



Freedom from Torture

## EXECUTIVE SUMMARY



# A TOOL TO SILENCE:

TORTURE TO CRUSH DISSENT IN

THE DEMOCRATIC REPUBLIC OF CONGO

November 2018

## SURVIVOR STORY



"A"\* did well at school, and began studying at university in Kinshasa. The conditions in the university were very poor. There were not enough desks, no books and few teaching staff. She became interested in politics when talking with her fellow students. One day in 2013, they organised a meeting to discuss their opposition to the President's plans for a third term in office. On their way home, they were surrounded by men in plainclothes. She suspected that someone had told the authorities of their meeting. They were accused of insulting the President. "A" and the others were violently arrested.

They were taken to a prison, where "A" was stripped of all her possessions, including her phone and money. She was separated from her friends, and taken to a small, dark cell in the basement with no furniture. Initially, she was given no food, and following that, only one meal of boiled corn each day. She had no contact with the outside world as no visitors were permitted. Every day she was tortured. Guards mocked "A" for daring to speak against the President. They beat and raped her, and told her that she would die there. Whenever she heard the lock in the door, she would dread what was going to happen.

After a month, guards came and took her out of the cell. She thought that she might be killed, but instead they released her along with her university friends, without explanation and without ever being charged. "A" felt angrier after what had happened, and continued to be involved in politics. Soon friends warned her that the authorities were looking for her, so she left the DRC and sought protection in the UK. With the support of Freedom from Torture, "A" is rebuilding her life in the UK.

\* "A" is a pseudonym used in order to protect the individual's anonymity.

## KEY POINTS

Women and men who exercise their democratic and constitutional right to engage in political and human rights activism are routinely detained and tortured by state authorities in the Democratic Republic of Congo, in a context of political repression that is unrelated to armed conflict.

Torture is used predominantly as a form of punishment for political and human rights activism, and as a deterrent against future involvement.

Activists without high or public profiles are a target for repression.

People are arbitrarily detained, and held in conditions that breach all accepted norms.

Detainees are held without charge or any other of their due process rights in official and unofficial detention sites that operate under systems of complete lawlessness.

Torture, including rape, is endemic in the detention system, irrespective of the detaining authority or type of detention facility. Most of those who are detained, men and women alike, are raped, on multiple occasions and by multiple perpetrators. The rapes take place in a context of absolute impunity.

Different branches of state security – police, military and intelligence agencies – commit torture and other human rights violations from the point of arrest, and at both official and unofficial detention sites.

There is no accountability or justice for survivors.

This report documents a situation of lawless and permitted horror in the Democratic Republic of Congo. Far removed from the context of conflict, political activists and those perceived to have challenged the authorities are routinely detained and tortured with impunity.

None of those targeted for repression had a high profile. They are women and men who were exercising their democratic rights and were tortured for engaging in lawful activities.

Torture appears to have been used predominantly as a form of punishment for their political and human rights activism, but also as a deterrent against future involvement.

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## METHODOLOGY

Our research analyses 74 medico-legal reports prepared by and on behalf of Freedom from Torture between 2013 and 2018 for Congolese nationals who had fled to the United Kingdom.<sup>1</sup> They had been detained and tortured by state authorities in relation to their own or a family member's actual or perceived political or human rights activity.

The report examines the profile of those tortured, the nature and circumstances of their arrest, the conditions of detention and torture they suffered, and the physical and psychological impact of their treatment.

This report was written in collaboration with the Survivors Speak OUT network and Congolese survivors through a series of workshops to provide survivor commentary and recommendations.

## WHO WAS DETAINED AND TORTURED, AND WHY

- 49 women, 25 men;
- More than a third were 25 or under; five were legally minors when detained;
- Most were living in the Congolese capital, Kinshasa, far from the conflict-affected regions;
- More than half were detained more than once, and most were tortured every time.

All were detained and tortured because of their own or others' political or human rights activity. This includes being a member or rank-and-file supporter of opposition parties, campaigning organisations and pressure groups, and other types of civil society organisation. It encompasses a wide range of forms of public expression on issues such as democracy and human rights, including women's rights.

