



**Freedom from Torture**

Medical Foundation for the Care of Victims of Torture

**Rape as torture  
in the DRC:  
Sexual violence beyond  
the conflict zone**

Freedom from Torture  
Country Reporting Programme

Summary Version  
June 2014

## **Freedom from Torture**

Freedom from Torture (formerly known as the Medical Foundation for the Care of Victims of Torture) is a UK-based human rights organisation that exists to enable survivors of torture and organised violence to engage in a healing process to assert their own human dignity and worth and to raise public and professional awareness about torture and its consequences.

As one of the world's largest torture treatment centres we provide rehabilitation services to survivors including psychological therapy and physiotherapy; and our specialist doctors prepare forensic medico-legal reports (MLRs) that are used in connection with torture survivors' claims for international protection and in our country reports as a collected evidence base to hold torturing states to account.

Since our foundation in 1985, more than 50,000 survivors of torture and organised violence have been referred to us. In 2013 Freedom from Torture provided treatment for 1,015 clients from 53 different countries. Every year our Medico Legal Report Service (still known as the Medical Foundation Medico Legal Report Service) prepares between 300 and 600 medico-legal reports for use in UK asylum proceedings.

## **Survivors Speak OUT! network**

Survivor Speak OUT! (SSO) is the UK's only torture survivor-led activist network and is actively engaged in speaking out against torture and about its impacts. Set up by survivors of torture, for survivors of torture, SSO uses first-hand experience to speak with authority for the rights of torture survivors. The network is supported and facilitated by Freedom from Torture and all network members are former Freedom from Torture clients.



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## Introduction

This report is about the torture of women by state security forces in the Democratic Republic of the Congo (DRC). It is based on a study of 34 forensic reports prepared for individual torture survivors by the Medical Foundation Medico-Legal Report Service at Freedom from Torture. The recommendations that follow have been informed by the views of Congolese women who are survivors of torture and former clients of Freedom from Torture.

The full research report is available to download at [www.freedomfromtorture.org/drc-report](http://www.freedomfromtorture.org/drc-report) or to request a hard copy please contact [pressoffice1@freedomfromtorture.org](mailto:pressoffice1@freedomfromtorture.org).

The report provides evidence of the torture of women by state security forces in the DRC, mainly in non-conflict contexts. It indicates the extensive use of rape and other forms of sexual torture against women detained mostly for political reasons, and the use of a variety of other torture methods including beating, burning and psychological and environmental forms of torture. It highlights the lack of access to justice, including due process, and appropriate services for women victims of torture in the DRC; as well as the impunity of suspected perpetrators.

## Freedom from Torture

Freedom from Torture (formerly the Medical Foundation for the Care of Victims of Torture) is a UK-based human rights organisation and one of the world's largest torture treatment centres. Specialist clinicians in Freedom from Torture's Medico-Legal Report Service use forensic methods to document physical and psychological evidence of torture according to standards set out in the United Nations Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, known as the 'Istanbul Protocol'. Our medico-legal reports (MLRs) are commissioned by solicitors and used in connection with survivors' claims for international protection in the UK.

## Case Study

### “Take her and show her how democracy is”

Mireille\*, a student from Kinshasa, became an activist for an opposition party. In March 2013 she was arrested for a fourth time at a political march. This time her detention lasted four months and her treatment was considerably worse.

She was taken to a small room with no window and no toilet. She was crammed in with around seven other women. They were forced to urinate and defecate on the floor. Occasionally the guards allowed them to use the toilet block, Mireille recalls there was often blood on the floor.

Mireille and her cellmates were often taken outside and forced to stare at the sun for periods of up to an hour. If they looked away, they were beaten with sticks, fists and kicked with heavy boots.

The first time she was taken to see the police chief, he asked her about her political views. Mireille replied that she believed in democracy. He instructed her guard: “Take her and show her how democracy is”. The guard took her outside and raped her in a ditch.

