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Shadow report on the Democratic Republic of Congo (DRC) for consideration at the 90th session of CEDAW

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## **1. Preface**

We are honored to submit this comprehensive alternative report to the Committee on the Elimination of Discrimination against Women (CEDAW) as part of its review of the Democratic Republic of Congo.

This report seeks to provide a comprehensive overview of the implementation of CEDAW with a focus on the human rights and well-being of lesbian, bisexual, transgender and intersex (LBTI) women and girls in the Democratic Republic of Congo<sup>1</sup>.

Our organisations<sup>2</sup> run local LGBTI communities and organisations are committed to making a meaningful contribution to the Committee's deliberations and to advocating for the safeguarding of the rights and dignity of the LGBTI community in the Democratic Republic of Congo.

Given the nature of the working environment for LGBTI organisations and communities in the country, including obstacles related to legal status, geographical location and the control and oversight of two state institutions, namely the National Intelligence Agency (ANR)<sup>3</sup> and the Military Detection of Anti-Patriotic Activities (DEMIAP), there is insufficient data on the situation of LGBTI women and girls in the country.

However, thanks to the few documents, reports, training courses, conferences, workshops and multimedia materials such as videos that exist, the authors have been able to give an overview of the situation of discrimination against women, including LGBTI women and girls.

The authors therefore relied mainly on testimonies from various sources and online consultations with LGBTI activists, human rights defenders, organisations and groups recognised for the quality of the activities they implement and their relevance to the needs of the populations in the areas of intervention of the various projects related to girls' and women's rights and the rights of LGBTI people in the Democratic Republic of Congo.

The authors have also taken into account the testimonies of experts, including two official government documents and four activists from countries in the Great Lakes region, as well as United Nations sources.

This report covers investigations up to 10 December 2024. Due to word limitations, other forms of evidence and conclusions are included in the appendix.

## **2.EXECUTIVE SUMMARY**

La Savie asbl ONG LGBTQ RDC, created in April 2017 is a non-governmental organisation (NGO) with a group of rural LGBTIQ people, with the mission to raise awareness among public decision-makers in the Democratic Republic of Congo and around the world of the economic benefits of inclusive policies for LGBTIQ people in order to bring about legal change in the Democratic Republic of Congo and around the world where LGBTI discrimination is still legal.

This report is submitted jointly by 19 organisations working on human rights, gender equality and the well-being of LGBTI people in the DRC. It provides an overview of the state of implementation of CEDAW. This report provides an overview of the current state of implementation of the CEDAW Concluding Observations, as well as the UPR recommendations, on the human rights and well-being of LGBTI persons in the Democratic Republic of Congo.

This report provides an update on the status of the recommendations made by the Committee on the Elimination of Discrimination against Women (CEDAW) following its consideration of the eighth periodic report of the Democratic Republic of the Congo. It also includes the Committee's list of issues and questions, as well as the Democratic Republic of Congo's responses. The report focuses on the implementation of CEDAW, in particular articles 1, 2, 5, 12 and 18, and examines the country's response to these recommendations in relation to its commitments under the Convention.

### **3.MAIN ISSUES AND CONCERNS**

The report identifies a number of key issues and concerns relating to the rights of LGBTI people in the Democratic Republic of Congo. The rights most commonly violated are the following:

#### **3.1 Discrimination against women (Article 1)**

i. Seen from the provincial reports of Maniema, Mai Ndombe, Kinshasa, two Kasai, Kisangani, Sud-Kivu, Ituri, Tanganyika, and Nord-Kivu in DRC on discrimination against LGBTI girl and woman received during the writing, we observe that: Law<sup>4</sup> No. 15/013 of 1 August 2015 on the modalities of implementation of women's rights and parity in its Article 9 gender stipulated that: 'roles, duties and responsibilities that culture and society assign to women, men, girls and boys' is constantly violated :

ii. Access to information about LGBTI is limited in the media and families do not talk to their children about it (taboo subject).

iii. However, public displays of affection between people of the same sex may arouse public hostility or lead to prosecution.

iv. Access to social support for LGBTI girls and women is restricted and support resources within the family are limited, an LGBTI girl or woman cannot access an inheritance and finds it difficult to accept her own identity, which prevents her from meeting challenges by developing a lack of critical skills and resilience, which can be important in dealing with the unique challenges associated with her sexual orientation and gender identity. For example, the general ignorance of LGBTI girls and women who may be entitled to physical integrity and self-determination.

