

September 10, 2018

Committee on the Elimination of Discrimination against Women (CEDAW)
Office of the High Commissioners for Human Rights
Geneva, Switzerland

RE: Supplementary information on Democratic Republic of Congo scheduled for review by the CEDAW Committee during its 73rd Pre-Sessional working group in November 2018.

Dear Committee Members:

This shadow letter is intended to complement the 8th periodic report submitted by the State of Democratic Republic of Congo for your consideration during the Pre-sessional Working Group of the CEDAW Committee. Ipas is an international organization that works to promote women's sexual and reproductive rights and Ipas DRC is a locally-registered NGO in that country. This letter is intended to provide the Committee with supplementary information as it reviews DRC as well as to inform the Committee on the recent positive steps taken by the State for gender parity and women's sexual and reproductive health in the DRC with the publication of the Maputo Protocol in the national legal gazette.

We applaud the DRC's steadfast commitment to women's health and wish to inform the Committee that the publication of Article 14 of the Maputo Protocol and of the Circulaire no n°04/SPCSM/EER/2018 # in the *Journal Officiel* creates legal precedent over the Penal Code thereby making abortion legal in cases of rape, incest, and dangers to the mother or the foetus' health. The Government of DRC through the Ministry of Health and the Ministry of Gender should be praised for its efforts. We wish to encourage the State to publish new Standards and Guidelines for Comprehensive Abortion Care in line with the World Health Organization's standards and look forward to further healthcare systems strengthening and delivery of sexual and reproductive health services throughout the country. We urge this Committee to press upon the State that the Standards and Guidelines should not contain barriers that will hinder access to safe abortion for women in DRC.

Since the submission by the Democratic Republic of the Congo of its combined sixth and seventh periodic report in 2013, Congolese legislation concerning equality between men and women in the exercise and enjoyment of their rights has developed significantly, in line with the Committee's recommendation in paragraph 14 of its concluding observations of 2013 ([CEDAW/C/COD/CO/6-7](#)) concerning the finalization of the Family Code and the law on gender equality. In response to Article 12, we vividly welcome the measures taken by the government to eliminate discrimination against women in the field of health care and to provide them with appropriate services in connection with pregnancy, confinement and the post-natal period, as well as adequate nutrition during pregnancy and lactation.

In response to the Committee's recommendations in paragraph 32 of its concluding observations, it should be noted and highlighted that the national reproductive health programme is operational. The implementation of the National Strategy on maternal and child mortality has helped to establish community liaison officers, increase the number of basic health facilities (health centres) throughout the country, equip centres, provide essential medications, promote prenatal consultations and increase access



to antiretrovirals. As a result, the maternal mortality rate was reduced to 549 per 100,000 births in 2011, as compared to 1,289 per 100,000 live births in 2001; 88 per cent of women have access to prenatal care provided by trained personnel; and health personnel assisted in 80 per cent of the births that occurred between 2009 and 2014 (Source: Population and Health Survey 2013–2014).

With regard to appropriate services in connection with pregnancy, confinement and the post-natal period, as well as adequate nutrition during pregnancy and lactation, article 14 of Act No. 15/013 of 1 August 2015 on means of giving effect to women's rights and gender parity provides that "the State shall guarantee to women, during pregnancy, confinement and the post-natal period, adequate health-care services at reduced cost, within reasonable distances and, where appropriate, free of charge, as well as earned social and employee benefits." We also welcome that **early pregnancy is covered in school curricula, particularly in the life skills course. The reproductive health programme addresses methods of family planning and adolescent health.**

In its review of the DRC in 2013, the CEDAW Committee expressed concern about "The criminalization of abortion, accompanied by the application of severe penalties for abortion, despite the large number of unwanted pregnancies resulting from rape."⁷ The CEDAW Committee further recommended that the DRC "remove punitive legislative provisions imposed on women who undergo abortion, in line with general recommendation No. 24 (1999), in particular when pregnancy is harmful to the mother's life and health and in instances of incest and rape, and more particularly in cases of rape perpetrated in the context of the conflict."⁸

Under CEDAW, the government of DRC has a responsibility to take measures to reduce maternal mortality and increase access to health care services for women. Specifically, **articles 12 (non-discrimination in health care) and 16 (right to decide on number and spacing of children)** support women's ability to obtain necessary reproductive health care services, including safe, legal abortion care. CEDAW **General Recommendation 24** on Women and Health states, "When possible, legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion." This Committee has consistently criticized restrictive abortion laws, framing such laws as a violation of the rights to life and health and asking state parties to review legislation making abortion illegal.¹ This Committee has also examined the discriminatory effects of legislation making abortion illegal, noting that "it is discriminatory for a State party to refuse to provide legally for the performance of certain reproductive health services for women."²

It is with upmost satisfaction that we note the progress the DRC made in combating unsafe abortion. The government of DRC needs to be praised for the publication of the Maputo Protocol in the Journal Officiel of March 14 2018 and of the circulaire n°04/SPCSM/EER/2018 on 6 April 2018, which broaden legal indications for abortion as stated in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Under Article 14 (2) (c) of the Maputo Protocol, States Parties are called upon to take all appropriate measures to "protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus".

