

Flygtningenævnets baggrundsmateriale

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Democratic Republic of Congo: Ability to resettle in Kinshasa, particularly for women without male support, including access to housing, jobs and public services (2016-August 2019) [COD106311.FE]

Research Directorate, Immigration and Refugee Board of Canada

1. Movement in the Democratic Republic of the Congo (DRC)

1.1 Migration to Kinshasa

In its 2016 National Human Development Report (*Rapport national sur le développement humain 2016*), the UNDP in the DRC states the following concerning the rural exodus underway in this country:

[translation]

Kinshasa, which is home to 11.7 percent of the population, is the most densely populated city in the country (INS, 2014). At 76.9 percent, Kinshasa accounts for the greatest proportion of urban immigrants. It appears that internal migrations are taking place in stages, with movement from urban zones to secondary cities, and then from secondary cities to the capital. The rapid urban growth of Congolese cities in recent years is also due to massive forced migrations driven by the increase in armed conflicts and insecurity in some parts of the country (UNFPA DRC/ICREDES, 2015). Beyond a certain threshold, the advantages of urban population density ultimately turn into the inconveniences of congestion: insufficient and deteriorating economic and social infrastructure (roads, means of transportation, housing, schools, etc.), environmental pollution, increased insecurity, etc. (UN Aug. 2017, 84, parenthetical references in original)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.2 Freedom of Movement in the DRC

According to the US Department of State's *Country Reports on Human Rights Practices for 2018*, the law provides for “freedom of internal movement, foreign travel, emigration, and repatriation” (US 13 Mar. 2019, 25). However, the same source adds that “[t]he government sometimes restricted these rights,” and that it requires travellers to submit to control procedures in airports and at ports during domestic travel and when entering and leaving towns (US 13 Mar. 2019, 25-26). Freedom House similarly reports that “[f]reedom of movement is protected by law but seriously curtailed in practice, in large part due to armed conflicts and other security problems” (Freedom House 30 Jan. 2019).

US *Country Reports 2018* indicates that local authorities collect illegal taxes and fees before allowing boats to travel on the Congo River and that the armed forces of the DRC and rebel and militia groups extort fees from civilians bringing goods to market or travelling between towns (US 13 Mar. 2019, 26). Sources report that checkpoints are used by security forces and by non-state actors [rebel and militia groups (US 13 Mar. 2019, 26)] to extort money from travellers within the country (US 13 Mar. 2019, 26; UK Sept. 2018, para. 2.6.4).

1.2.1 Freedom of Movement for Women

Information on freedom of movement for women in the DRC was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

In the Social Institutions and Gender Index (SIGI) 2019, the Organisation for Economic Cooperation and Development (OECD) states that “[t]he Constitution ... provides women and men freedom of movement, with no stipulations barring either from obtaining a passport or travel documents” (OECD 2019, 7).

In its SIGI 2014, the OECD reports that women’s freedom of movement and access to public space are restricted in the DRC due to “widespread instability and militia activity, and the attendant risk of rape and other atrocities” (OECD 2014, 5).

In an article on the rape of Congolese women travelling in North Kivu, Radio France internationale (RFI) recounts the words of a Doctors Without Borders (Médecins sans frontières, MSF) mission head:

[translation]

It is important to note that there are massive civilian displacements and that the “distance between these displaced civilians and their fields poses an additional risk due to the duration of the displacement and the isolation in which (these women) find themselves, because of these displacements.” (RFI 27 Apr. 2019, parentheses in original)

2. Status of Women in the DRC

2.1 Legal Framework

The constitution of the DRC, amended in 2011, prohibits [translation] “any form of discrimination” toward women, including in the “civil, political, economic, social and cultural” domains (DRC 2006, Art. 14). Law No. 15/013 of 1 August 2015 on the Means of Giving Effect to Women’s Rights and Gender Parity (*Loi n° 15/013 du 1^{er} août 2015 portant modalités d’application des droits de la femme et de la parité*), adopted in 2015, [translation] “is intended to promote gender parity and equality of rights, opportunities and the sexes in all aspects of national life” (DRC 2015, preamble). 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 1^{er} août 1987 portant Code de la famille*) states that [translation] “[t]he husband is the head of the household” (DRC 2016, Art. 444), but removes the married woman’s obligation to obtain “her husband’s consent” to undertake any legal act (DRC 1987, Art. 448) and replaces it with the obligation for both spouses to “agree on any legal act requiring the performance of an obligation” (DRC 2016, Art. 448).