#### **3.2 State obligation to condemn discrimination against women (Article 2)**

v. The passivity of the Congolese state institution exacerbates discrimination. In its inaction towards LGBTI girls and women, the Congolese State appears to be tiring of legislation described as inappropriate, of awareness-raising, of insufficient awareness on the part of the forces of law and order, the courts, social service providers, and of measures to prevent and punish discriminatory acts that compromise the fundamental rights of girls, women and LGBTI people.

vi. In this way, the Congolese state institution offloads its responsibilities for preventive and corrective measures onto NGOs and other civil society groups. By failing to act, the State is condoning the subordination of girls, women and LGBTI people, which fuels discrimination against LGBTI girls and women, and NGO non-governmental organisations and other civil society groups are integrating activities relating to girls and women into their work and daily programmes.

vii. However, our country's constitutional provisions on discrimination are incomplete in Article 13 of the Constitution<sup>5</sup>: "No Congolese may, in matters of education, access to public functions or in any other matter, be the subject of a discriminatory measure, whether resulting from the law or from an act of the executive, by reason of his or her "non-conformity with sexual minorities limits existing public institutions supporting the government in matters of human rights, such as the National Human Rights Commission (CNDH) :

a.to establish partnerships with organisations that support the LGBTI community, do not encourage the National Human Rights Commission (CNDH) to become more involved in sexual minority issues with adequate resources.

b.advocating for the integration of aspects relating to sexual and gender minorities into the national policy plans of the Ministry of Human Rights and Gender (revision of the cycle of the national gender plan in PNG) and monitoring of cases by the institutions supporting democracy (CNDH) which have no relationship with the LGBTI community in DR Congo

viii.In our country, churches (almost all of them) remain a place where discrimination against LGBTI girls and women is often highlighted. This is more than a reality in revivalist or evangelical churches, where entire sermons are often devoted to the issue of homosexuality or gender or sexual minorities. Some LGBTI girls and women see these churches as a key factor increasing their vulnerability to discrimination in the local community.

ix.Some LGBT girls and women believe that the churches, and therefore their families, have a misinterpretation of the Bible verses on homosexuality.

### **3.3 Right to health (article 12 of the CEDAW)**

x.Equal access to quality healthcare is violated in two ways. Firstly, by the lack of attention paid to their particular health needs and by the lack of adequate training of healthcare providers to meet these needs. Secondly, by the discriminatory practices of healthcare professionals in hospitals, medical centres and clinics leading to inappropriate treatment or lack of treatment, which in turn leads to increased complications, higher risks and an overall health risk for LGBTI people that is higher than that of the country's general population.

xi.The Congolese government does not provide sufficient access to the information that LGBTI women and girls need to protect their health and prevent sexually transmitted diseases (STDs).

xii.LGBTI women and girls do not have adequate information on the prevention, detection and treatment of breast and uterine cancer. There are no government campaigns or public services providing LGBTI people with adequate information on how to prevent these diseases.

xiii.Similarly, LGBTI women and girls do not have adequate access to reproductive health services, including medically assisted reproduction techniques, which have been provided by private providers as well as by the State's universal health programme since 2023. In the sense that MAP is not accessible to LGBTI couples.

