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Congregation of Our Lady of Charity of the
Good Shepherd

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1. Introduction

DRC has been identified as one of the worst places in the world to be born a girl. Whilst the country's constitution states that no form of discrimination is tolerated, women and girls are systematically disadvantaged in ways which are enshrined in discriminatory articles of legislation in the Family Code and Labour Code and upheld by traditional practices such as early marriage, dowry payments and polygamy. Women and girls are particularly vulnerable to the lack of basic services across DRC. Women and girls have little power to influence decision making at any level: household, local or national.

This report will focus on the situation of gender discrimination as described to our organisation by the women in the mining area of Kolwezi. In particular it will address the area of Gender Based Violence.

Violence against women and girls is a big problem in the DRC. Nearly two thirds of married women, who participated in the production of this report, report being physically or sexually abused by their partner. This societal problem is overlaid by horrendous incidents of sexual violence by men in uniform in conflict affected areas. In the specific context of artisanal mining communities, such as where this organisation is working, sexual violence by mining security personnel who guard and / or control the mining areas is widespread.

Violence against women and girls in Congolese society has multiple causes, many deeply engrained in culture, some equally being enshrined in legislation through the family code, which must be changed. It also requires concerted efforts by the State to engage with NGO's in order that violence and abuse of women and adolescent girls is addressed at all levels.

2. The Organisation

The Congregation of Our Lady of Charity of the Good Shepherd is present in 73 countries in the world. Its work is centered on service provision and advocacy for those who are marginalized or excluded from society. This includes projects related to poverty reduction, food security, health, education, migration, indigenous people, and all forms of discrimination against women and girls.

The work of the organization, in existence since 1835 has given it a great amount of knowledge and experience in relation to the root causes of inequality and injustice that affects many people, mainly women, young people and children. The organization has direct experience of the obstacles to social inclusion and equality, of deficiencies in policies and practices, of the consequences of budget shortages on those who need state support, of the lack of access to legal redress for people whose rights are being violated and of corruption and bureaucracy which hinder the poor and the marginalized from accessing their rights.

2.1 The Organization in the DRC

The organization has been working in Kolwezi in the Democratic Republic of the Congo since March 2012. Kolwezi is a Copper and Cobalt mining town with an ever growing population as migrants come from all over the region in search of work. Despite the short duration of presence there the organization feels that the situations facing the women of this area are such that facilitating these women to have a voice at both national and international level is imperative. The whole world is aware of the atrocities committed against Congolese women, victims of sexual violence in war and this devastating issue requires much attention. However, this report will focus on other issues of discrimination, that they may not be forgotten in the shadow of the atrocities of the war.

2.2 Methodology

This report is the result of literature review and extensive research carried out within the artisanal mining communities of Kolwezi. The methodological tools used were surveys, focus group discussions (FGDs), life history interviews through house visits, key informant interviews, PRA mapping exercises, and structured interviews.

Interviews with key stakeholders, especially those with Government representatives served as a diagnostic of service provision and the state of current mechanisms for the protection of the vulnerable, while the qualitative and quantitative research undertaken at community level served to understand some of the realities facing women, girls and children in different contexts of vulnerability, as well as to map what social protection mechanisms (formal and informal) were available to the women, girls and children. In all over 340 individuals participated in the production of this report. .

3. Economic dependence

A strong link exists between a girl's first sexual encounter (sometimes in early marriage) and economic security. Women and girls felt they must submit sexually to men as this was the only means by which they are assured any form of long-term economic security. The low education rate among the girls also contributes to economic dependence on men. Young girls were concerned about their lack of education and vocational skills development and saw this as an area of priority for their development. The girls identified skills training, in areas such as sewing, knitting, hairdressing and other income generating activities, as a priority for achieving economic independence.

Early arranged marriages, '*le mariage précoce*', are common. Although it is illegal under the Family Code and the Child Protection Act to marry before the age of 15, girls as young as 13 have been married. Reasons for this include women's economic dependence on men. The adolescent girls also reported that *le mariage précoce* occurred because families profited from dowry payments made to them for their daughters. As the family of the male spouse is responsible for the payment of the dowry, girls are effectively being 'sold off' by their families.

