

Flygtningenævnets baggrundsmateriale

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1 April 2021

COD200506.FE

Democratic Republic of the Congo: Early or forced marriages, including among women and girls; prevalence, related legislation, and the ability to refuse such a marriage; state protection and support services (2019–March 2021)

Research Directorate, Immigration and Refugee Board of Canada

1. Situation

1.1 Prevalence of Early Marriage

According to the 2017–2018 Multiple Indicator Cluster Survey (MICS), conducted by the National Institute of Statistics (Institut national de statistique, INS) of the Democratic Republic of the Congo (DRC) with support from UNICEF and the US Agency for International Development (USAID), among women aged 20 to 24 at the time of the survey, 29.1 percent were first married or [translation] “in a union” before the age of 18, and 8.4 percent before the age of 15 (DRC Dec. 2019, ii, 17). The same source reports that among men aged 20 to 24, 5.6 percent were first married before the age of 18, and 1.6 percent before the age of 15 (DRC Dec. 2019, 17). The source adds that at the time of the survey, 18.0 percent of women and 2.2 percent of men aged 15 to 19 were married (DRC Dec. 2019, 17).

The MICS provides the following data on women aged 20 to 49 at the time to the survey:

Area of residence	Percentage who were married before age 15	Percentage who were married before age 18
Urban	7.3	24.8
Rural	11.6	37.3

Index of economic well-being [1] (population divided into quintiles)	Percentage who were married before age 15	Percentage who were married before age 18
Poorest	12.5	38.4
Second	12.3	37.4
Average	9.9	35.9
Fourth	10.0	33.7
Wealthiest	4.4	15.7

(DRC Dec. 2019, 278)

The MICS provides the following data on the prevalence of early marriage by province in the DRC:

Province	Percentage of women aged 20 to 49 married before age 15	Percentage of women aged 20 to 49 married before age 18	Percentage of women aged 15 to 19 who are married/in a union
Bas-Uele	9.7	27.6	16.4
Équateur	6.7	28.1	9.7
Haut-Uélé	12.7	35.1	31.6
Haut-Katanga	11.5	39.7	23.1
Haut-Lomami	10.8	39.1	19.9
Ituri	9.6	30.6	23.0
Kasaï	16.8	51.3	31.8

Province	Percentage of women aged 20 to 49 married before age 15	Percentage of women aged 20 to 49 married before age 18	Percentage of women aged 15 to 19 who are married/in a union
Kasaï Central	17.2	51.3	23.4
Kasaï Oriental	19.5	56.8	22.0
Kinshasa	4.7	17.8	6.8
Kongo Central	4.2	19.0	9.2
Kwango	8.1	24.9	12.8
Kwilu	6.7	27.2	13.3
Lomami	9.7	38.5	18.9
Lualaba	8.4	29.5	26.3
Mai-Ndombe	11.6	37.5	28.0
Maniema	16.0	44.6	39.4
Mongala	9.8	33.4	42.1
Nord-Kivu	9.2	28.2	17.2
Nord-Ubangi	12.7	36.1	35.2
Sankuru	9.8	34.4	22.9
Sud-Kivu	11.5	29.2	11.5
Sud-Ubangi	12.5	42.3	29.2
Tanganyika	16.0	49.3	31.0
Tshopo	8.7	33.9	23.2
Tshuapa	12.7	32.6	20.3

(DRC Dec. 2019, 279)

1.2 Prevalence of Forced Marriage

UNHCR and INTERSOS [2] publish monthly protection monitoring reports for certain regions of the DRC, which provide statistics on forced marriage, such as the following:

- Ituri
 - In June 2020, 7 forced marriages (INTEROS and UN 13 July 2020, 1)
 - In September 2020, 10 forced marriages (INTEROS and UN 14 Oct. 2020, 2)
 - In October 2020, 7 forced marriages (INTEROS and UN 17 Nov. 2020, 2)
- Nord-Kivu
 - In October 2020, 1 forced marriage (INTEROS and UN 31 Oct. 2020, 9)
 - In December 2020, 1 forced marriage (INTEROS and UN 27 Jan. 2021, 8)
 - In January 2021, no forced marriages (INTEROS and UN 23 Feb. 2021, 8)
- Sud-Kivu and Maniema
 - In July 2020, 5 forced marriages (INTEROS and UN 20 Aug. 2020, 8)
 - In September 2020, 3 forced marriages (INTEROS and UN 23 Oct. 2020, 2)
 - In December 2020, 3 forced marriages (INTEROS and UN 18 Dec. 2020, 2)
- Tanganyika and Haut-Katanga
 - In January 2020, 3 forced marriages (UN 31 Jan. 2020, 6)
 - In October 2020, 18 forced marriages (INTEROS and UN 8 Dec. 2020, 8)
 - In December 2020, 2 forced marriages (INTEROS and UN 21 Jan. 2021, 12)