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<sup>1</sup> Each medico-legal report is prepared according to standards set out in the UN Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

Many people were involved in demonstrations and other protests connected with the democratic process and presidential elections, including those in 2006 and 2011 and the delayed 2016 elections. Some were involved in activism as members or supporters of political opposition parties, especially the Union for Democracy and Social Progress (UDPS, *Union pour la Démocratie et le Progrès Social*) and other political pressure groups. For some people, a single activity resulted in detention and torture, such as wearing a T-shirt bearing the name of a political opposition party or attending a single meeting or demonstration.

Others were active on human rights issues, including civil and political rights, rights of the child and access to justice. Some supported particular civil society groups and non-government organisations, such as the pro-democracy and civil society movement Filimbi and the human rights organisation Voice of the Voiceless (*Voix des sans Voix*). Some worked directly with women and girls and campaigned on women's rights issues, particularly related to sexual violence and rape.

Others were detained either because of the actual or perceived activity of a family member, or because they were wrongly judged by the authorities to have been involved in political or human rights activity.

## DETENTION CONTEXT

Different branches of state security – including police, military and intelligence agencies – were involved in the detentions from the point of arrest, at detention sites (official and unofficial) and in the perpetration of torture and other human rights violations. Our evidence demonstrates appalling detention conditions in both official and unofficial sites that breach the DRC's obligations under instruments such as the UN Standard Minimum Rules for the Treatment of Prisoners and the African Commission's Fair Trial Principles. It also reveals a complete absence of due process that allows torture to be carried out unchecked and without sanction.

- More than half were detained in violent circumstances, particularly those detained from their home, or at a protest.
- All were held in arbitrary detention, in conditions that denied basic due process rights.
- Lack of sanitation, overcrowding and inadequate access to food and water were common in all detention facilities, breaching all international norms and standards.

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The majority of detentions took place at sites in and around Kinshasa, although eleven people were detained in sites in seven other provinces of the DRC. More than a quarter were detained in prisons, and a similar proportion in unofficial or ad hoc detention sites, usually buildings in remote, isolated areas or hidden in scrubland or forest. The others were detained in police, military and intelligence facilities. A number of detention sites are named. These include Makala Prison, Police Camp Lufungula and Camp Kokolo, all in Kinshasa.

Most were in detention for less than six months during their most recent or only detention. The vast majority escaped, often with the assistance of a guard. Only four people said the detaining authorities released them, in all cases without warning, explanation or formal process. Most of those who escaped said that a guard had offered help because he recognised or found an affinity with them, including common ethnicity or place of origin, or a family connection.

More than three quarters fled the DRC within three months of getting out of detention. Some were told by the guards who helped them to escape that they should leave immediately or risk being killed.

## EVIDENCE OF TORTURE

All 74 survivors experienced physical and/or sexual torture at the hands of Congolese state authorities during their most recent detention episode. The methods reported include:

- beatings with various instruments;
- rape, including gang rape;
- burning with heated metal or cigarettes;
- positional torture, including suspension;
- sharp force trauma such as cutting, stabbing or biting;
- being forced to stare at the sun;
- partial asphyxiation; and
- electric shocks.

Psychological torture was widespread. The most commonly cited methods were:

- verbal abuse and forced performance of humiliating acts;
- threats of death and of further torture; and
- witnessing torture and death of other detainees.

More than half also described detention conditions that constitute a form of environmental torture, including the deprivation of normal sensory stimulation through prolonged solitary confinement in darkness.

## SEXUAL TORTURE

The case set shows an extremely high incidence of sexual torture. Women and men describe what appears to be an endemic and routine practice of rape in a wide range of detention facilities. Rape is carried out openly and with impunity by multiple perpetrators.

Sixty-five women and men disclosed sexual torture, all but two of whom were raped – vaginally, anally and/or orally – at least once. This represents 85% of all cases - 94% of the women and 68% of the men. More than half of those who were raped described episodes of gang-rape. Given the difficulties many survivors have in disclosing rape, the real figure may be higher. The violent, sustained and repeated nature of sexual assaults resulted in profound physical and psychological injury.

## IMPACTS OF TORTURE

All survivors were found to have enduring psychological symptoms linked to their torture, with many specifically linked to their sexual torture.