During the coming weeks she was raped another two times by prison guards, once in her cell in front of her cellmates. She also witnessed her cellmates being raped. If they tried to resist they were beaten. Mireille thought she was going to die in that prison. But after four months she was released because a family member paid a bribe. She fled the country and arrived in the UK in early Autumn 2013.

According to her MLR, Mireille shows clear signs and symptoms of psychological illness and post- traumatic stress disorder. Her basic level of functioning has been significantly damaged to the point where it is hard to imagine her as the student activist she was two years ago. Her short term memory has been severely affected and her mood is consistently low. Her concentration is poor and she needs help and reminders to do even basic tasks.

After recounting the details of her rape to Freedom from Torture she often suffered from headaches. Her flashbacks and nightmares became worse for a period afterwards. She frequently thinks about suicide but her strong Christian faith prevents her from harming herself.

\*Her name is changed to protect her identity

Since our foundation in 1985, nearly 3,500 people from the DRC have been referred to our centres for rehabilitation treatment or forensic documentation of their torture injuries. In 2013 we provided services, including clinical treatment and MLRs, to 111 survivors of torture from the DRC. In the last four years (January 2010 - December 2013) our specialist clinicians have prepared MLRs for 94 people from the DRC, more than half of whom were women.

## Country Reporting Programme

Through our Country Reporting Programme we submit evidence drawn from MLRs, to United Nations (UN) human rights accountability processes and to wider audiences, in order to contribute to international efforts to prevent torture and hold perpetrator states to account.

This report, the third in Freedom from Torture's Country Reporting Programme series, provides a detailed description of data previously submitted in summary form to the UN Committee on the Elimination of Discrimination against Women (CEDAW) for its examination of the DRC in July 2013, and to the UN Office of the High Commissioner for Human Rights (OHCHR) for the Universal Periodic Review of the DRC on 29 April 2014.

## Research methodology

Research for this report involved a systematic review of 34 medico-legal reports produced by Freedom from Torture for women who were tortured in the DRC from 2006 onwards and who gave consent on the basis of anonymity<sup>1</sup>.

Data extracted and analysed from the MLRs included details of the case profile, history of detention, specific torture disclosures and the forensic documentation of the physical and psychological consequences of torture, based on a comprehensive clinical examination and assessment process undertaken by our doctors. The data collected was anonymised and aggregated before being analysed and reported.

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<sup>1</sup> Since the research was conducted the Medico-Legal Report Service has prepared a further 19 MLRs for people from the DRC, of which 12 were for women.

The research process was guided by an inter-disciplinary project working group. In line with Freedom from Torture's commitment to developing survivor participation, members of the Survivors Speak OUT! network (SSO) have participated at every stage of the DRC project including as members of the project working group. The project working group also included Congolese women who are survivors of torture and former clients of Freedom from Torture, who also took a key role in informing the recommendations.

## Rape, sexual violence and torture in the DRC

The cases of torture, including rape and other forms of sexual torture described in this research, cannot be seen in isolation from a broader pattern of widespread torture that is associated with other human rights violations committed by DRC security forces and documented by the UN and human rights groups.<sup>2</sup> Despite the enactment of the Law explicitly criminalising torture by the President on 20 July 2011, the practice of torture remains endemic in the DRC. This is partly due to the pervasive situation of impunity for members of the security services who commit human rights violations, combined with the structural weaknesses of the justice system.

Rape and other forms of sexual violence are rampant in the DRC. Although research and reports in this area have generally focused on acts committed by soldiers of the Congolese army and members of armed groups in the context of the conflict, rape committed by civilians has become a problem in its own right, not helped by the widespread impunity for such crimes.<sup>3</sup> The adoption of legislative and policy instruments by the DRC authorities to address sexual violence has contributed to strengthening the institutional and legal frameworks in the DRC. However, numerous obstacles, including lack of resources and corruption, have severely limited the impact of these measures.

