

QUICK GUIDE TO ADDRESS WOMEN'S ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON CONGO

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- The full text of those paragraphs
- A reference to "gaps", that is, issues on which the National Report should/could have applied a gender perspective but failed to do so.
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.
- In all cases we have included suggested questions and recommendations

References in the two working languages of the Council (English and French) have been kept in their original language.

Issues are highlighted, while **recommendations** are in bold and underlined. References from the National Report are *in Italics*.

All women's rights issues (included sexual rights' issues related specifically to women) are referred to in this Guide. Other sexual rights issues are referred to in the Sexual Rights Guides for each state under review

CEDAW ratified, OP-CEDAW not ratified (signature only), Rome Statute ratified. Palermo Protocol not ratified (In 2006, CRC recommended that Congo ratify the Palermo Protocol -Para 1 Compilation).

Gaps

The National Report should/could have applied a gender perspective -that is, make reference to how the issue affects women and men in particular ways- but failed to do so in the following sections: Le droit à l'égalité (29-30), Le droit au respect de la vie et à la protection de la personne humaine (3-32), Le principe du droit à la liberté (33-36), Liberté de la presse (37-41), Liberté de réunion (44-45), Le droit à un procès équitable (46-47), droit de participer à la direction des affaires publiques (48-57), Le droit au travail et à la sécurité (58-60), Le droit à l'éducation et à la culture (74-79), Le droit à la protection de la famille (80), Les enfants (81-85), Les juridictions pour mineurs (86-92), Les handicapés physiques et les albinos (97-100), Les populations autochtones (101-107), Les réfugiés et autres migrants (108-113), Les personnes détenues (114-118).

ISSUE	N Report	Compilation	Summary
Abortion	Illegal except for therapeutic reasons (31)		
Early (pre)marriage		Concern about pre-marriage lacking a minimum age (24). Traditional perception of childhood in conflict with CRC (25)	
Equality and Non discrimination	Constitutional protections (27) Need to reinforce efforts against discrimination (141)	Need to incorporate legal definition of discrimination in the Constitution (9)	
Female Genital Mutilation		Need for legislation and policies to eliminate FGM and to encourage children to report it (16)	
HIV/AIDS	Programs to prevent mother-to-child transmission; care for HIV positive children (Para 66, 68)	Lack of policy on paediatric HIV/AIDS, Need to improve access to ARV, implement National Anti-AIDS program and conduct awareness campaigns (33)	
Illiteracy		64% rate among	

		women (10)	
Laws that discriminate against women		Need to harmonize marriage laws with Constitution and CEDAW, eliminating discrimination in ownership, co-sharing and inheritance of land. (9) Equal rights in pre-marriage and marriage (24)	
Patriarchal attitudes/sterotypes		Need for awareness and education to eliminate discriminatory gender stereotypes (9)	
Prostitution		Question on criminalization of clients (20)	
Public and political participation	Legislation guarantees gender equality (27). 15% quota for women (95)	Low / decreasing rate in public positions. Need for training programs and awareness to promote women participation (26)	
Ratification of CEDAW /OP-CEDAW		Ratification of OP-CEDAW and amendment of art. 20, requested (1)	
Reproductive	Right to health	Lifting ban on	Lack of access to

<p>health/rights</p>	<p>in the Rights and Freedoms Chart; measures to low maternal mortality rates (62). Internacional Cooperation supporting Programs (72)</p>	<p>advertising contraceptives (9) Very high maternal mortality rate. Low contraceptive rates; low contraceptive prevalence rate; lack of access to pre and post-natal care. (31).</p>	<p>reproductive health services and information on rights and contraception. Need to pass specific legislation on sexual and reproductive rights (4). Sexual education and family planning services at hospitals (25)</p>
<p>Right to education</p>	<p>Lower attendance by rural girls, early dropout. (135)</p>	<p>Gender disparities. Women and children as most education-deprived sectors (35). Information on measures taken to increase school attendance requested (36)</p>	
<p>Right to work</p>		<p>Unequal access to labour market. Women's confined to the informal sector (28). Call for reporting of measures to improve women employment (29)</p>	
<p>Sexual Violence</p>	<p>As a product of latest armed conflicts (129 NR). Law proposal being drafted (96)</p>	<p>Increase of incidents perpetrated by civilian and family members mostly against girls (17)</p>	<p>Marital rape not criminalized (4)</p>