Still, according to US *Country Reports 2018*, the law does not give women the same rights as men (US 13 Mar. 2019, 37). The OECD reports that, according to a 2017 study on gender conducted in the DRC, “[d]iscriminatory legislation and norms assign women specific roles in the household such as childcare and domestic responsibilities” (OECD 2019, 2). Freedom House states that the Family Code assigns women “a subordinate role in the household” (Freedom House 30 Jan. 2019). According to the Bertelsmann Stiftung Transformation Index (BTI), which “assesses the transformation toward democracy and a market economy as well as the quality of political management in 129 countries,” “the DRC is characterized by a deeply embedded patriarchal culture that includes laws and traditional customs that discriminate against women” (Bertelsmann Stiftung 2018, 2, 27).

2.2 Social and Cultural Norms in General

The OECD states that in the DRC, “[t]he law reinforces social and cultural norms that place women as inferior to men” (OECD 2019, 2). In correspondence with the Research Directorate, a lawyer and member of civil society in the DRC stated that [translation] “in the DRC, compared to men, the status of women is very low; it is still customary for women to be viewed as second-class citizens” (Lawyer 15 July 2019). The UNDP similarly reports that [translation] “today, as in 2014, one can conclude that the Composite Index on the Status of Women (Indice synthétique de la condition de la femme, ICF) [“which takes into account the extent to which social, economic and political powers are exercised and shared in society”] in the Congo is still very low (0.4) on a scale of 0 to 1” (UN Aug. 2017, 40). According to Freedom House, Congolese women face discrimination in several areas (Freedom House 30 Jan. 2019). The BTI reports that “[i]n the Gender Inequality Index (GII) of 2014, which measures discrimination in health, education and the labor market, the DRC received an extremely poor score, placing the country sixth-to-last in the ranking” (Bertelsmann Stiftung 2018, 21).

2.3 Access to Employment

The DRC's constitution guarantees both men and women the right to work and receive equitable pay and protects them against gender discrimination (DRC 2006, Art. 36). The Labour Code (Code du travail) guarantees equal pay for equal work, regardless of origin, gender or age (DRC 2002, Art. 86) and protects all workers against discrimination (DRC 2002, Art. 234). The Parity Act (Loi sur la parité) prohibits gender discrimination against workers (DRC 2015, Art. 20) [translation] “in hiring, work assignments, working conditions, pay and other benefits, promotion and termination of the employment contract” (DRC 2015, Art. 21). It also provides equal access to resources (DRC 2015, Art. 7), guarantees women's right to private initiatives, facilitates access to savings and credit (DRC 2015, Art. 8) and [translation] “takes measures to eliminate any practices harmful to women's rights in terms of access to the ownership, management, administration, enjoyment and disposal of property” (DRC 2015, Art. 9).

However, sources report that women's access to resources (Bertelsmann Stiftung 2018, 17) or productive assets is limited in the DRC (UN Mar. 2009, 7). For example, the 2018 Freedom House report states that “the Family Code prescribes more restrictive roles, requiring that women ... obtain their [husband's] permission to seek employment,” but does not specify the exact articles (Freedom House 4 Jan. 2018). According to the OECD, 16 percent of the population considers it unacceptable for a woman in their family to work outside the home for pay (OECD 2019, 1). An article from the German news portal JournAfrica! on the requirement for women to obtain their husband's consent to work references the former Family Code and explains the following:

[translation]

In the city of Butembo and surrounding areas, a woman cannot work without her husband's consent. Those who subscribe to this belief refer to Article 448 of the 1987 Congolese Family Code: “A woman must obtain her husband's consent for any legal acts requiring the performance of an obligation in person.” And, according to article 444 of the same Code: “The husband is head of the household. He must protect his wife; the wife must obey her husband.” Provisions that maintain total dependence [see section 2.1 on the amendment of the Family Code in 2016]. (JournAfrica! 16 Mar. 2015)