While it is illegal to force a minor to marry, dowry payments are legitimised under the Family Code. Furthermore, the legal discrepancy between the minimum age for marriage of girls (15 years of age) compared with that of boys (18 years of age) also serves to perpetuate gender disparities and discrimination. Both women and girls reported that, due to the tender age at which girls are married, they are ill prepared to take on the responsibility of a household and a family. Many of the girls feel that they are isolated and unable to cope. For single mothers, the situation is further exacerbated as the girl finds herself with a dependent but without the economic security that she expected marriage should bring. Furthermore, once girls have a baby, their chances of continuing education are negligible, despite the provisions made for them under the legislation regarding reintegration into the formal education system after the birth of their child. This places them at a further disadvantage.

As traditionally women are dependent on men economically, women are ill equipped to provide for their children once their husbands abandon the family. Although these women are entitled to child maintenance support (*alimentation familiale*) from their husbands, the lack of knowledge of their and their children's rights under the Family Code coupled with the inability to access the justice systems means that they are left with the burden to provide for their children whilst lacking skills that can lead to gainful employment or income generation.

3.1 Employment

Previously the labour law stated that women obtain marital authorisation before accepting a salaried job, it also discriminated against women as the law sanctioned the reduction of mothers' wages during maternity leave. Subsequently, Act No 015/2002 of 16 October 2002, regarding the Labour Code, included language to reinforce anti-discrimination measures for female workers. Article 1 removed the husband's ability to oppose his wife's hiring. However, article 6 of this law, which treats the "ability to contract", creates confusion. This

provision states that one's ability to offer his/her services is determined by the laws of his/her native country, or if that country is unknown, by Congolese law. By referring the ability to contract back to common Congolese Law, the Family Code is effectively enforced; article 215 of the Family Code limits the married woman's ability to exercise her independent decision to take a salaried job. Moreover, article 448 states that a woman must obtain her husband's authorisation for all activity of a legal nature.

3.2 Land Rights

Lack of land rights poses a significant problem for the women, especially married women. Traditionally land ownership resides with the men, if women do have property the management of all property is entrusted to the husband. This limits their ability for economic independence and risks that assets which she may bring to the marriage can be sold or leased to other parties without her consent.

3.3 Recommendations:

-Encourage greater participation of women in decision-making,

Interventions should try to make links between improving women's economic status in parallel to their political capacity-building. Women should be provided with education about their rights, the responsibilities of citizenship and how to hold government to account.

- Promote gender equality and women's human rights.

The State should strive to harmonize their legislation in particular the Family Code, Labour Code and the Sexual Violence Act with their commitments to bring about the necessary changes in promoting gender equality and ensuring women's human rights. Systematic monitoring of progress towards achieving international commitments needs to be part of the programme if the root causes of abuse, violence and discrimination is to be addressed in the DRC.

- Promote women's economic empowerment and ensure their equal access to land

Promote women's economic empowerment in the artisanal mining areas through the provision of alternative livelihood programmes in collaboration with NGO's.

Livelihoods and food security programmes must involve both women and men.

All discriminatory articles of the family code must be repealed and a system put in place to ensure that both local government authorities and traditional leaders ensure women's access to land in practice.

4. Health

Recent and reliable figures for HIV and AIDS are not available and the Ministry of Health figures for 2003 show that five out of 30 blood donors in a test were HIV positive (17%). Girls report that in many instances girls are coerced into prostitution by the family in order to augment family income and in doing so were at risk of the disease.

The lack of knowledge and use of condoms among women interviewed for this report show that there is a risk of the spread of the disease within the community (no women used condoms), when compared to the number of women who also reported that their husband had had a relationship whilst being married to them (40%) and the number which resulted in the male spouse having children with another woman (25%).

Access to well-equipped health services with trained staff and affordable drugs was a problem raised by all groups during the community consultation process. Women reported that healthcare workers in these health posts were usually badly trained and unable to provide the required health service.

The women reported that overall their trip to the health centre or hospital resulted in the issuing of prescriptions with a long list of drugs which they could not find and which they could not afford. All health facilities charge for their services.