The aggregation of findings cannot convey the uniqueness of each person's history, experience of detention, combination of torture methods used and the devastating short- and long-term physical and psychological impact. However, they do demonstrate extensive and systemic use of torture in the DRC.

## FLAGRANT DISREGARD FOR THE LAW

The Government of the Democratic Republic of Congo has signed up to international and regional treaties that protect a wide range of human rights. The national constitution upholds the absolute ban on torture. Despite this, the widespread practice of torture and the flagrant violation of civil and political rights continue without any recourse to justice for victims or accountability for senior security personnel or government officials who allow these violations to take place. In short: the government is not only failing to prevent torture, it is tacitly or actively condoning torture. Moreover, it is failing to provide accountability for survivors.

The patterns and practices highlighted are deeply concerning, particularly as the country prepares for controversial and long-delayed elections scheduled for December 2018. People engaged in legitimate political expression are at risk of arbitrary arrest, torture and death unless the DRC Government significantly changes its behaviour.

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# RECOMMENDATIONS

The evidence of this report establishes deeply troubling trends that require urgent attention from the Government of the Democratic Republic of Congo and the international community alike. Our recommendations include:

## TO THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF THE CONGO

Publicly recognise the magnitude of the problem of torture and other ill-treatment in the DRC, in particular the use of sexual torture, and send a clear message that these acts will no longer be tolerated.

## TO THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF THE CONGO

With regard to its obligations under international human rights standards and domestic legislation, the government must:

1. Immediately end the practice of torture and ill-treatment and undertake prompt, thorough and impartial investigations into all allegations of such treatment, as well as ensuring that alleged perpetrators of and accomplices to torture are brought to justice.
2. Commit to eradicating the prevalence of sexual torture in all contexts by ensuring that perpetrators are brought to justice, irrespective of rank or position, and that safeguards exist in detention settings.
3. Ensure that its legal system enables survivors of torture to obtain redress, including compensation and rehabilitation.
4. Establish and adequately resource a national body for the prevention of torture and ill-treatment to undertake regular visits to detention facilities and publish recommendations for improving the protection of detainees, in line with obligations under the Optional Protocol to the Convention against Torture.
5. Ensure that detention conditions comply with the revised 2015 UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), including adequate accommodation arrangements, and access to adequate sanitary facilities, food, water and medical services. The government should also allow monitoring access by independent bodies, such as the International Committee for the Red Cross and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), to all detention centres, including those run by various segments of the military and intelligence services.

6. Close all unofficial detention sites immediately, in line with President Kabila's 2006 decision. The use of such sites should be absolutely prohibited and persons suspected of operating such facilities should be investigated and prosecuted.
7. Receive a monitoring visit by the UN Subcommittee on Prevention of Torture as soon as possible and implement any recommendations made for improving detention conditions and torture prevention initiatives in the DRC.
8. Allow citizens freedom of expression and peaceful assembly by refraining from violence and arbitrary arrest against protesters, in line with its obligations under the International Covenant on Civil and Political Rights and the 2005 Constitution.
9. Ensure no child is tortured or ill-treated in line with its obligations under the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

## TO THE INTERNATIONAL COMMUNITY

Member states of the UN and, in particular, of the African Union, the European Union, the United Kingdom, the United States and other donor countries, should:

1. Send a strong signal to the Government of the DRC that any form of torture or ill-treatment in the lead-up to, during and after the December 2018 elections will not be tolerated and will be condemned in the strongest possible terms.
2. Ensure that concerns about human rights abuses, including torture, are raised in all bilateral and multilateral discussions on human rights with the Government of the DRC and encourage it to fulfil its obligations under international human rights standards and the 2005 Constitution.
3. Forced returns of Congolese nationals to the DRC should cease immediately in line with the international obligation of non-refoulement (non-return).
4. Ensure continued scrutiny of human rights violations in the DRC, including beyond the conflict areas, through UN and regional mechanisms and fact-finding missions.
5. 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. This should include:
  - (a) expeditiously complying with the country's obligations under the Optional Protocol to the Convention against Torture to establish a system of domestic and international inspections of detention facilities; and its reporting obligations under the UN Convention against Torture; and
  - (b) regular invitations for visits by the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the UN Working Group on Arbitrary Detention.