US *Country Reports 2018* states the following:

A 2015 women's parity law provides women a number of protections. It permits women to participate in economic domains without approval of male relatives, provides for maternity care, disallows inequities linked to dowries, and specifies fines and other sanctions for those who discriminate or engage in gender-based abuse. However, women have experienced economic discrimination. (US 13 Mar. 2019, 37-38)

The OECD similarly reports the following:

Despite such laws that help promote women's economic participation, there is a general resistance toward women's economic empowerment in the country, even if it serves to enhance the well-being of the family unit (USAID, 2012). As such, women often experienced economic discrimination, particularly in access to credit (US Department of State, 2017; CEDAW, 2013). (OECD 2019, 6, parenthetical references in original)

According to the same sources, women continue to face discrimination in employment in the form of pay inequality (US 13 Mar. 2019, 49; OECD 2019, 6) and their confinement to informal, poorly paid jobs (OECD 2019, 6). According to a report of the International Labour Organization (ILO), the most recent data available on the DRC, which dates back to 2012, shows that the gender pay gap is greater than 30 percent for all jobs in general (UN May 2019, 68). The BTI further reports that "[w]omen have become the main providers for their families in many parts of the country, and usually work in low-paid or unpaid, physically demanding jobs (such as agriculture)" (Bertelsmann Stiftung 2018, 21). The same source states that women are more affected by poverty than men (Bertelsmann Stiftung 2018, 27).

According to data from the DRC National Institute of Statistics (Institut national de la statistique, INS) for 2012, 71.2 percent of jobs were in the primary sector compared to 15.2 percent in trade, 9.2 percent in services and 4.4 percent in industry (DRC Mar. 2017, 284). The UNDP reports that [translation] "[j]obs in the DRC are essentially in agriculture" and that "more women work in agriculture than men" (UN Aug. 2017, 65, 71). The same source refers to [translation] "[g]laring inequality in women's access to employment" and reports that the employment situation for women has not improved since 2014 and that women hold just one fifth of paid jobs in non-agricultural sectors (UN Aug. 2017, 40). In its 2019 report on the DRC, Freedom House indicates that "[y]oung women are increasingly seeking professional work outside the home, particularly in urban centers, though they continue to face disparities in wages and promotions" (Freedom House 30 Jan. 2019).

2.4 Access to Housing

The OECD reports the following:

According to the state's Constitution, women and men are equally guaranteed the right to property in accordance with law or custom, and no citizen shall be deprived of their rightful property (Article 34, 2011). Taken together with the law that prohibits discrimination against women, this requires the government to ensure women property rights both under statutory and customary law (Art. 14, 2011). In principle, the Constitution recognizes customary law, but only to the extent that it does not contradict the Constitution.

Under statutory law, no distinction is made in the provision of land rights between women and men (Land Law 1973). For married persons, the state passed the Family Code in 1987 which outlines three property regimes which allow for equal property ownership rights for husbands and wives. These include the Separation of Property (where each spouse keeps their own property); Communal Acquisitions (where each spouse keeps the property they acquired before the marriage, but share the property acquired during the marriage); and Universal Community Property (where both spouses share the property acquired before and during the marriage) (Family Code, Arts. 487-537, 1987). (OECD 2019, 5, parenthetical references in original)

The UK Home Office states, however, that "[t]he law allows for a husband to assert ownership of his wife's property" and that the "family code requires women to obey their husband" (UK Sept. 2018, para. 2.4.1).

According to the OECD, customary practices, social norms, lack of economic autonomy, lack of decision-making power and no access to justice are some of the challenges facing women who try to access land ownership (OECD 2019, 6). Freedom House similarly states that laws and customary practices place women at a disadvantage when it comes to land ownership and inheritance (Freedom House 30 Jan. 2019). Statistics on the number of women property owners or

tenants in the DRC could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.5 Social Security

Concerning social security in the DRC, the UNDP reports the following:

[translation]

The DRC's current social security system has some limitations in terms of the scope of benefits and the rate of coverage.