Specific health issues related to adolescent girls included sexual and reproductive health and personal hygiene. The girls reported that they suffered from genital infections caused by the products they use as substitutes to sanitary pads. These infections were exacerbated as they wash in the local river which is polluted with the carcasses of dead animals. The government has repeatedly failed to address the issue of sanitary pads in the DRC national budget to meet the menstrual hygiene needs of girls. The failure on the part of the government means that many young girls miss up to one week of school per month, leaving their education to fall behind that of boys. Also, the incidence of genital infections caused by the use of inappropriate substitutes for sanitary pads can lead to longer term reproductive health problems. None of the girls interviewed reported ever using sanitary pads. The girls also lacked any knowledge of reproductive health and contraceptive methods, yet they reported that the young men with whom they were in a relationship provided them with medicine, in tablet form, in order to prevent pregnancies. Of concern is that fact that the girls did not know what this medicine contained and that it was not prescribed by a medical doctor.

Men control women's access to health care by demanding that their wives request permission to access health services or by restricting income to pay for services. This deprives women of fundamental freedoms. In a community where food security is precarious and hunger widespread, it is inevitable that the most common health related problem for women is maternal malnutrition and associated anaemia. As in many parts of rural DRC, the artisanal mining communities are characterised by high maternal mortality and infant death rates, low rates of contraceptive use and poor health services.

Both men and women reported that large families are a major problem in their lives, but when asked for a solution, women felt that stopping early marriage would be a means to

reduce family size whilst the men felt that nothing could be done as having children was an inevitable part of life.

4.1 Recommendations:

-That the state provides accessible and affordable maternal health care and sexual health screening for all its citizens.

-That the state provide free sanitary protection in all schools so as to assist girls to remain in school and prevent infections caused by the use of inappropriate substitutes.

5. Marriage

Traditional practices: polygamy and early marriage

Both women and young girls raised the issue of early marriage (*le mariage précoce*) as a concern. The women reported that it left them ill-prepared and ill-equipped to deal with the demands of running a household and bearing and caring for children, especially when they themselves were children. Early marriage also leads to larger families.

The organisation's community mapping found that the average family in the community of Domaine Marial was made up of 8 children per family which reflects the national average. However, many families have up to 18 children. Such high birth rates are not unusual in other **artisanal** mining communities where women reported having up to 14 children.

The Family Code, promulgated in 1987 and renewed in 1999, contains several discriminatory clauses. Many provisions are incompatible with the Convention on the Elimination of All Forms of Discrimination against Women. The following are relevant examples:

Regarding polygamous marriages only those before 1951 are recognised (Art 925) and Art 354 says that a marriage cannot take place before annulment or dissolution of previous marriage. Hence the second wife technically has no rights pursuant of the family code.

Article 148.1 provides the delivery of the family registry booklet (*livret de famille*) only to the husband during the celebration or the registration of the marriage. This does not allow for both spouses to enjoy the same rights and responsibilities during the marriage or during its dissolution. Concerning the replacement of a lost family registry booklet, the Family Code allows only the husband to request another. This is a significant problem as without the *livret de famille* women cannot claim her and her children's rights to support if the husband should leave or divorce her

Article 165 stipulates that the wife must live at the domicile of her husband, instead of establishing that the married couple chooses together its home. This denies women the same rights under laws relating to the movement of persons and the freedom to choose their residence and domicile.

Articles 444 – 448 of the code place married women in a position of dependence and submission to their husbands, to the extent that they cannot affect any legal act without their husband's consent.

Article 444 stipulates that “the husband is the head of the household. He must protect his wife; the wife must obey her husband”. And Article 445 provides that “Under the direction of the husband, the spouses work together, in the interest of the marriage, to guarantee the moral and material responsibility of their marriage”. Furthermore, if the husband is deemed absent by a court or if he dies, the wife must share the running of the household with one of her husband's relatives.

Article 448 provides that “the wife must obtain her husband's authorisation to effect legal acts for which she must present herself in person”. However when the person accused is the

husband himself, the husband consent is no longer required, in conformity with article 451.1 of the Family Code.