In correspondence with the Research Directorate, Dieudonné Lwaboshi Manegabe, a program manager at Women in Action for Social Progress (Femmes en action pour le progrès social, FAPROS), a women's and children's rights organization in the DRC, stated that [translation] "the rate [of forced marriage] among adult women is much lower. [Adult women] are rarely subjected to forced marriage" (Lwaboshi Manegabe 6 Mar. 2021). Information on the statistical prevalence of forced marriage of adults in the DRC could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.3 Reasons for Forced Marriage

In an article published on 19 July 2020, Global Press Journal, a journalism platform (Global Press Journal n.d.), reports that in the province of North Kivu, the families of young girls with unwanted pregnancies can force them to marry the father of their unborn child (Global Press Journal 19 July 2020). Similarly, according to Issue 30 of the *Dimitra*

Newsletter, a publication of the UN Food and Agriculture Organization (FAO), in the province of Kwilu, teenage pregnancies among 12-to-14-year-olds can lead to the girls marrying the fathers of their unborn children (UN Apr. 2019, 63).

Sources report that early marriages may be due to families' poverty, since the bride-price to be paid by the future groom enables families to meet some of their needs (Balume Johnson 9 Oct. 2020; Lwaboshi Manegabe Dec. 2019). Similarly, UNHCR notes that because of poverty, hunger and disease, [UN English version] "hundreds" of families from Tanganyika province that have been displaced as a result of ethnic fighting "are compelling their children to marry young, in hopes of easing immediate financial burdens" (UN 26 July 2018).

In a report on the impact of attacks on education for women and girls in Kasai Central province, the Global Coalition to Protect Education from Attack (GCPEA) states that [GCPEA English version] "many" people interviewed for the report believed that early marriages were increasingly common as a result of the armed conflict in the province (GCPEA Apr. 2019, 46). The source notes that school principals and female students interviewed for the report indicated that families that were economically impacted by the conflict might marry off their daughters in order to receive the bride-price paid to the bride's family (GCPEA Apr. 2019, 47). The same source reports that as a result of the prevalence of conflict-related sexual violence, parents are opting for early marriages for their daughters, fearing that if their daughters experience rape, they will not be able to find a husband (GCPEA Apr. 2019, 46). Sources add that the COVID-19 pandemic puts young girls at increased risk for early marriage (US 24 Sept. 2020, 13; Lumbulumbu Kabuo Sept. 2020, 6). According to USAID, families that have lost income seek to compensate for the loss by marrying off their daughters and accessing the additional economic resources provided by the bride-price (US 24 Sept. 2020, 13). Similarly, in a report on the impacts of the COVID-19 pandemic broken down by gender, Françoise Lumbulumbu Kabuo, National Gender Equity Advisor at CARE DRC, a division of CARE International, which [translation] "works with poor communities in developing countries to bring an end to extreme poverty and injustice," notes that lower income means that less food is available in some households and [translation] "sometimes minor daughters marry because they hope to have a better life in their partner's home and have their families benefit from it." (Lumbulumbu Kabuo Sept. 2020, 6, 17).

1.4 Reasons for Forced Marriage

In a letter dated 2 June 2020 addressed to the President of the UN Security Council, the Group of Experts on the DRC reports that, between January 2019 and February 2020, [UN English version] "widespread" sexual violence, including forced marriage, was committed by armed combatants, particularly those in the Nduma Defence of Congo-Rénové (Nduma défense du Congo-Rénové, NDC-R) and the Collective of Movements for Change/People's Defence Forces (Collectif des mouvements pour le changement/Forces

de défense du peuple, CMC/FDP) in the Masisi and Rutshuru territories (UN 2 June 2020, para. 114-115). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

In correspondence with the Research Directorate, Bauma Balume Johnson, a lawyer and researcher at the London School of Economics and Political Science (LSE) who has written on early and forced marriage in Goma (Balume Johnson 9 Oct. 2020), explained that parents can force their adult daughters to marry a man of their choosing for economic reasons (Balume Johnson 9 Mar. 2021). In correspondence with the Research Directorate, the Coordinator of Female Solidarity for Integrated Peace and Development (Solidarité féminine pour la paix et le développement intégral, SOFEPADI), an NGO working to defend and promote women's and children's rights in Ituri (SOFEPADI n.d.), reported that the forced marriage of an adult woman can be motivated by [translation] "the family's economic interests" (Coordinator 11 Mar. 2021).