State Institutions/ Plans of Actions	Ministry for Women's Promotion. National Plan of Action (93) UN support for projects (94)		
Women in prison			Women and children are the majority of those in detention; overcrowding, poor conditions, mixing with men; restrictions on visitation (9)

Abortion

La Constitution du 20 janvier 2002 dispose en son article 3: « La personne humaine est sacrée. L'Etat et les individus ont l'obligation de la protéger et de la préserver. L'avortement autre que thérapeutique, est interdit et puni par la loi » (para 31, NR)

Early (pre)marriage

In 2003, the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) was particularly concerned at the practice of pre-marriage as domestic law does not stipulate a **minimum age for pre-marriage**. While noting the **willingness to abolish pre-marriage**, CEDAW **recommended, as an interim measure, that the minimum age for pre-marriage be brought in line with the legal age for marriage** (Para 24, Compilation).

In 2006, CRC noted that the traditional perception of the child in Congolese society may be **in conflict** with the definition of the child enshrined in the Convention, in particular with regard to the age of majority, since in traditional views the transition from a play and learning stage of **development to work and marriage** occurs sooner. (Para 25, Compilation)

Equality and non-discrimination

L'article 8 de la Constitution du 20 janvier 2002 énonce : »Tous les citoyens sont

égaux devant la loi. Est interdite toute discrimination fondée sur () le **sexe**. Le premier paragraphe de l'article 25 de la Charte des Droits et des Libertés adoptée le 29 juillet 1991 à la Conférence Nationale Souveraine, spécifie le cas particulier de l'enfant congolais: «Tout enfant, sans discrimination aucune fondée sur () le sexe () a droit de la part de sa famille, de la société et de l'Etat, aux mesures de protection qu'exige sa condition de mineur» (Para 27, NR). Le Congo devra () Renforcer la **lutte contre les discriminations** dont sont **victimes** les femmes (Para 141, NR).

In 2003, CEDAW **recommended that a definition of discrimination against women be incorporated into domestic legislation** (Para 9, Compilation).

Female Genital Mutilation

In 2006, the Committee on the Rights of the Child (CRC) was concerned that female genital mutilation (FGM) was still practised in some West African communities living in Congo. It **recommended the adoption of legislation prohibiting such practices and targeted measures to ensure the eradication of FGM, including through widespread awareness-raising campaigns. It also recommended that children be encouraged to report these practices to health professionals and competent authorities** (Para 16, Compilation).

HIV/AIDS

En ce qui concerne le **projet prévention de la transmission mère - enfant** (P.T.M.E.), les effets attendus sont que l'on parvienne à réduire de 20 pour cent la proportion de nourrissons séropositifs, et que l'on facilite l'accès au conseil - dépistage volontaire à toutes les femmes reçues en consultation prénatale, ainsi que l'accès à la prise en charge médicale, nutritionnelle et psycho - sociale des **enfants séropositifs**. Concernant la situation des () les femmes en âge de procréer, un programme comprenant deux projets appuyés par l'Unicef a été mis en place. Il s'agit () de la prévention de la transmission mère - enfant (Para 68, NR)

In 2006, while welcoming the launch of the National **Anti-Aids Programme** (2005-2008) and the adoption of a Decree establishing the National Anti-AIDS Council, CRC remained concerned that only few HIV-positive children had access to antiretroviral drugs. It was also concerned at the lack of comprehensive data **and policy on paediatric HIV/AIDS**, at the high level of **mother-to-child transmission** of HIV/AIDS () It **recommended the conduct of awareness campaigns and programmes; an adequate implementation of the National Anti-Aids Programme, including by providing it with the necessary funding; and Congolese's request for further technical assistance** (Para 33, Compilation).

Illiteracy

En 2008, le système des Nations Unies a relevé que () les discriminations persistent

en raison de **pesanteurs socioculturelles** défavorables à la femme, tant en matière d'éducation que d'emploi. L'**analphabétisme** touche 64 pour cent des femmes et l'**illettrisme** est en train de prendre de l'ampleur dans la population féminine selon le système des Nations Unies (Para 10, Compilation).