Articles 490.2 and 497.2, 515, 524 and 531 state that regardless of the type of legal agreement under which the marriage was concluded, the management of all property is entrusted to the husband. DRC law is weak in terms of supporting the financial independence for women. Married women do not have the legal right to sign certain acts and contracts without the prior consent of their husbands. Women have very limited access to land. By law, the right to lands or concessions can be given to men and women without distinction but traditional attitudes and customs that discriminate against women remain strong in this area. Legally married women in the DRC do not have access to property or lands, since everything must be administered by their husbands. Moreover, they must seek a court order to prevent mismanagement of property, should such a situation arise. Similarly, as Congolese wives cannot sign any legal acts without the authorisation of their husbands, they have virtually no access to bank loans and bank accounts.

In relation to inheritance rights, article 758 gives preferential treatment to the children of the deceased but does not discriminate between women and men within the second category of heirs. However, following the death of a husband, in many traditions; wives must share the running of the household with a male relative of the deceased – in part to compensate for women's lack of ability to sign legal acts. But this opens women up to the possibility that family members may claim the marital property.

Articles 361, 367, 382, 388, 426, 543 and 579, which concerns the issue of dowry, insist on the symbolic and compulsory nature of this practice. Without the dowry, a marriage would not be possible. The dowry could be used as a pretext by the husband to mistreat his wife or for families to sell off their daughters.

5.1 Recommendations

-That the state repeal all discriminatory provisions of the family code, particularly ensuring that women are given equal recognition as competent agents of their own legal affairs regardless of their marital status.

-That the state conducts an extensive awareness raising campaign in relation to the problems associated with early marriage.

6. Violence Against Women

Violence against women in DRC occurs in different forms and in a context widely influenced by socio-cultural factors, discriminatory laws, ethnic conflicts, wars, bad governance to name a few. The reality is that offenders are rarely arrested by the police even when there is a report. As reported by the police as part of this organisations research, if families report acts of violence or sexual violence, the Police see their role as helping the parties reach an agreement for compensation rather than pursuing the matter through the legal system. Even when perpetrators are arrested, the offenders are rarely processed.

6.1 Domestic Violence

Physical violence in the family is often committed by a husband against his wife. The fact that some husbands believe they have correctional power over their wives allows them to be violent with their wives. In such cases, the perpetrators often remain unpunished. Indeed, unfortunately, women do not report them fearing to be repudiated.

The Penal Code does not punish violence more severely when it occurs between spouses. There is no aggravating circumstance in the case of murder or of intentional bodily harm toward her/his spouse. Moreover, the new law on sexual violence makes no specific mention of sexual violence within marriage.

By authorising girls to get married at the age of 15 years old, the legislation in article 352 of the Family Code facilitates situations of forced or premature marriage. Moreover, the parental authority over children as well as poverty encourage parents to arrange the marriage of their daughters according to their own wishes, and to ignore the principle of free consent of the future spouses. The practice of levirate and sororate marriage also persists and violates the principle of the free consent of women.

The new Penal Code reform concerning sexual violence includes in its article 174.6.f. on forced marriage, that “a person exercising the parental authority on a person and who would give her or obligate her to contract a marriage, will be punished from one to twelve years of penal servitude and with an amend of minimum 100.000 Congolese Francs (= USD 111.11..). This penalty is doubled when the victim of forced marriage is aged of less than 18 years old.”

6.2 Sexual Violence

Concerning women victims of rape, judges often tend to display a discriminatory attitude regarding their complaints. The question of evidence is aggravated by the fact that for cultural reasons, women abstain from complaining, or they submit a complaint sometime after the facts, rendering it difficult for forensic doctors to collect evidence of the offence. The right of women to submit a complaint for acts of ill-treatment or any other offence is subject to the authorisation of their husband (in cases involving married women). Article 448

of the Family Code expressly provides that “a woman must obtain the authorisation of her husband to effect all legal acts for which she must present herself in person”. However, when the author of violence is her husband, the woman is not obliged to seek his permission in order to take action against her husband, in accordance with article 451 of the Family Code.