xiv.the persistence in practice of what is known as "conversion therapy". Very often, the victims of this practice are young LGBTIs. This widely discredited "therapy" has caused severe suffering to its victims, leading some of them to commit suicide. The Ministry of Health has in no way banned or regulated this practice.<sup>6</sup>

xv.In response to questions 5.f and 5.g of CEDAW/C/COD/QPR/EP/1, the right to health of internally displaced LGBTI persons with albinism and transgender women victims of sexual violence is violated in two ways. Firstly, the particular health needs of displaced people in the provinces of North Kivu, South Kivu Mai-Ndombo, Kasai (on the Angolan border) and Ituri are

not given sufficient attention and health care providers are not sufficiently trained to meet these needs. Secondly, discriminatory practices by health practitioners in hospitals, medical centres and clinics. For example, no specific psychological care or health information services are available in the IDP camps near Kalehe, Mai-Ndombe, Bunia and Goma.<sup>7</sup>

xvi. lack of culturally competent care from healthcare providers, who may not have the training to provide culturally appropriate care to LGBTI people. This lack of understanding and empathy can result in sub-optimal care experiences for LGBTI people. When healthcare providers are unaware of the challenges and needs of this community, it leads to poor communication, inadequate care and a lack of trust in the healthcare system. As a result, LGBTI people hesitate to approach health services because they are unsure of receiving appropriate and respectful treatment, particularly in rural areas and outside Kinshasa.

xvii. The lack of comprehensive health legal protections against discrimination on the grounds of sexual orientation, gender identity, gender expression and sexual characteristics in the country is another significant barrier. The absence of such legal protections leaves LGBTI women and girls vulnerable to abuse and prejudice, including in healthcare settings. The absence of clear legal guidelines on equal access to healthcare perpetuates an environment in which healthcare providers are unchecked or enjoy impunity for discriminatory behaviour, further compromising the rights and well-being of LGBTI people.

xviii. The paucity of data and research relating to the healthcare needs and experiences of LGBTI people compounds the challenges they face. The lack of visibility and understanding of the particular health issues faced by LGBTI people highlights the urgent need for comprehensive research and data collection in order to develop evidence-based policies and interventions.

xix. Healthcare providers stigmatise LGBTI people because of their sexual orientation, gender identity, gender expression and sexual characteristics. This stigma leads to discomfort, shame and anxiety among LGBTI patients, discouraging them from seeking necessary medical care.

xx. Healthcare professionals lack training and education on the specific healthcare needs and sensitivities of the LGBTI community. This leads to gender bias, inappropriate language and sub-optimal healthcare experiences for LGBTI people.

xxi. In some cases, healthcare providers refuse to provide care to LGBTI patients because of their personal beliefs or prejudices. This refusal leads to significant delays in medical care and has serious consequences for the health and well-being of LGBTI people.

xxii. LGBTI people face a violation of their privacy and confidentiality in healthcare establishments. Personal information, including sexual orientation or gender identity, is disclosed without their consent, leading to the risk of harassment or discrimination from family, friends or the community. These forms of discrimination not only result in inadequate access to healthcare, but also contribute to the general vulnerability of LGBTI people to health risks and disparities. The combination of limited access to justice and discrimination in healthcare only exacerbates the challenges faced by the LGBTI community in our country.

xxiii.Exclusion from mental health services tailored to LBT people is detrimental to their mental well-being, given the difficulties they often face as a result of stigma, discrimination and social isolation within the community.

xxiv.The intersex organisations contacted for this report note that throughout the country, there is systematic recourse to non-consensual medical interventions for intersex children in the major Congolese health facilities, with no restrictions in the capital: Cliniques universitaires de Kinshasa, Hôpital pédiatrique de Kalembe-lembe, Hôpital NGALIEMA and Hôpital MAMAN YEMO; in Goma: L'hôpital provincial du Nord-Kivu (HPNK), Heal Africa; Bukavu: Hôpital de Panzi, Biopharm asbl, Bioglodi hôpital and in Kisangani: Hôpital général de référence de Makiso et du Cinquanteaire.

xxv.Physical, verbal and psychological violence against intersex people at home and in the community are grouped as follows: Abandonment of intersex babies by their mothers and/or active and passive infanticide of intersex babies; Deliberate concealment of intersex children or adults by family and friends (to limit suspicion); High risk of divorce and suicide for parents following the birth of an intersex child.