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<sup>2</sup> For example *Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office in the Democratic Republic of the Congo, 2013, A/HRC/24/33*, para. 15. See also Human Rights Watch *2013 Annual Report* and Amnesty International *Annual Report 2013 - Democratic Republic of The Congo*.

<sup>3</sup> See for example, UN Joint Human Rights Office (UNJHRO - Human Rights Division of MONUSCO and OHCHR- DRC), *Progress and Obstacles in the Fight Against Impunity for Sexual Violence in the Democratic Republic of the Congo*, April 2014. Also Oxfam, *Now The World Is Without Me: An investigation of sexual violence in Eastern Democratic Republic of Congo*, April 2010.

While this report highlights the close link between sexual violence and torture in detention facilities, they are still considered separately from each other in the DRC. Rape and other serious forms of sexual violence are very rarely charged as acts of torture and institutional and policy frameworks do not fully consider this link. This runs counter to the increasing recognition that rape can amount to torture under international law (see, for example the judgement of the International Criminal Tribunal for the former Yugoslavia (ICTY) in the *Celebici Case*<sup>4</sup>). Rape has been classified as a war crime and a crime against humanity in international jurisprudence. When perpetrated by state officials it can also be classified as an act of torture in itself whether perpetrated within or without formal detention facilities.<sup>5</sup>

The identification of rape as torture has fundamental legal consequences. As stressed by the UN Special Rapporteur on torture, ‘classifying an act as “torture” carries a considerable additional stigma for the State and reinforces legal implications, which include the strong obligation to criminalise acts of torture, to bring perpetrators to justice and to provide reparation to victims’<sup>6</sup>. Making this link calls for a more integrated legal, policy and institutional approach to ensure efforts against torture and sexual violence are considered together and are mutually reinforcing.

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4 See for example, ICTY, *Celebici Case (Trial Judgement)* (1998) 16 November 1998, paras. 495 and 496.

5 For an overview of the jurisprudence development, see REDRESS, *Redress for Rape: Using international jurisprudence on rape as a form of torture or other ill-treatment*, October 2013, pp. 20 and the following pages.

6 UN General Assembly (2008), ‘*Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak*’, A/HRC/7/3, 15 January 2008, para. 26.



## Research findings: Survivor profile

The survivors whose torture is described in this report are all women from the DRC who were detained and tortured after 2006. The majority of these women were targeted for detention as a result of their political profile, or that of a member of their family, as members or supporters of a legitimate political or civil society organisation. A smaller number of women were targeted due to an association with armed groups or with the Bundu Dia Kongo (BDK) political-religious movement.

Twenty-three of the 34 women were detained because of their political profile or that of a family member. The majority of these were associated with the Movement for the Liberation of Congo (MLC). Other named organisations included the Union for Democracy and Social Progress (UDPS) and Alliance of Patriots for the Refoundation of the Congo (APARECO). Three women supported civil society organisations concerned with women's rights. Activities that led to the arrest of those detained because of a political profile included taking part in campaigning, recruiting new members, storing and distributing publicity materials such as t-shirts and banners, attending meetings and demonstrations and undertaking administrative tasks.

Five women reported being detained because they, or a member of their family, were associated with an armed group, including the National Congress for the Defence of the People (CNDP). This included the perception that a family member had joined an armed group, and in one case, was selling goods to members of an armed group. Three of the four women who were members of the Bundu Dia Kongo (BDK) political-religious movement were detained because of this association.

A range of ethnicities was recorded among the 34 women but the extent to which ethnicity was in itself significant in the targeting of these women for detention is not clear. Only one woman directly attributed her deten-

tion to this factor. More than half the women were born in Kinshasa; others were born in provinces across the DRC, including Bas Congo and the conflict afflicted eastern provinces of the Kivus and Orientale. Many women moved from their place of origin and the majority were ultimately detained in Kinshasa, with a smaller number detained in Bas Congo and the eastern provinces. The extent to which their place of origin contributed to their identification as having a political profile and to being targeted for detention is not known.

