detained more than once, the majority suffered sexual torture including rape each time. Many women reported severe violence during rape, including being forcibly restrained, beaten and/or stabbed if they resisted. Over half of the women experienced gang rape, involving from three to ten men at a time.
21. All 34 cases (100%) had symptoms of Post-Traumatic Stress Disorder (PTSD) related to their history of torture in detention. Of these, 56% were recorded as having symptoms reaching the diagnostic threshold according to the ICD-10 Classification of Mental and

Behavioural Disorders.⁶ In addition, ongoing symptoms of depression directly related to the history of detention and torture were reported by 91% of cases, of which 56% reached the diagnostic threshold for depression. Twenty women reported ideas of self-harm or suicide, persistent in some cases, while two had self-harmed or attempted suicide.

Lack of access to treatment

22. Only thirteen women reported receiving treatment in the DRC for physical injuries or symptoms associated with torture in detention. Only four of these reported receiving treatment for physical injuries or symptoms due to rape. Some who did not seek medical attention attributed this to the shame surrounding rape and fear of being discovered by the authorities. None of the 34 women received treatment for psychological symptoms due to rape and only one for torture-related psychological symptoms whilst in the DRC.

Significance of Freedom from Torture's evidence for the second UPR of the DRC

23. At the UN, the DRC often presents violence against women as a problem primarily associated with the conflict in Eastern DRC and attributes it to non-state actors. It tends to downplay violence against women committed by state actors, including in non-conflict contexts. For example, in its recent combined sixth and seventh periodic report to the Committee on the Elimination of Discrimination Against Women (CEDAW), the DRC attributed sexual violence in *conflict contexts* to practices '*imposed by foreign armed groups*'⁷ and limited discussion of violence against women in *non-conflict contexts* to sexual and domestic violence committed in the private sphere and other societal contexts.⁸

24. Freedom from Torture's forensic evidence demonstrates, among other things, that:
- Torture as a form of violence against women continues in the DRC despite initiatives including a national strategy and national agency focused on eliminating violence against women and girls, a new law criminalising torture, and the government's efforts to combat impunity.
 - Violence against women in the DRC includes torture of women who are targeted by state actors including the military, police and intelligence services on account of their own or family members' political activity; and
 - Sexual forms of torture continue to be practised against women by state actors in both non-conflict and conflict contexts – 33 of the 34 women in our sample (97%) disclosed rape and other sexual forms of torture.

25. Further action is therefore required to implement relevant accepted recommendations from the DRC's first UPR including recommendations 41-52.

26. **Freedom from Torture hopes that OHCHR will draw on our submission to recognise** in the section on 'Right to life, liberty and security of the person' of its summary of information from relevant stakeholders that:

(a) Violence against women in the DRC includes (i) torture of women including rape and other forms of sexual torture (ii) for political reasons (iii) by state actors (iv) in non-conflict areas;

⁶ World Health Organisation, *The ICD-10 Classification of Mental and Behavioural Disorders* (Geneva 1994).

⁷ CEDAW/C/COD/6-7 at p. 23.

⁸ *Ibid.*, p. 22.

(b) Many women detainees in the DRC are denied due process rights, subjected to extremely poor detention conditions including mixed gender cells, over-crowding and inadequate access to food and water, and denied access to medical treatment including for injuries sustained during torture.

Recommendations

27. Freedom from Torture makes the following recommendations to the DRC in the context of its second UPR and in light of relevant accepted recommendations from its first UPR:

- Take further measures to prevent torture – including sexual torture – as a form of violence against women including by taking vigorous steps to ensure that: all women detained in the DRC have access to justice including due process and to appropriate health care; detention conditions comply with the UN Minimum Rules for the Treatment of Prisoners including the segregation of women from men; all women victims of torture have access to remedies including compensation and rehabilitation; and impunity for perpetrators is brought to an immediate end.
- Following its accession to **OPCAT** in 2010, comply with Articles 3 and 17 of the treaty and establish or designate a national body for the prevention of torture and ill-treatment at the domestic level and welcome a visit as soon as possible from the Subcommittee on Prevention of Torture in accordance with Article 12 of the treaty;
- Submit without any further delay its next periodic report (consolidated second to fourth) to the **Committee Against Torture** (CAT) – this report is now more than four years overdue – and ensure that it responds to the List of Issues prior to submission of report transmitted by CAT to the DRC in March 2009⁹;
- Implement the recommendations of **CEDAW** following its recent examination of the DRC, and in particular the recommendations to:

‘ensure the effective implementation, including through the provision of sufficient resources, of the 2006 Law on Sexual Violence, the 2009-2013 National Strategy to combat gender-based violence, and the “zero tolerance policy”;

‘prosecute all acts of violence against women upon complaint by the victim or ex officio, and adequately punish perpetrators, including when perpetrators are members of the Congolese National Police; ensure that judicial decisions are executed, including that those convicted serve mandated sentences and that compensations are paid;

‘Provide compensation as well as assistance and rehabilitation to victims of violence through the setting up of a comprehensive care system for victims of gender-based violence, including measures to provide them with free legal aid, medical and psychological support, as well as shelters, counselling and rehabilitation services throughout the territory of the State party’; and

‘Prevent violence against ... women in detention, and prosecute and punish perpetrators of such violence, including when they are members of the Congolese

⁹ CAT/C/DRC/Q/2.

National Police.¹⁰

- Issue a standing invitation to all thematic special procedures of the Human Rights Council and welcome visits as quickly as possible by the **UN Special Rapporteur on Torture** and the **UN Working Group on Arbitrary Detention**.

¹⁰ CEDAW/C/COD/CO/6-7.