### **3.4 Right to equality and non-discrimination (Article 3 of CEDAW) and equality before the law (Article 15 of CEDAW)**

xxvi.On the one hand, "Loi N°06/019 du 20 Juillet 2006<sup>8</sup> modifiant et complétant le Decret du 06 Aout 1959 portant code de procédure pénale congolais" and "Loi N°06/018 du 20 Juillet 2006 modifiant et complétant le Decret du 30 Janvier 1940 portant code pénal Congolais" were published on 20.07.2006 Journal officiel de la République démocratique du Congo, 47e année, no 15, 1ère partie, 1er août 2006, columns 7-9. For example, in August 2023, media sources reported that during a speech to an assembly of members of the Christian Family Community, Roman Catholic Cardinal Fridolin Ambongo called on the participants to reject homosexuality and to reaffirm that "marriage is between men and women".<sup>9</sup>

xxvii.On the other hand, articles 175 and 176<sup>10</sup> of the Congolese Criminal Code

It is difficult to register an LBTQI organisation in the country. Groups or associations are often reluctant to apply for registration with the designation men who have sex with men (MSM) or LBTI, LGBTQI, and those that do are often rejected on vague grounds of "offence to moral decency" in relation to articles 175 and 176 of the Congolese penal code.

xxviii.Article 172<sup>11</sup> of the Penal Code has been used for extortion [From the US State Department report in 2023: "Sometimes, however, in order to obtain a small bribe, police officers have harassed gay men and claimed that the law prohibits same-sex sexual activity. Local NGOs have reported episodic violence by government authorities and private individuals against LGBTI people", as well as "harassment by SSF [state security forces] and the judiciary". According to local organisations LBTI vision aigle du Haut Katanga and ALCIS, Savie in South-Kivu, there have been several cases of serious human rights violations committed by men in uniform against female sex workers and female LBTI sex workers at night during their working time from 11pm to 05 am .

xxix. A activist from Bafuasende said: "Today, all the officials recognize the terms MSM and sexual minorities. As a result, activists often use their imagination in choosing their name in order to get themselves registered for 300 US dollars, as attested by the certificate of deposit from the Provincial Division of Justice and the Keeper of the Seals, and the letter of authorization to operate issued by the Provincial Governor for 250 US dollars (Law no. 004/2001 of 20 July 2001 on the general provisions applicable to non-profit associations and establishments of public utility, article 37 of the Constitution of the Democratic Republic of Congo and article 1 of Ordinance no. 12/356 of 10 May 2006 creating a not-for-profit association and setting out the remit of the Ministry).

xxx. Since the reform of the justice system under the constant minister Mutamba in 2023, in order to obtain legal status for non-governmental organisations, they have to apply for US\$700 and be physically present in Kinshasa. In the absence of legal recognition, the work of LGBTI associations is not fully respected, and the visible success of their activities does not change the fact that their legitimacy is being called into question.

xxxi. There have been reports and advocacy actions in response to these abuses, but the risk of reprisals is very high. In large cities such as Kinshasa, Kisangani, Lubumbashi and Mbuji Mayi, as well as in the town of Bunagana (a source of savie NGO near Uganda and the border with the DRC), there have been several cases of arrests of LGBTI women, very often trans sex workers, who are the most vulnerable.

xxxii. In some local media, transgender women are often arrested and humiliated by the police, who undress them in full view of everyone, film them and beat them. In Bukavu, in the South Kivu region, the CIAT-Funu police at the Mwachi police station in the commune of Kadutu issued a wanted notice on 20.06.2024 by the judicial police officer OPJ Wangozi Manda, No14/PNC/CPRSK/CUB/CRK/2024, issuing a warrant to persecute LGBTI activists.

xxxiii. The Congolese state institution does not systematically repress LGBTI girls and women, with the exception of isolated cases of police, ANR and DEMIAP officers in neighbourhoods and restricted areas in the eastern and western provinces. However, we have observed (our source Mbandaka) an institutionalization of the Congolese national police (PNC) and the Directorate General of Immigration (DGM), which use girls and women from Rwanda and Burundi without legal documents to enter the country. This has led to an increase in the number of Maison de tolérance partous in the town of Uvira, Bukavu, Goma, Kalemie, Kamanyola, Sange-Kiliba and Goma, prostitution or bars, hotel services while internally displaced girls and women IDPs are persecuted near the border of the Democratic Republic of Congo and the Republic of Angola in the Kasai region.

xxxiv. Humanitarian organisations and human rights defenders contact in relation of this rapport have reported an increase in the rates of sexual exploitation and abuse among women and girls displaced by the difficult regions of North Kivu, South Kivu, Ituri and Mai Ndombe provinces and have noted that at least 200 brothels in Goma alone, Kalehe 34 and around IDP sites have been exploiting underage girls since December 2023.