Laws that discriminate against women

In 2003, CEDAW urged () Congo to eliminate all forms of discrimination with respect to **ownership, co-sharing and inheritance of land**. It further recommended bringing marriage laws into compliance with the Constitution and the Convention, phasing out discriminatory **family laws** in a clear time frame, and amending the Act of 31 July 1920, which **prohibited the advertising of contraceptives** (Para 9, Compilation).

CEDAW recommended that all measures be taken to ensure that women in both pre-marriage and marriage **enjoy equal rights** within and upon dissolution of the union (Para 24, Compilation).

Patriarchal attitudes/stereotypes

In 2003, CEDAW noted with concern the continued persistence of **stereotypical attitudes** concerning the **role and responsibilities** of women. It urged Congo to increase its efforts, including by educational measures at all levels and beginning at an early age, to address such attitudes as they perpetuate direct and indirect discrimination against women and girls (Para 9, Compilation).

Prostitution

In 2008, the ILO Committee of Experts noted that under article 334 of the Penal Code, the Government prosecutes each individual who encourages prostitution of others, recruits or acts as an intermediary or exploit the prostitution of others. The Committee requested whether domestic legislation includes provisions penalizing the client (Para 20, Compilation)

Public and political participation

*La femme a les mêmes droits que l'homme. La loi garantit et assure sa promotion et sa représentativité à toutes les fonctions politiques, électives et administratives (Para 27, NR). La question du genre constitue une priorité du Gouvernement de la République du Congo. La femme est de plus en plus représentée dans les institutions publiques et y prend une part active. Pour illustration, la loi électorale n°005/2007 du 25 mai 2007 modifiant et complétant la loi 009/2001 du 10 décembre 2001 fixe les **quotas** des candidatures féminines à 15 pour cent aux élections législatives et sénatoriales et au moins 20 pour cent aux élections locales (Para 95, NR).*

In 2003, while noting a slight increase in the number of women elected to Parliament, CEDAW expressed concern at the **low number of women in decision-making positions**, in politics, the judiciary and the civil service, in particular in the Foreign Service. A 2008 United Nations Statistics Division source indicated that the proportion of seats held by women in the national Parliament **decreased from 8.5 per cent in 2004 to 7.3 per cent in 2008**. CEDAW **recommended temporary special measures to strengthen and accelerate efforts to promote and elect women to positions of power, supported by special training programmes and awareness-raising campaigns.** (Para 26, Compilation)

Ratification of CEDAW / OP-CEDAW

In 2003, CEDAW **urged Congo to accelerate its efforts to ratify the Optional Protocol to the Convention and to accept the amendment to article 20, paragraph 1, of the Convention**^[1] (Para 1, Compilation)

Reproductive health/rights

*Quoique la Constitution ait mis en exergue le cas spécifique des couches sociales vulnérables, la **Charte des Droits et Libertés** du 21 juin 1991, avait ouvert un éventail plus large à l'article 32 : « Toute personne a le droit de jouir du meilleur état de santé physique, mental qu'elle soit capable d'atteindre. L'Etat doit prendre les mesures nécessaires pour assurer : a) La **diminution de la mortalité maternelle et de la mortalité infantile**, ainsi que le*

*développement sain de l'enfant () (Para 62, NR). es programmes mis en oeuvre pour () **les problèmes de la reproduction**, font l'objet de programmes spécifiques, soutenus techniquement et financièrement par des Agences de coopération bilatérales et multilatérales (Institut International pour le Développement, OMS, UNICEF, GTZ) (Para 72, NR)*

In 2003, CEDAW **recommended amending the Act of 31 July 1920, which prohibited the advertising of contraceptives** (Para 9, Compilation). In 2003, CEDAW noted with concern the existence of very **high maternal and infant mortality rates**; the **low contraceptive prevalence rate** among women and men and the lack of access of women to adequate **pre-natal and post-natal care** and family planning information, particularly in rural areas. It **recommended raising awareness of and increasing access to health care facilities and medical assistance.** (Para 31, Compilation).