Sources report that the Yansi [Yanzi], [an ethnic group in Kwilu province (*Heshima Magazine* 20 June 2020)], practise *kintuidi* [*kintwidi*, *kintshuidi*, *kinsudi*], a cultural system in which the eldest daughter is promised in consanguineous marriage (*Heshima Magazine* 20 June 2020; Mthatu Lukilanganga Oct. 2019, 117) to her maternal uncle (*Heshima Magazine* 20 June 2020) or to her cousin (Mthatu Lukilanganga Oct. 2019, 117). Sources report that in order for the eldest daughter to be able to marry an outside man, the man must pay an additional bride-price to the male family member to whom the girl was promised (*Heshima Magazine* 20 June 2020; Mthatu Lukilanganga Oct. 2019, 117) or to the maternal grandfather (*Heshima Magazine* 20 June 2020). Information on traditional marriage practices among other ethnic groups could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

In correspondence with the Research Directorate, the Coordinator of SOFEPADI reported that, [in [translation] "some regions of the country, such as the region of Kasaï, in the centre of the country" (Coordinator 17 Mar. 2021)], it is possible that, in the event of a husband's death, "families force the widow to marry a man within the family (often the brother of the deceased) in order to keep the bride-price of the first marriage, care for orphans and reunify families" (Coordinator 11 Mar. 2021). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.5 Ability to Refuse and Consequences of Refusing

Information on the parties' ability to refuse early or forced marriage or the consequences of refusing was scarce among the sources consulted by the Research Directorate within the time constraints of this Response. In correspondence with the Research Directorate, without providing further details, the Executive Secretary of Solidarity Among Women Human Rights Activists (Solidarité des femmes activistes pour la

défense des droits humains, SOFAD), an NGO that fights [translation] “poverty, violence and injustice against women and girls” in the DRC (SOFAD n.d.), noted that in the event of a refusal, [translation] “[t]here are penalties based on the rules of each society; punishment may be moral or physical” (Executive Secretary 26 Feb. 2021). Similarly, Lwaboshi Manegabe reported that if a young girl refuses an early marriage, she [translation] “risks cruel words from her parents and [is] excluded from the family” (Lwaboshi Manegabe 6 Mar. 2021). The Coordinator of SOFEPADI explained that refusing early marriage could result in rejection by the family or a break with the family; she also noted the possibility of arbitrary arrest (Coordinator 11 Mar. 2021). According to the same source, [translation] “some [people] have curses put on them by their families,” whereas others “relocate somewhere new or even commit suicide” (Coordinator 11 Mar. 2021).

2. Legislation

Article 334 of Law No. 16/008 of 15 July 2016 Amending and Supplementing Law No. 87-010 of 1 August 1987 on the Family Code (*Loi no 16/008 du 15 juillet 2016 modifiant et complétant la loi no 87-010 du 1er août 1987 portant Code de la famille*) provides that [translation] “[e]very individual has the right to marry the person of their choice, of the opposite sex, and to found a family” (DRC 2016).

Articles 351, 352 and 357 of the same law provide the following:

[translation]

Article 351

The future spouses must each personally consent to the marriage.

However, whether the marriage is solemnized in the presence of family or before a civil registrar, marriage by proxy may be authorized by a justice of the peace on reasonable grounds.

Article 352

Men and women under the age of eighteen may not enter into marriage.

Article 357

Children, even if emancipated, may not enter into marriage. (DRC 2016, bold in original)

With regard to the annulment of forced marriages, the Family Code provides the following:

[translation]

Article 402

When marriage was entered into without the consent of both spouses, for any reason whatsoever, the nullity of the marriage must be declared.

The action may be undertaken by the spouses themselves, by any person having an interest in doing so, and by the public prosecutor during the lifetime of the two spouses.

Article 403

Any person who entered into a marriage under the influence of violence may request its annulment.

The marriage may be contested no more than six months after the violence ended and, in any event, no more than two years after the marriage was celebrated. (RDC 1987, bold in original)

The Law Amending and Supplementing the Family Code provides the following regarding sanctions relating to forced marriage:

[translation]

Article 404

Without prejudice to the more severe penal provisions, the penalties set out in Article 336 of the Law shall be imposed on persons who, through violence, forced a person to consent to marriage, as well as on the witnesses of such a marriage.