### **3.5 Equality in political and public life (Article 7 of CEDAW)**



xxxv. Marginalisation in national, regional and international programmes : According to the US Department of State's 2023<sup>12</sup> report, "some groups, particularly within the lesbian, gay, bisexual, transgender and intersex (LGBTI) community, have reported that the government has rejected their applications for registration".

xxxvi. Many NGOs reported that, even if they followed the registration procedure scrupulously, it often took years to obtain certification. Many interpreted the difficulties of registration as intentional obstacles by the government to hinder NGO activity". Without registration, NGOs cannot participate in government activities or raise their issues in order to be involved in national plans and strategies.

xxxvii. Due to the lack of support and protection for the realisation of the rights to freedom of expression, association and assembly, human rights defenders and LGBTI NGOs have to bear additional costs for legal defence and protection, as well as for participation in regional and international human rights mechanisms, which deprives them of the opportunity to defend their human rights.

xxxviii. Civic space for diverse sexual and gender identities is taboo in many parts of the country. LGBTI people and their advocates are very discreet, often conforming outwardly to the norm, for example by getting married, having children and going to work every day. Civil society organisations and institutions active in the field of LGBTI often work underground and organisations take the form of informal rather than formal networks, for the following reasons:

- a) The absence of public policies that clearly protect LGBTI people and human rights defenders,
- b) The absence of inter-regional and national networks and alliances of organisations of defenders of the rights of LGBTI individuals, which weakens their political weight and their capacity for advocacy,
- c) The absence of common advocacy strategies to promote the rights of LGBTI people and human rights defenders, to denounce violations and to raise public awareness of the abuses that the LGBTI group faces on a daily basis.
- d) Lack of systematic data on violations of the rights of LGBTI individuals.

xxxix. The adoption and promulgation of Law No. 15/013<sup>13</sup> of 1 August 2015 on the modalities of application of women's rights and parity was also a major step forward. Indeed, in its articles 4, 5, 6 and 33, this law guarantees the participation of women in political life. However, there are no openly LGBTI women and girls in political parties or representation in the Senate, National Assembly or provincial assemblies after the general election results of December 20, 2023<sup>14</sup>.

xl. Local political parties and traditional chiefs or authorities not only condemn these human rights violations, but many fuel them with public statements that describe same-sex sexual relations as "abnormal or dudu" for albinos and LGBTI people around Kinshasa, and use "ntanzi" and "mzee sumu" for LGBTI people in Kisangani, Uvira, Goma and Lubumbashi, where the Swahili language is spoken. Similarly, in the province of Kasai Oriental, they are called kitesha, in reference to people who have sexual relations with individuals of the same sex.

xli. There is a shortage of lawyers willing to defend LGBTI human rights defenders who denounce the discrimination, violence and abuse to which they are subjected, and to access legal aid and psychosocial support.

xlii. The general penal provisions, the organic law n° 08/016 of 07 October 2008<sup>15</sup> on the composition, organisation and functioning of the Decentralized Territorial Entities and their relations with the State and the Provinces opens up an opportunity for LGBTI girls and women to address the authorities and aim to hold the political-administrative authorities to account on the basis of this law at all levels of the administrative entities. However, the law is not widely known in the LGBTI community.