L' Association AZUR Développement and Sexual Rights Initiative (AAD/SRI) ont noté que la loi portant Code de la famille réaffirme dans son préambule que tous les Congolais sont égaux en droit, et dispose que la femme a les mêmes droits que l'homme dans tous les domaines de la vie privée, politique et sociale. Ces organisations ont indiqué que malgré cette égalité juridique et bien que de nombreuses femmes sont scolarisées et donc susceptibles d'être informées sur **leurs droits et sur les méthodes**

contraceptives, elle continue de subir les injustices dues à la survivance des coutumes traditionnelles qui les considèrent dans un rôle reproducteur et non comme des êtres capables de s'exprimer librement, d'avoir des rapports protégés et d'accéder librement aux services de santé sexuelle et reproductrice. (Para 4, Summary). L'AAD/SRI ont souligné que s'agissant de la santé reproductrice, le Congo a amorcé depuis le début de la décennie 1990 l'amélioration de l'accès des populations aux services de santé, y compris à la santé reproductrice. L'AAD/SRI ont mentionné que chaque centre de santé intégré ou hôpital dispose d'un service qui assure l'éducation sexuelle et la planification familiale. Cependant, d'après l'AAD/SRI, ces services ne bénéficient pas d'une grande promotion. A cela s'ajoute l'insuffisance du personnel qualifié, des moyens matériels et financiers alloués à ces services et l'approvisionnement irrégulier en produits. (Para 25, Summary)

Right to education

Les filles représentent 48 pour cent des effectifs contre 52 pour cent des garçons, avec un indice de parité filles-garçons de 0,95. Cet écart s'explique par la sous-scolarisation relative des filles en milieu rural, et la déscolarisation précoce (Para 135, NR)

In 2006, CRC was concerned at the visible gender-based discrimination in education, clearly reflected in the ratio boys/girls in schools. En 2008, le système des Nations Unies a souligné que l'enquête congolaise auprès des ménages (ECOM-2005) indiquait que 37 pour cent de Congolais étaient privés d'éducation, dont 52 pour cent d'enfants, 36 pour cent de femmes adultes et 21 pour cent d'hommes adultes. Les enfants et les femmes constituent les deux segments de la population les plus privées d'éducation (Para 35, Compilation).

In 2008, the ILO Committee of Experts requested the Government to provide information on measures taken or envisaged to increase school attendance and reduce school drop-out rates (Para 36, Compilation)

Right to work

In 2003, CEDAW was concerned at the unequal access to the labour market and at the fact that women were confined to work in agriculture and the informal sectors. It also expressed concern at the lack of social benefits and of a regulatory framework to protect women's rights within these sectors. It urged Congo to ensure that women have access to the labour market on an equal basis with men and recommended to provide a regulatory framework for the informal sector (Para 28, Compilation).

In 2008, the ILO Committee of Experts noted the Government's report delivered to the Sub-regional Training Seminar on the Rights of Women and National Legislation in Central Africa (March 2004). The Committee requested the Government to provide

any reports stemming from this project, in particular with respect to discrimination against women in employment and occupation (Para 29, Compilation).

Sexual Violence

Les violences sexuelles faites aux femmes sont un épiphénomène qui a fait son apparition au cours des derniers conflits armés. (Para 129, NR). *Les violences faites aux femmes font l'objet d'un projet de loi actuellement en cours d'élaboration. Il s'agit du projet de loi portant protection des personnes victimes de violences sexuelles* (Para 96, NR)

En 2008, le système des Nations Unies a noté une prévalence des violences sexuelles commises par des civils, souvent connus des victimes (entre 50 et 80 pour cent des cas) et qui, dans environ 20 pour cent des cas, ont même un lien de parenté avec elles. Les victimes sont en majorité de jeunes filles (environ une victime sur deux est mineure et une sur quatre a moins de 13 ans) (Para 17, Compilation).