Indeed, the current system is very selective in that only people in socioprofessional categories exercising a salaried profession in the formal public and private sector qualify for benefits. This means that the vast majority of the informal sector representing 90 to 95 percent of the working population is left out. (UN Aug. 2017, 70-71)

The same source adds that [translation] "the amounts paid or granted to the beneficiaries of this social protection system are very low. [They] are calculated based on the paltry compensation (salaries) in the public sector" (UN Aug. 2017, 71). The Swiss State Secretariat for Migration (Secrétariat d'État aux migrations, SEM) similarly states that according to the DRC Ministry of Social Affairs, Humanitarian Action and National Solidarity (Ministère des Affaires sociales, Action humanitaire et Solidarité nationale de la RDC), [translation] "the social protection system 'is far from meeting the level of need'" (Switzerland 15 Jan. 2016, 19).

3. Women Without Male Support in Kinshasa

A report published by the Country Analysis service of the Swiss SEM in January 2016 on the situation of single women in Kinshasa (*Situation des femmes seules à Kinshasa*) states that the phenomenon of women [translation] "in households that must meet their needs without the support of a male partner," with or without children and with or without a family or social network, seems to be "widespread in Kinshasa" (Switzerland 15 Jan. 2016, 16). According to the lawyer, [translation] "for a woman in Kinshasa, having male support is a symbol of security and respect" and "a woman without male support is often exposed to disparaging treatment" and may be subjected to verbal or sexual harassment (Lawyer 15 July 2019). The same source also stated that although there have been a few improvements in terms of women's rights in some parts of the country, [translation] "the situation remains difficult for most women without male support, particularly where respect of their human dignity is concerned," explaining that "[t]his category of woman is often considered as having no value, or as revolutionary, especially if she tries to defend her rights" (Lawyer 15 July 2019). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3.1 Access to Employment

In a 2009 report, the UNDP indicates that [translation] "in Kinshasa, poverty is more widespread in households headed by women (45.7 percent) than in those headed by men (40.7 percent)" (UN Mar. 2009, 7).

The information in the following paragraph was obtained from INS 2012 data for Kinshasa:

Jobs are mainly in the services (50.5 percent) and trade (32.6 percent) sectors. Most jobs (61.1 percent) are in the informal non-agricultural sector, and 54.1 percent of these jobs are held by women. The percentage of jobs held by women in the other sectors is as follows: 41.8 percent in the informal agricultural sector, 31 percent in the public sector and 21.8 percent in the formal

private sector. Female heads of households hold 29.0 percent of jobs in the informal nonagricultural sector, 18.8 percent of informal agricultural jobs, 15.1 percent of public jobs, 5.6 percent of formal private jobs; they account for 37.8 percent of unemployed or inactive persons. Among households headed by a woman, 38.3 percent work in the informal private nonagricultural sector, 11.9 percent in the public sector, 2.9 percent in the formal private sector, 0.9 percent in the informal private agricultural sector; 46.0 percent are unemployed or inactive (DRC Mar. 2017, 284-288).

3.1.1 Jobs in the Informal Sector

Sources report that women in Kinshasa turn to informal trade (Switzerland 15 Jan. 2016, 17-18) or [translation] “get by” to ensure their subsistence (Lawyer 15 July 2019). The Swiss SEM mentions the 2014 study of a French researcher on the [translation] “informal activities of poor citizens, a form of self-employment proliferating in Kinshasa in a context of chaos and institutional decay,” where the author illustrates “small informal trade” strategies employed particularly by women (Switzerland 15 Jan. 2016, 17). An article in *L’Avenir*, a Kinshasa daily newspaper, on the household needs of unmarried women, states: [translation] “These women use various tactics to get by. Some are engaged in small businesses such as selling bread, braiding hair, sewing and even prostitution” and “they jump at any opportunity that comes their way, [that is], as a *nounou* (maid or housekeeper) in order to take care of their home” (*L’Avenir* 23 Mar. 2017). The UNDP similarly states the following:

[translation]

With the political and economic crisis and destruction of the country’s economic fabric, informal employment, often precarious and with poor conditions, has become the most widespread form of employment in the DRC today. It is even more important for women than for men. The informalization of women’s work is extensive in this country and particularly in urban centres. (UN Aug. 2017, 40)