### **3.6 Absence of prejudice, violence and unequal cultural and social patterns (Article 5 of the CEDAW)**

xliii. Physical violence remains a significant and tangible threat to the safety of LGBTI women and girls in our country. These acts of violence not only undermine the fundamental rights of LGBTI people, but also generate a culture of hostility that exacerbates their marginalisation and puts our lives at risk. This was seen during the General Election on 20 December 2023, when two transgender women were refused by members of the public to queue to vote and were harassed on the streets, despite not being able to enter the markets.<sup>16</sup>

xliv. According to Daniella Karhinie<sup>17</sup>, a trans activist in Kinshasa, the problems often begin within the family, with the question of the acceptability or social perception of trans people in terms of inheritance, marriage, social position and family alliances. "For my part, I was cast out by my family at the age of 15, accused by my mother's family of being a witch, which can only be cured by prayer or therapeutic conversion. Adding to this, my transgender girl friends in the town of Kolwezi (Lualaba province), in order to get rid of their family's hold over them, feel obliged to have survival sex with cisgender men in order to support themselves, and some of them find themselves the victims of unwanted pregnancies, to the point where some have died as a result of clandestine abortions.

xlvi. She added most LGBTI people are isolated and lack social support. Community attitudes legitimize male violence, and there are high levels of social and economic marginalisation, including poverty.

xlvi. Traditionally in society, stereotyped roles that enshrine male domination and the subordination of LGBTI people, and the tolerance of violence as a means of conflict resolution, for example, the choice of a child's sex before birth through the abortion of female foetuses, as well as early marriages, dowry-related violence, female genital mutilation on intersex people, crimes of honesty committed against women and ill-treatment inflicted on widows, including incitement to suicide, are forms of violence against girls, women and LGBTI people considered as harmful traditional practices in our country.

xlvi. Sources (internal) have confirmed the involvement of Burundian trans girls in the mining area of Uvira and Misisi in the prostitution network of John Peter Luvuga Baseme, known as "le billionaire", based in Bukavu. The "billionaire's" network includes 113 trans girls with at least two children under the age of 15 at the "On the Rocks Club in Bukavu on Lumumba Avenue" for prostitution in his VIP lounge.<sup>18</sup>

xlvi. Law 06/018 of 20 July 2006 on sexual violence criminalises the rape of all persons, but the law is not often applied. The legal definition of rape does not include marital rape or rape by an intimate partner. Rape and sexual mutilation are also common and used as tactics in areas of conflict against women and girls in eastern M23 Rwanda<sup>19</sup> and Mai Ndombe, including by government agents such as the ANR in the country's unofficial prisons.

i. According to a source contacted at the Reboisement hospital in Uvira, women who have survived rape have sometimes been forced to pay a fine to the police in order to return to their families and have access to their children. Most rape survivors, LGBTI girls and women, have been the targets of particular forms of gender-based violence, including so-called corrective rape. They have not taken formal legal action because of insufficient resources, lack of confidence in the legal system, family pressure and fear of humiliation and reprisals.

### **3.7 Right to work (Article 11 of the CEDAW)**

ii. Although the Labour Code of the Democratic Republic of Congo prohibits discrimination in employment on various grounds, it does not cover discrimination based on sexual orientation, gender identity, gender expression and sexual characteristics.

iii. In both the private and public sectors, the economic capacity of LGBTI girls and women is very low. There is no official policy or strategy specifically aimed at improving the participation of LGBTI girls and women in the workplace in our country. For example, the public administration does not employ LGBTI people openly.

iv. LGBTI girls and women in the country do not reveal their sexual orientation or gender identity in the workplace, which can expose them to significant barriers to accessing employment. Many are discriminated against by their employers. They face various forms of violations and threats that make them silent and invisible. For these reasons, LGBTI girls and women working in the formal sector live in real fear of being made redundant.

v. For transgender girls and women, sometimes their CVs are excellent but, even if they are qualified, they are not selected for the job they have applied for. Interviews turn into moralising speeches on how to behave, instead of focusing on the person's qualifications.

vi. In social circles such as the Rotary Club, the Lion Club and bars where LGBTI girls and women can find work, some people consider homosexual practices or LGBTI people in society to be in the realm of the supernatural, of mysticism. LGBTI people are placed in the category of supernatural beings. In the eastern part of the Democratic Republic of Congo, in the local Swahili language, "nguvu ya giza" means dark force and is used to refer to LGBTI people. Considering the LGBTI person's fate, finding a job is not easy.

vii. Given the limited context of small-scale formal employment, many LGBT girls and women expressed frustration at the lack of economic opportunities for self-sufficiency.

viii. But some of the LGBTI girls and women we met during the writing of this report believe that the consequences of the lack of economic opportunities for LGBTI girls and women are that most of them live in precarious conditions, so we resort to sex work and expose ourselves to unprotected sex in order to earn more money.