Article 15 of the DRC constitution states that authorities shall take care to eliminate any form of sexual violence used as a weapon of destabilization or of dislocation of the family.

In 2006, a new sexual violence law was passed, which broadened the definition of rape to include male victims. Laws 06/018 and 06/019 set out the modalities for the implementation of the above mentioned rights, thus amending and complementing the Code and Congolese Criminal Procedure through the integration of the rules of international humanitarian law on sexual violence offences. The amendments made to the new sexual violence law, inter alia, include male rape victims, clarify the offence of sexual violence and define new forms of violence liable to criminal sanctions. The law criminalises rape and also addresses sexual slavery, sexual harassment, forced pregnancy, and other sexual crimes not previously covered by law.

Rape is punishable by a prison sentence of five to twenty years, and indecent assault is punishable by prison terms between six months and twenty years, depending on the age of the victim and whether violence, ruse or threat was used. However there is a lack of political will in the judiciary regarding the 2006 laws on sexual violence, and interference by the executive and /or judiciary powers in judiciary matters.

6.3 Recommendations:

-A Broad strategy to combat Gender Based Violence to be drawn up and implemented taking the following recommendations into consideration:

-That the state implement a community education programme as a strategy for addressing gender inequality and gender based violence

This organisation’s research found an acceptance of violence against women among the community. Women, men and a large number of adolescent girls agreed with gender inequitable norms. These findings would support that any programme which seeks to redress gender based violence must address the attitudes of both women and men.

-Use reproductive health education as an entry point for identifying and supporting women in abusive relationships, and for delivering community based informal referral and counselling services.

Local reproductive health services (including antenatal care, family planning services, post-abortion care and services dealing with sexually transmitted infections) give these services a potential advantage for identifying women in abusive relationships and offering them referrals or support services. However, such services are not available in many areas or are under staffed and resourced. Recognizing that identification is not enough, an informal

community based referral systems needs to be put in place to ensure that appropriate care, follow-up and support services are available.

-Strengthen informal support systems for women living with violence.

The research study found that few women sought help and support from formal services or institutions (e.g. social workers, counsellors, shelters). This reflects many factors, one of the most important being simply the lack of such services in DRC and in artisanal mining communities in particular. In addition, women lacked confidence that existing services and authorities would make any difference to their situation. This highlights the need for better and more accessible support services where women can safely disclose their experiences of violence.

While formal services offered by health or justice-related institutions should be expanded or improved, other models of service provision should also be explored, building on the existing sources of informal support to which women often turn. They could include sensitizing religious leaders and other respected local persons to the problem and trusted groupings such as women's groups, and encouraging them to become involved in providing support, for abused women. Training and orientation of such organizations on the issues involved, and the complexities of responding to violence would be required.

Since abused women are most likely to seek help from informal networks of friends, relatives and neighbours, strengthening these networks is important so that when women do reach out to friends and family, they are better able to respond in a sympathetic and supportive manner. Media activities highlighting the extent of violence and promoting the role of friends, neighbours, and relatives, as well as interventions to reduce the social stigma around violence may all help to reinforce constructive responses.

-Develop, implement and evaluate programmes aimed at primary prevention of intimate-partner violence and sexual violence.

Preventing partner violence requires changing the gender-related attitudes, beliefs, and values of both women and men, at a societal as well as at an individual level.

Prevention efforts should include public awareness activities which include the mass media, to challenge women's subordination, and to counter the attitudes, beliefs and values – both those of men and women – that condone partner violence as normal. An important objective is to eliminate the barriers that prevent women talking about the problem and providing services in a context where government support services do not exist. This involves reducing the stigma, shame and denial around partner violence against women, and strengthening informal support networks, and encouraging family and community members to reach out to and support women living with violence. State provision of effective services for women victims of violence, are also urgently required.

-Sensitize legal and justice systems to the particular needs of women victims of violence at the local level.

All those in the criminal justice systems (police, investigators, medico-legal staff, lawyers, judges, etc.) should be trained and sensitized to consider and address the particular needs and priorities of abused women, particularly those faced with violence by a partner or ex-partner.