3.2 Access to Housing in Kinshasa

Information on the availability and cost of housing in Kinshasa could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The lawyer stated, however, that social housing is not available to women living alone but is reserved for people with political or social support (Lawyer 15 July 2019). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3.3 Public Services

Information on single women’s access to public services such as education or health care in Kinshasa was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the lawyer, [translation] “being a woman without male support does not entitle you to basic social services” (Lawyer 15 July 2019). Concerning access to health care, the same source noted that health care is free for certain illnesses such as tuberculosis, but that even in this case, a [translation] “good medical consultation” always means giving “something” to the health care providers (Lawyer 15 July 2019). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the article in *L'Avenir*, educating children is a challenge for single women [translation] “in a place where school and academic fees are set without taking the modest means of a family into account” (*L'Avenir* 23 Mar. 2017). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3.4 Support Networks

The Swiss SEM report states that in [translation] “Kinshasa, single women can ... organize and find support to improve their living conditions and attempt to ensure their financial independence” (Switzerland 15 Jan. 2016, 4). The *L'Avenir* article similarly states that women can join forces for the benefit of their household (*L'Avenir* 23 Mar. 2017). According to the BTI, in the DRC, “[v]illage communities, extended families, and local women’s groups provide the major frameworks of solidarity and self-organization, within which interpersonal trust appears to be high” (Bertelsmann Stiftung 2018, 20).

Without providing further details, the UNDP indicates that health insurance mutuals have been created in the DRC to make it easier for the population to access health care and that the city of Kinshasa is among the most active in this regard (UN Aug. 2017, 71).

The Swiss report states that in 2004, NGOs and community support networks were [translation] “vital components of the survival strategies developed by the Kinshasans’ to compensate for the poor services provided by the state” and that Kinshasa had at least 77 in 2012 (Switzerland 15 Jan. 2016, 17). The same source adds, however, that it is currently very difficult to know how many organizations the country has given that up-to-date lists are not published and that the most recent date back to 2012 (Switzerland 15 Jan. 2016, 19).

The SEM report states the following regarding the support systems in Kinshasa:

[translation]

Faced with [what the Ministry of Urban Development] calls the “absence” of public aid and the “insufficiency” of international NGOs and bilateral aid, informal offers of informal microcredit are multiplying: the tontine (rotating savings and credit association), the card (savings/commercial credit), *likelemba* (Kinshasan version of the tontine), *muziki* (form of mutual support especially widespread among women), solidarity associations, private lenders known as “Lambert bank” because of their usury rates, religious sects, etc. (Switzerland 15 Jan. 2016, 17, italics in original).

The same source describes the *muziki* and the *kobamba* as follows:

[translation]

Corporatists, the *muziki* are savings, expansion, exchange and mutual support collectives that also exercise control and in which access to the monetary economy and to social relations are intertwined. The goal of the *muziki* is to diversify physical and human resources as much as possible due to the unpredictability and insecurity of the informal economy.

Another form of informal microcredit is *kobamba*, originally designed as mutual aid in the event of hard times (illness, for example). It now extends to one-day or even half-day financing for poor merchants and can cover an amount equivalent to around thirty dollars to enable them to buy stock, sell it and then repay the loan. (Switzerland 15 Jan. 2016, 17-18, italics in original)

The same source adds that to take advantage of these systems, a person must be strongly integrated into an [translation] “established, localized social network, which is necessary for the trust and control that is essential to their operation” (Switzerland 15 Jan. 2016, 18). Information on the ease with which single women can integrate into such a network could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the director of an intergovernmental aid agency interviewed by the Swiss SEM, [translation] “the independence of a single woman without family or a social network in Kinshasa cannot be guaranteed by a local organization: ‘Without this, she cannot do anything to fight against abuse’” (Switzerland 15 Jan. 2016, 19).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Internet sites, including: Agence congolaise de presse; Amnesty International; ecoi.net; Fédération internationale des ligues des droits de l’homme; Human Rights Watch; Internal Displacement Monitoring Centre; International Crisis Group; Ireland – Refugee Documentation Centre; Radio Okapi; UN – UN Women, Refworld; Voice of America Afrique.