### **3.8 Right to education (Article 10 of CEDAW)**

- i. Articles 43 and 45 of the Constitution stipulate that: "Everyone has the right to education. This right is guaranteed by the national education system. The public authorities have a duty to promote and ensure, through teaching, education and dissemination, respect for human rights, fundamental freedoms and the duties of the citizen as defined in the Constitution.
- ii. There are no specific guidelines or policies in place in the country to create a safe and inclusive space for LGBTI girls in educational institutions.
- iii. LGBTI girls in education suffer discrimination in education, Congolese system, which categorises pupils and students according to their social and family status.
- iv. Secondary school attendance rates for girls in general were lower than for boys for financial, cultural or security reasons, including early marriage and pregnancy for girls. In rural schools
- v. Human rights defenders, in particular LGBTQI human rights defenders, involved in this report claim that educational staff, including headmasters and teachers, are extremely homophobic and transphobic. As a result, LGBTI students cannot talk openly about their sexual orientation or gender identity with them or in educational settings in general.
- vi. For example, at the University of Kisangani, Université Officielle de Bukavu and the University of Kindu (Mapone), the LGBTI students contacted in this report are victims of verbal and physical abuse in these establishments. Staff at these establishments often turn a blind eye and fail to intervene. Homophobia against LGBTI students tends to be based on the strong religious and traditional beliefs of their families and society in general.
- vii. However, we do have a policy on sexual and reproductive health education and adolescent health. This policy establishes collaboration between the Ministry of Health and the Ministry of Primary and Secondary Education, New Citizenship and Vocational Training. The collaboration is based on the curriculum and the integration of life education, sex education and the new citizenship into the respective programmes. Training programmes and programmes to train trainers are developed for this purpose with the technical support of the Ministry of Health. This policy also provides for the involvement of parent-teacher committees in promoting intergenerational dialogue on sexual and reproductive health issues at family level [National Strategic Plan for the Sexual and Reproductive Health and Well-being of Adolescents and Young People] In addition, the National Adolescent Health Programme (PNSA) is currently promoting the comprehensive sexuality education approach. No mention is made of sexual minorities or LGBTI girls.

## **4. RECOMMENDATIONS**

Based on the issues and concerns identified, the following recommendations are proposed:

- i. Decriminalize consensual same-sex sexual relations by repealing Article 175\_ and 172\_ of the Penal Code

- ii.Repeal all laws relating to Article 176 of the Penal Code, including Ordinance DECREE-LOI No. 003-2003, which the National Intelligence Agency ANR uses directly or indirectly to discriminate against people on the basis of their actual or perceived sexual orientation, gender identity, gender expression and sexual characteristics ;
- iii.Ensure that all human rights defenders, in particular those working with LGBTI women and girls, including LGBTQ human rights defenders and civil society organisations (CSOs), are able to carry out their legitimate human rights activities without fear of reprisals and without any restrictions, including judicial harassment, by adopting legislation and implementing protocols on the protection of human rights defenders ;
- iv.The CNDH, in collaboration with LGBTI organisations, should integrate into its national human rights policy the expansion of holistic support to mitigate the impact of sexual and gender-based violence against LGBTI women and girls by strengthening high-impact basic health services through knowledge sharing, research and capacity building at regional and national levels ;
- v.Take measures to reduce stigma and discrimination against key populations affected by HIV/AIDS in order to enable them to access prevention and care services and information, in particular by broadening the scope of integration of the needs of LGBTI people, bridging the gap between health and education, employment, housing, access to information and other basic social services ;
- vi.Close the bars, brothels and brothels around the camps for displaced persons in Bukavu near (Kalehe, Minova) around Goma, Ituri and Mai Ndombe when there is abuse and sexual exploitation on the grounds of forced prostitution and procuring under Law 06/018 of 20 July 2006, which gives it this power ;
- vii.Ensure that all national laws, strategies, policies, programmes and action plans comply with the constitutional guarantees of equality (Article 12), non-discrimination (Article 13) and the right to privacy (Article 31), as well as the State's international obligations to protect and promote the human rights of all persons, regardless of their sexual orientation, gender identity and expression, and sex characteristics ;
- viii.Enable citizens to have free access without fear of reprisals to regional and international human rights protection mechanisms, such as the African Human Rights Commission, the European Union, the various United Nations treaty bodies and the special procedures of the United Nations Human Rights Council, by building the capacity of and supporting the National Human Rights Commission (CNDH-RDC) ;
- ix.Explicitly prohibit discrimination based on sexual orientation, gender identity and expression and sexual characteristics by adding these grounds to Article 13 of the Constitution ;
- x.Recognise and criminalise violence against LGBTI women and girls as forms of gender-based violence, including corrective rape, domestic violence, non-consensual medical interventions for intersex children, and others ;
- xi.Adopt appropriate legislation to implement Articles 2, 8, 9 and 14(2)(c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa on the right to