Election observation missions such as those deployed by the Southern African Development Community, the African Union, the European Union and individual states for the December 2018 elections should:

1. Publicly condemn any torture and ill-treatment that is reported during the upcoming election period.
2. Ensure that any allegation of torture and ill-treatment is promptly and thoroughly investigated and documented both by the Government of the DRC and election observer missions.
3. Request access to detention centres during observation missions, including those run by security services.

## TO THE GOVERNMENT OF THE UNITED KINGDOM

In addition to the above:

1. The Home Office should take note of the evidence contained in this report and update its Country Policy and Information Notes to reflect the practice of torture and ill-treatment by security agents against perceived political opponents, and the conditions of detention.
2. Home Office decision-making on asylum applications from torture survivors from the DRC, as well as other countries, should reflect the evidence presented in this report of the psychological and physical impact of torture.
3. The Foreign and Commonwealth Office should ensure that the Preventing Sexual Violence Initiative acknowledges the role of the conflict in normalising sexual violence and sexual forms of torture outside the “conflict zone” in the DRC and ensure that the initiative is not restricted to conflict areas.

# SURVIVOR RECOMMENDATIONS

The following recommendations summarise what survivors have told Freedom from Torture what they believe needs to be done to prevent torture.

## TO THE INTERNATIONAL COMMUNITY:

- Increase pressure on the Government of the DRC to stop torture.
- Increase pressure on the Government of the DRC to ensure the elections scheduled for December 2018 are fair, transparent and free from violence.
- Support international and domestic processes that seek accountability for human rights violations, including torture.
- Ensure that any financial support to the Government of the DRC for security sector reform is compliant with human rights standards and is properly audited.

## TO THE UNITED NATIONS:

- Be more transparent and accountable about the UN's role in the DRC and communicate this effectively to the citizens of the DRC.
- Ensure that UN mechanisms and fact-finding missions continue to focus on human rights violations across the whole of the DRC, including outside conflict areas.

## TO INTERNATIONAL MEDIA:

- Be more active in exposing the continuing violations and atrocities in the DRC.

## TO THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF CONGO:

- Ensure people in prisons and detention sites have access to lawyers and medical treatment.
- Improve conditions in prisons and detention centres.
- Bring to justice the perpetrators of rape and torture, and hold to account those in senior positions who are ultimately responsible.
- Ensure the police and military receive training about how to treat people professionally and are clear about their role.
- Introduce a system of rehabilitation and healing in the light of so many years of war and oppression; people need to be helped to stop the cycle of violence.
- Ensure electoral processes are transparent and reflect the demands of electoral candidates, political parties and civil society so that the election is seen as credible. Elections should also be free from violence.

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“We need torture to be stopped. We need human rights to be in place. We need good life. And peace. Thank you.”

Congolese torture survivor



Freedom from Torture

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## FREEDOM FROM TORTURE

Freedom from Torture is the only UK-based human rights organisation dedicated to the treatment and rehabilitation of torture survivors. We offer services across England and Scotland to around 1,000 torture survivors a year, including psychological and physical therapies, forensic documentation of torture, legal and welfare advice and creative projects.

We are one of the world's largest treatment centres, and since our establishment in 1985, more than 60,000 survivors of torture have been referred to us. Medico-legal reports prepared by our expert clinicians are used as evidence in torture survivors' claims for international protection, and form the basis of research reports such as this, aimed at holding torturing states to account.

Through our Torture Accountability Programme, we work to expose torture in support of efforts to strengthen prevention, secure justice and ensure international protection for survivors of torture. Survivor voices and expertise are at the heart of this work.

We are the only human rights organisation that systematically uses evidence from our in-house expert clinicians, and the torture survivors with whom we work, to work towards a world free from torture.

## SURVIVORS SPEAK OUT NETWORK

Survivors 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 and 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.

To find out more about Freedom from Torture and Survivors Speak OUT network please visit [www.freedomfromtorture.org](http://www.freedomfromtorture.org)

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