Travel abroad seems to have been a factor, which led to detention in a number of cases. Seven women had travelled abroad and on their return to the DRC five were detained either immediately on arrival at the airport or shortly afterwards. The three women who were arrested at the airport had been previously detained and had sought protection abroad before being forcibly removed to the DRC. The two who were detained shortly after returning to the DRC, had travelled for employment and leisure. One had no record of previous detention or political activity, though her husband had a political profile, and the other had joined a political organisation when a student and had met with members of this organisation when abroad. Both were interrogated about activities abroad as well as their political associations.

The remaining two women who had travelled abroad and returned to the DRC, were detained some time after their return and any link with travel abroad is not known.

## Detention context

All 34 women were detained (on all occasions) by state forces - including from the military, police or intelligence services. None of the women reported being detained by non-state forces or armed groups.

The majority of the 34 women were arrested and detained in non-conflict contexts. Three-quarters (26) were resident in Kinshasa when they were detained (for all episodes<sup>7</sup>), while three were resident in Bas-Congo and five

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<sup>7</sup> 'Episodes' here and elsewhere in the report refers to separate episodes of detention. Twelve of the 34 women were detained more than once, some on multiple occasions. Overall, data was

in eastern Congo. Just over half of the arrests were from public locations, including eight at Kinshasa's airports, while all other women were arrested from their home or another private address. Many suffered multiple detentions - among the 34 women there was a total of 60 detention episodes.

The majority of women were detained and tortured in known or, in 12 episodes, unofficial state security facilities. Of the 60 detention episodes, 54 took place in a state facility. Six detention episodes took place in the person's home or other private residence.

### Violation of due process rights

According to the information available to Freedom from Torture, all the women were detained by state authorities without due process according to international human rights standards. All were detained arbitrarily; they were tortured on each occasion they were detained and the vast majority were held *incommunicado*.

Ill-treatment during arrest and *en route* to detention was reported by women in more than a third of the detention episodes. They described being beaten or assaulted, including being hit with rifle butts, rubber truncheons and belts; being restrained face down in the back of a truck, kicked or stamped on by soldiers wearing army boots and being slapped or punched.

None of the women had access to a legal or judicial process, nor did they have access to legal advice or representation at any point during the detention process. Only two women described any form of 'charge', 'conviction' or 'sentencing', though these did not conform to international norms of due process in either case.

Most women were detained for three months or less, with the largest number of detention episodes (21) being less than one week in duration. Five women were detained for seven months or more, while one woman was detained for 20 months.

Twenty-six of the 60 detention episodes ended with the woman being released in various circumstances, without any legal or judicial process. In ten instances women reported having been released with extra-legal (informal) conditions, namely ceasing supporting opposition parties or taking part in demonstrations, campaigning or other forms of activism.

Those women who were not released reported escaping from detention and most of these were assisted in some way. Only four women reported escaping without help. Many women said that they had been enabled to escape by someone in the detention facility. Others said that an escape was arranged after a bribe was paid by a family member or associate.

## **Detention conditions**

Extremely poor detention conditions were described by those 30 women held in state detention facilities both in formal (named) and unofficial facilities administered by the police, intelligence and/or military. Women described being held alone, or with many others in cells that were insufficient in size, often without adequate food and water. Cells were lacking in all appropriate facilities, conditions were foul and unhygienic with little or no access to light or fresh air. Most women received no medical treatment while in detention, despite the injuries they sustained during torture and the ill health they suffered as a result of their detention conditions.