safe abortion and repeal Articles 80 and 85 of Law No. 18/035 of 13 December 2018 on the fundamental principles relating to the organisation of public health ;

xii. Develop and implement legislation guaranteeing legal recognition of gender identity on the basis of self-determination, to enable transgender or intersex people who so wish to change their legal name and gender marker on their legal documents ;

xiii. Raise awareness among all healthcare staff (Provincial Health Division DPS) of inclusive care for LGBTI women and girls adapted to the local context in rural and urban areas, including non-discriminatory and non-judgemental communication, gender-sensitive language, legal barriers and documentation issues ;

xiv. Guarantee the confidentiality of data in healthcare establishments and other public places, in particular by offering patients the option of remaining anonymous ;

xv. Establish and maintain collaborations with local LGBTI organisations on healthcare provision to understand the impact and success of interventions ;

xvi. Fully implement the resolution of the African Commission on Human and Peoples' Rights (ACHPR) condemning violence based on sexual orientation and gender identity by :

xvii.- By training law enforcement and judicial officials and adopting relevant protocols to ensure proper investigation and diligent prosecution of perpetrators,

xviii.- Adopting anti-discrimination or hate crime legislation that protects LGBTI people from discrimination, harassment and violence based on their sexual orientation, gender identity, gender expression and sexual characteristics;

xix.- By creating permanent committees at national, provincial and regional level to promote the human rights of LGBTI people ;

xx. Supporting the work of local and national organisations that combat discrimination against LGBTI people, including through legal protection and registration, as well as financial grants for emergency and long-term programmes ;

xxi. Create safe and friendly spaces and centres for LGBTI people, which can promote community formation, service provision and access to services ;

xxii. To promote a positive portrayal and image of LGBTI people in the media and popular culture by supporting LGBTI-focused programmes on radio and television.

## **5. CONCLUSION**

In conclusion, this report highlights the pervasive challenges and systemic violations faced by LGBTI people in the Democratic Republic of Congo, highlighting the urgent need for comprehensive measures to protect their rights. From entrenched discrimination and cultural stigmatisation to institutional neglect and outright violence, the realities experienced by LGBTI people demonstrate significant gaps in legal, social and political frameworks. Addressing these

issues requires coordinated efforts by government, civil society and international actors to enforce existing laws, promote inclusive policies and ensure accountability for rights violations. By promoting awareness, supporting advocacy and amplifying the voices of marginalised communities, stakeholders can create an environment in which the rights and dignity of LGBTI people are fully respected and upheld.

## **6. Reference documents**

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- C. 11 January 2003. - DECREE-LOI n° 003-2003 creating and organizing the National Intelligence Agency<sup>3</sup>  
<https://www.leganet.cd/Legislation/Droit%20Public/Ordre/DL.11.01.2003.htm>
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- E. Constution of the DR Congo Art 11 paragraph 11, Art 50 paragraph 11,14,23; Art 73 paragraph 6 and Art 91<sup>5</sup>  
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