The penalties provided for in the first paragraph of article 395 of this law shall be borne by any civil registrar who performs or registers such a marriage if he knew or should have known about the situation. (RDC 2016, in bold in the original)

Article 336 provides the following:

[translation]

Article 336

Any person other than the father, mother or guardian who forces a person to marry against his or her will or who, in bad faith, prevents a marriage that meets all legal requirements from being entered into, shall be punished by penal servitude for a term of one to three months and a fine of 150,000 to 600,000 Congolese francs [approximately C\$94.50 to C\$378.10], or by only one of these penalties.

However, in the event of coercion by parents, a guardian or any person who has legal authority over the individual, the latter may refer the matter to the family council, which shall render judgment. In the event of a disagreement, the matter shall be referred to the peace court. (DRC 2016, bold in original)

With regard to the annulment of an early marriage, the Law Amending and Supplementing the Family Code provides the following:

[translation]

Article 406

In cases where one or both spouses were underage, the nullity of the marriage must be declared.

The marriage may be contested up until both spouses have reached the required age.

The action may be undertaken, before the competent peace court, by the spouses themselves, by any person who has an interest in doing so and by the public prosecutor in the lifetime of both spouses. (RDC 2016, bold in original)

With regard to the penalties relating to early marriage, the Law Amending and Supplementing the Family Code provides the following:

[translation]

Article 407

The penalties provided for in the first paragraph of article 395 of this law shall be borne by any registrar who performs or registers the marriage of a man and a woman under the age of 18 if he knew or should have known about the situation.

The same penalties also apply to the minor's adult spouse, the persons who consented to the minors' marriage and those who witnessed it. (DRC 2016, in bold in the original)

Article 395 provides the following penalties:

[translation]

Article 395

Any civil registrar who performs or registers a marriage knowing that there is an impediment that would render it null and void in accordance with the provisions of the following articles shall be punished by penal servitude for a term of two to twelve months and a fine of 150,000 to 700,000 Congolese francs, or by only one of these penalties.

Any civil registrar who contravenes any other of the provisions relating to the conditions of marriage shall be fined 100,000 to 300,000 Congolese francs. (DRC 2016, bold in original)

Law No. 06/018 of 20 July 2006 Amending and Supplementing the Decree of 30 January 1940 on the Congolese Penal Code (*Loi no 06/018 du 20 juillet 2006 modifiant et complétant le Décret du 30 janvier 1940 portant Code pénal congolais*) provides that

[translation]

Article 3

« Section III of Title VI of the Penal Code Book II is thus

« amended:

« Section III: Other sexual violence offences

...

« Paragraph 6: Forced marriage

« Article 174f

« Without prejudice to article 336 of the Family Code, shall

« shall be sentenced to one to twelve years of prison and

« fined no less than one hundred thousand constant Congolese francs

« any person who, exercising parental or guardianship authority

« over a minor or adult and who has given

« him or her in marriage, or with a view to it, or has forced him or her to marry.

« The minimum sentence provided for in paragraph 1 is doubled when it involves « a person under 18 years of age. (DRC 2006, chevrons in the original)

2.1 Enforcement of the Law

Sources report that the legislative provisions concerning [early marriage (W4 17 Sept. 2019; Balume Johnson 9 Mar. 2021)] and [forced marriage (Executive Secretary 2 Mar. 2021; Balume Johnson 9 Mar. 2021)] are not necessarily enforced in practice (Executive Secretary 2 Mar. 2021; Balume Johnson 9 Mar. 2021; W4 17 Sept. 2019). Global Press Journal reports, for example, that in North Kivu, the population is unfamiliar with laws concerning forced marriage (Global Press Journal 19 July 2020). Similarly, Lwaboshi Manegabe noted that laws against early marriage are not enforced in [translation] “certain” regions of the Ruzizi Plain (Lwaboshi Manegabe 6 Mar. 2021). Sources explain that most cases of forced marriage are resolved [[translation] “amicably” (Lwaboshi Manegabe 6 Mar. 2021)] at a family level (Lwaboshi Manegabe 6 Mar. 2021; Coordinator 11 Mar. 2021).