## **Evidence of torture**

The torture documented in the 34 MLRs on which this report is based included:

- Rape, in all but one case
- Other forms of sexual torture including violent assault to the breasts and genitals, sexual molestation, forced removal of clothing, verbal abuse and/or threats of sexual violence in many cases
- Beating, assault and other forms of blunt force trauma in all cases

- Burning including with cigarettes and/or heated implements in more than half the cases
- Forced and stress positioning in more than a third of cases
- Cutting or stabbing with sharp implements also in more than a third of cases.

Women were raped irrespective of the detention facility, its location, the context of their detention or the detaining authority. Many reported more than one form of sexual torture, multiple perpetrators and multiple incidents throughout the time they were detained. Of those detained more than once, the majority suffered sexual torture including rape each time. Many women reported severe violence during rape, including being forcibly restrained, beaten or stabbed if they resisted. Over half of the women experienced gang rape, involving from three to ten men at a time.

All 34 women were subjected to blunt force trauma; they described being beaten with a variety of instruments, being kicked, stamped on, punched and slapped during all detention episodes. Women also described being trampled with metal-capped boots and being thrown to the floor or against the wall or other hard surfaces. For some women this treatment started at the point of arrest and continued *en route* to detention and throughout their period of incarceration.

Women were also subjected to the widespread use of humiliation and threats, the trauma of witnessing the abuse of others and to prolonged solitary confinement including being confined in the dark.

### **Physical impact of torture**

All but one woman had forensic evidence of torture documented in their MLRs in the form of lesions (injuries and wounds including scars). Most common were lesions caused by 'blunt force trauma' because beating with implements was a highly prevalent form of torture. Although fewer women were subjected to burning the number of recorded lesions was high as almost all those burned had resultant lesions.

Women reported chronic pain and genito-urinary symptom patterns that, while not exclusive to rape, are frequently associated with it. These commenced after they were raped and persisted long after their release from detention. Changes in their menstrual cycle were commonly described, while six women reported sexually transmitted infections. Two women were diagnosed with HIV, in both cases attributed to rape in detention, and two disclosed pregnancy arising from rape. Physical injuries attributed to beatings and other torture that were concurrent with rape, included blunt force trauma, burns, and sharp force trauma including knife wounds and human bites.

Women also described musculo-skeletal pain due to beatings and other torture, including back pain, pain in their arms and legs and joint pain. Fourteen women described persistent ongoing headaches or migraines that had commenced after their detentions.

### **Psychological impact of torture, including rape**

Psychological responses described by women, and attributed to rape and sexual torture, included persistent nightmares and flashbacks as well as intense and profound feelings of shame and guilt, of dirtiness, of their body no longer being the same, of low self-esteem or of worthlessness. Women described a persistent fear of men, an inability to trust them and sexual dysfunction, including the loss of the idea of sex as enjoyable. They also described a fear of rejection by society, and by those close to them, should they disclose their history of rape.

All 34 women in this study presented with symptoms of post-traumatic stress disorder (PTSD) related to their history of torture in detention. Of these, over half (19) had symptoms reaching the diagnostic threshold according to the ICD-10 Classification of Mental and Behavioural Disorders.<sup>8</sup> In addition, ongoing symptoms of depression directly related to the history of detention and torture were reported by almost all the women (31), of whom over half (19) had symptoms reaching the diagnostic threshold for depression.

Twenty women reported thinking about self-harm or suicide, persistently in some cases, while two women had self-harmed or attempted suicide.

### **Lack of access to treatment**

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

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<sup>8</sup> World Health Organisation, *The ICD-10 Classification of Mental and Behavioural Disorders* (Geneva 1994).

## Recommendations

Freedom from Torture's evidence demonstrates that in the DRC there is extensive use of rape and other forms of torture against women who are detained - mostly for political reasons - by the state.