For the majority of women in the DRC, which has among the fewest doctors per capita (at .107 physicians per 1000 population¹⁴), legal abortion will remain inaccessible if the appropriate systemic

¹ See, e.g., **Bolivia**, 31/05/95, U.N. Doc. A/50/38, par. 393; **Mauritius**, 31/05/95, U.N. Doc. A/50/38, par. 196; **Paraguay**, 09/05/96, U.N. Doc. A/51/38, par. 131.

² Committee on the Elimination of Discrimination against Women, *General Recommendation 24: Women and Health* (20th Sess., 1999), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 244, par. 11, U.N. Doc. HRI/GEN/1/Rev.5 (2001).



measures aren't put in place. We urge this Committee to encourage and recommend that the government continue to support the Ministry of Health's elaboration and implementation of Standards and Guidelines for Comprehensive Abortion Care.

Standards and Guidelines on abortion must not include provisions that limit the type of provider that can legally provide abortion. According to the World Health Organization (WHO), safe abortion can be provided by a range of trained health care professionals, including nurses and midwives.⁵ Access to safe abortion services for rural women is particularly compromised by restrictive guidelines. Given the limited supply of doctors in the DRC, a provision limiting provider type would mean that vulnerable women—in particular young women, poor women and women living in rural areas—are more likely to obtain needed abortion through illegal and unsafe methods.

The standards and guidelines on abortion must also take into account the current health care delivery system. Poor women and women living in rural areas may rely more heavily on care provided in local health clinics. The guidelines should not have overly burdensome facility requirements such that these clinics are unable to provide safe and legal abortion services. Adolescent girls should be able to consent to confidential abortion care in a reformed abortion law, without requirements of parental authorization. Confidential abortion care must be explicit for all women, but particularly for adolescent girls, as they may be more likely to be deterred from seeking safe services if privacy is not guaranteed. In addition to poor women, rural women and adolescents, other groups with high vulnerability need to be ensured access to reproductive health services at health facilities without impediments.

We strongly encourage the State to increase access for women and girls, in particular in rural areas, to basic health-care services, including by increasing the funding allocated to health care, the number of health-care facilities and the number of trained health-care providers, to address teenage pregnancies by integrating age-appropriate education on sexual and reproductive health and rights in curricula, widely promote education on sexual and reproductive health and rights, in particular by undertaking large-scale awareness-raising campaigns about available contraceptive methods, increase access to safe and affordable contraceptive services throughout the State party and ensure that women and girls do not face barriers in gaining access to information on family planning and safe abortion.

Without access to safe abortion, women in DRC risk their health and lives by resorting to unsafe abortion.

We request that the Committee include the following questions to the state of DRC in its List of Issues for the State's consideration:

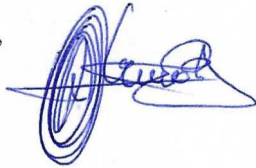
1. What steps will the State take to ensure that the Article 14 of the Maputo Protocol is effectively implemented?
2. How will the State ensure that women have access to safe and legal reproductive health care services including contraception and safe abortion care in order to protect and fulfill their rights to health and nondiscrimination?
3. How will the State ensure that a reformed law on abortion does not include barriers such as requiring unnecessary provider certification or authorization requirements, or by requiring burdensome facility standards to provide services, which can unnecessarily delay or otherwise limit access to safe abortion services, especially for young women and women living in rural areas?
4. What steps will the State take to increase efforts to end gender-based violence, and ensure the provision of comprehensive healthcare services including safe abortion to survivors of violence?



5. What steps will the State take to ensure that post-abortion and safe abortion care are integrated into the public health care system at all levels, including for poor women and women living in rural areas who may seek such services?
6. How will the State ensure that minors seeking abortion are able to access services they need confidentially, without involvement by a parent or guardian?

We hope that this information will be useful for your review of the State of DRC compliance with the CEDAW Convention.

Very Sincerely,



Patrick Djemo
Country Director
Ipas DRC