Lwaboshi Manegabe added that victims of forced marriage are reluctant to file a complaint with the public prosecutor’s office out of fear of creating problems with their parents and restrict themselves to contacting [translation] “avenue or neighbourhood chiefs” (Lwaboshi Manegabe 6 Mar. 2021). The Coordinator of SOFEPADI noted that [translation] “very often, victims do not have the financial means to institute legal proceedings” (Coordinator 11 Mar. 2021). In an interview with Women's WorldWide Web (W4) [3], a crowdfunding platform specializing in projects that empower women and girls (W4 n.d.), representatives of Women for Equal Chances-Congo (WEC-Congo) [4] reported that the Congolese authorities responsible for enforcing the law do not prosecute the perpetrators of early marriage (W4 17 Sept. 2019). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. State Protection and Support Services

3.1 State Protection

According to sources, in the summer of 2020, the Congolese government adopted a revised version of the National Strategy Against Gender-Based Violence (Stratégie nationale de lutte contre les violences basées sur le genre, SNVBG) (RDC News Live 27 Aug. 2020; UN 1 Sept. 2020; Forum des As 9 June 2020). This strategy concerns different types of gender-based violence, including early marriage (ACP 8 June 2020) and forced marriage (RDC News Live 27 Aug. 2020). Information on the content of the revised version of the SNVBG could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

With regard to the previous version of the SNVBG that was adopted in 2009, a paper presented by Congolese representatives of the UN Population Fund (UNPF) at the 2017 Congress of the International Union for the Scientific Study of Population (IUSSP) (IUSSP n.d.), notes that the SNVBG implemented in 2009 and supported by international donor agencies paid little attention to early marriage and reports that there is

[translation]

very little correlation between the number of stakeholders [for the implementation of the SNVBG] and the prevalence of child marriage.... In fact, there is a high prevalence of child marriage in areas where advocates against gender-based violence are concentrated. (Banza Nsungu Bakwate, et al. 2017, 4)

The same source reports that between July and October 2016, the Ministry of Gender, Family and Children (ministère du Genre, Famille et Enfant) conducted a national campaign entitled “Red Card to Early Marriage” (“Carton rouge au mariage précoce”), which helped to engage the political and administrative authorities in the fight against early marriage and yielded the following results:

- 11 networks were established for men involved in discouraging early marriage. The networks are comprised of influential individuals within communities, such as teachers, neighbourhood chiefs and religious authorities. The campaign took place in the provinces of Katanga, Sud-Kivu, Maï-Ndombe and Kinshasa;
- 550 people were trained to serve as outreach officers to raise awareness against early marriage, including 220 people who served in awareness-raising activities within communities; and
- 13,403 people were sensitized and 114,133 people were reached through social media. (Banza Nsungu Bakwate, et al. 2017, 2-3)

3.2 Support Services Provided by NGOs

Information on NGO support services for victims of early and forced marriages was scarce among the sources consulted by the Research Directorate.

The Executive Secretary of SOFAD indicated that support services for victims of forced marriage are [translation] “somewhat” available throughout the country (Executive Secretary 26 Feb. 2021). Global Press Journal reports that there is a women’s rights organization in North Kivu, Mumaluku, which works to prevent forced marriage and convince families to stop pressuring their minor daughters to marry when they become pregnant (Global Press Journal 19 July 2020). The Debout Congolaises! webzine published by the Observatory for Parity in the DRC (Observatoire de la parité en RDC) (Debout Congolaises! n.d.) reports that in the Mitwaba territory in the province of Haut-Katanga, the Congolese NGO Afia Mama is conducting a project that includes establishing an [translation] “awareness-raising committee for early marriage and early unions and the construction of a welcoming centre where youth and teenage mothers can obtain support and skills training” (Debout Congolaises! 7 Aug. 2019). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of the Response.

Balume Johnson noted that, in Goma, many NGOs work on gender issues, but they focus mainly on sexual and domestic violence; he added that the partner agencies that provide financial support for the NGOs’ activities focus their funding on sexual and domestic violence issues (Balume Johnson 9 Mar. 2021).

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.

Notes

[1] According to the National Institute of Statistics (Institut national de statistique, INS), the index of economic well-being is a [translation] “composite indicator of wealth. ... The index of economic well-being is intended to reflect underlying long-term wealth through data on household assets and to produce a wealth ranking of households, from the poorest to the wealthiest” (DRC Dec. 2019, 29). The source adds that households are ranked based on their index scores and that households are split into five equal parts, quintiles, from the lowest score (the poorest quintile) to the highest (the wealthiest quintile) (DRC Dec. 2019, 29).

[2] INTERSOS is an international humanitarian organization that provides assistance to victims of armed conflicts, natural disasters and extreme exclusion (INTERsos n.d.).

[3] Women's WorldWide Web (W4) is a crowdfunding platform that specializes in projects to empower women and girls (W4 n.d.).

[4] Women for Equal Chances-Congo (WEC-Congo) is a non-profit association that advocates for equality between men and women (WEC-Congo n.d.).

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