Freedom from Torture hopes that this research, based on the testimony of these survivors and the independent findings of our clinicians, will widen the focus of the UK government, of the international community and of the DRC in combating sexual violence and torture from the conflict zone to the whole of the DRC. In pursuit of this outcome we have identified the key recommendations below, informed by Congolese women who are survivors of torture and former clients of Freedom from Torture and drafted in consultation with the Survivors Speak OUT! network:

### Recommendations for the DRC

1. The DRC should comply with its obligation under Optional Protocol to the Convention against Torture (OPCAT) to establish, or designate, a national body for the prevention of torture and ill-treatment to undertake regular visits to detention facilities.
2. The DRC should welcome a monitoring visit as soon as possible by the UN Subcommittee on Prevention of Torture (SPT).
3. The DRC should submit without further delay its next periodic report to the UN Committee Against Torture.
4. The DRC should issue a standing invitation to all thematic special procedures of the UN Human Rights Council and welcome visits as quickly as possible by the UN Special Rapporteur on Torture and the UN Working Group on Arbitrary Detention.
5. The DRC should take concrete measures to ensure that the 2006 decision to close all unofficial detention facilities is implemented and that persons suspected of operating those facilities are investigated and prosecuted.



6. The DRC should fully implement the 2009 National Strategy to combat gender-based violence and its related action plan. This should include providing the mechanism that the Government claimed to have established as part of its national strategy with adequate resources to deliver holistic care to victims.
7. The DRC should implement the 2006 Law against sexual violence and the related policies to ensure that these consider rape and sexual violence as torture and that they are linked to the implementation of the law criminalising torture.
8. The Ministry of Justice and Human Rights, and other relevant Ministries, such as the Ministry of Gender, Family Affairs and Children, should consider the two sets of laws and policies on sexual violence and torture, in conjunction with each other.
9. The DRC should ensure that its legal system enables survivors of torture to obtain redress, including compensation and rehabilitation, as required by the UN Convention Against Torture. Specialist legal and health services, including legal aid, must be developed and strengthened throughout the country to support women who have survived sexual forms of torture.

## Recommendations for the international community

1. Member states of the UN and, in particular, members states of the African Union and the UK and other donor countries involved in initiatives supporting the reform of the justice system and the security sector, should increase pressure on the DRC to prioritise torture prevention.
2. The international community should ensure that UN and other international initiatives aimed at tackling violence against women in the DRC are not restricted to the 'conflict zone' in eastern DRC and also encompass violence against women by state actors in Kinshasa and other parts of the country, especially where such acts amount to torture in detention facilities. These initiatives should expressly recognise and integrate the fact that sexual violence in the DRC amounts to torture in certain circumstances.

## Recommendations for the UK government

1. The Foreign and Commonwealth Office (FCO) should ensure that the Preventing Sexual Violence Initiative (PSVI) acknowledges the role of the conflict in normalising sexual violence and sexual forms of torture against women outside the 'conflict zone' in the DRC and ensure that the PSVI programme is not restricted to eastern DRC. The FCO should commit to integrating the prevention of sexual violence into its work to ensure its longevity. In particular, the strengthening of international assistance and support to survivors, which is one of the PSVI's key objectives, should extend to victims of rape as a form of torture.
2. The Foreign Secretary should maintain a direct dialogue with DRC ministers about torture of women and sexual violence, including through the PSVI June 2014 Summit in London, which relevant DRC Ministers will attend, and should find opportunities for survivors to participate in this dialogue.
3. The FCO should ensure that its next Human Rights and Democracy Report includes reference to forensic and other evidence of torture, including sexual forms of torture, committed by state actors both within and outside the conflict zone.
4. The Home Office should update its asylum policy on the DRC as a matter of urgency to include a specific section on women that considers claims based on sexual or gender based violence.
5. The Home Office should take note of the evidence contained in this report and update its Country of Origin Information and its asylum policy and practice to recognise the risk of torture for women on return to the DRC.



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Registered charity no: England 1000340, Scotland SC039632

This project is funded by the European Union.



Freedom from Torture is grateful to Freshfields Bruckhaus Deringer ([www.freshfields.com](http://www.freshfields.com)) for funding the printing of this report.