L'AAD/SRI ont ajouté que le viol conjugal n'est pas réprimé par la loi (Para 4, Summary)

State Institutions/Plans of Actions

La condition de la femme congolaise s'est améliorée au fil des années, grâce à la création du ministère de la promotion de la femme et de l'intégration de la femme au développement. De même, par décret n° 99-289 du 31 décembre 1999, il a été mis en place un Centre de recherche, d'information et de documentation sur la femme. Cet établissement public, placé sous l'autorité du ministre en charge de la promotion de la femme et de l'intégration de la femme au développement, est un lieu d'accueil, d'échange d'informations, d'éducation, de formation et de communication sur toutes les questions concernant tant les femmes congolaises, que celles résidant au Congo. Il faut noter l'existence au Congo d'une politique nationale en matière de promotion de la femme. Cette politique nationale est assortie d'un plan national d'action, réactualisé jusqu'en décembre 2009. (Para 93, NR)

De nombreux organismes internationaux et ONG viennent en appui au Gouvernement de la République dans la mise en oeuvre des projets relatifs à l'émancipation de la femme, sa prise en charge et son implication dans la gestion des affaires publiques. (Para 94, NR)

Women in prison

L' Action des Chrétiens pour l'Abolition de la Torture CONGO et la Fédération Internationale de l'Action des Chrétiens pour l'Abolition de la Torture. (ACATCONGO/FIACAT) ont fait savoir que la plupart des détenus actuels sont des femmes et des enfants, et que dans une prison prévue pour 150 personnes, on

retrouve plus de 500 détenus qui y vivent dans des mauvaises conditions d'hygiène. Selon ces deux organisations, femmes, hommes et enfants partagent **les mêmes pavillons**, ne sont nourris qu'une seule fois par jour et parfois ne le sont pas. D'après l'ACATCONGO/la FIACAT, les visites des familles sont soumises à des règles sévères et tout visiteur doit se munir d'une certaine somme qui lui sera extorquée. (Para 9, Summary)

Suggested questions/recommendations:

Sexual Rights Initiative recommendations included in the OHCHR Summary:

- Recommend that Congo develops and promulgates a legal framework for Sexual and Reproductive Rights; implements the specific programs already created on this area to educate and sensitize the population on these rights, and increases cooperation among health centres, community organizations and schools to promote sexuality educations in the schools.

Additional questions/recommendations:

- Ask Congo if there are any State programs to address the specific needs of disabled and Albino women
- Ask Congo if there are any State programs to address the specific needs of Refugee and Migrant women
- Ask Congo how the State is addressing the fact that traditional views allow for children to enter into the labour market and marriage at an age that conflicts with the international standard ratified by the State, such as the Convention on the Rights of the Child.
- Recommend that Congo takes immediate action, including through requesting international cooperation, to address the issue of female illiteracy and particularly the cultural obstacles that perpetrate it.
- Ask Congo why has the number of women in Parliament decreased in the last 4 years in spite of a quota system being in place, and what measures are being planned to revert this negative trend.
- While praising Congo for the provision of sexuality education and family

planning services in health centers, recommend that such facilities be better supported- including through international cooperation- with more qualified personnel, regular supplies and material/financial resources in order to fulfill its task of protecting the sexual and reproductive health of all Congolians.

- Ask Congo if any initiatives have been taken on CEDAW's 2003 recommendation to provide a regulatory framework for the informal work sector, where a majority of women are employed.
- Ask Congo what measures are being taken to address the problem of sexual violence against young women and girls perpetrated by civilians, including the victims' family members /Recommend that Congo takes immediate measures to address the problem of sexual violence against young women and girls perpetrated by civilians, including the victims' family members, including guaranteeing that perpetrators are brought to justice and providing adequate assistance to victims.
- Ask Congo about the status of the law proposal for the protection of victims of sexual violence, what provisions it includes for protection and rehabilitation of victims and what sanctions for perpetrators, including those who are the victims' relatives/ Recommend that Congo concludes as soon as possible the drafting of the law to protect victims of sexual violence and promulgates it/ Recommend that marital rape be included in the draft law to protect victims of sexual violence, if it has not already been included.
- Recommend that Congo takes all necessary steps, including through international cooperation, to put an end to the human rights violations faced by inmates in the country by, inter alia, building special separate facilities for women and for minors and implementing a system of visitations that ensures proper treatment of inmates' relatives and does not allow for act of corruption by State officers.



[1] On annual meetings of the CEDAW Committee