

## FACT SHEET

# Expanding Access to Safe Abortion in the DRC: Clarifications to the Law

In 2008, the Democratic Republic of the Congo (DRC) ratified the African Union's Maputo Protocol, which states that abortion should be legal in cases of sexual assault, rape, incest, fetal anomalies, and when the continued pregnancy endangers the mother's mental and physical health or her life. The Protocol was given legal force in 2018, when it was published in the DRC's Official Journal (also referred to as the legal gazette), a step that formalized the requirement for the government to allow women access to safe abortion services within the terms outlined in the Protocol. Under the DRC's monist legal system, international laws override local laws, but many Congolese legal experts and medical providers are not aware of the change or choose not to follow the law.<sup>1</sup>

Despite these steps, access to legal abortion remains severely limited due in part to:

- The legal establishment and law enforcement's **inconsistent understanding and application of the law.**
- **Slow integration of Maputo Protocol** language into national laws.
- **Crippling stigma** against women who seek or have had abortions.

### Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)

Article 14: Health and Reproductive Rights (2)(c). Protect the reproductive rights of women by authorising 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.

– African Commission on Human and Peoples' Rights, "Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa," (2003).

## Why Is the Maputo Protocol Important for the DRC?

The DRC has extremely high rates of unplanned pregnancy, due partly to low use of modern family planning methods and partly to high rates of sexual assault, which often lead to abortion.

**61%**

of all pregnancies in Kinshasa in 2016 were **unintended.**<sup>2</sup>

**43%**

of those unintended pregnancies **ended in abortion.**<sup>3</sup>

## MAKING ABORTION ILLEGAL PUTS WOMEN'S LIVES AT RISK.

Abortion was illegal in nearly all circumstances in the DRC prior to the Maputo Protocol's ratification, and it remains difficult to obtain from a health care provider. But that does not prevent women from having abortions. Many women turn to dangerous, medically unsafe methods to terminate their pregnancies.

In Kinshasa in 2016 ...

**nearly 147,000**

**induced abortions** occurred.<sup>4</sup>

**nearly 38,000**

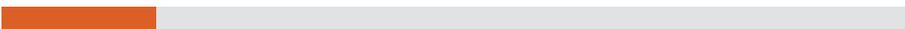
women were **treated for complications from induced abortions.**<sup>5</sup>

## SEXUAL ASSAULT AND RAPE ARE MAJOR REASONS FOR UNSAFE ABORTION.

Approximately **27 percent of women** in DRC report experiencing sexual assault in their lifetime.<sup>6</sup>

### In the eastern provinces of the DRC...

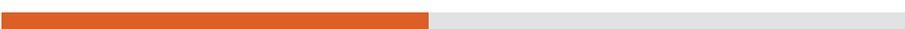
**17%** of women who were raped reported becoming pregnant from an attack.<sup>7</sup>



**65%** of women who became pregnant because of sexual violence and who chose to terminate used traditional herbs that are ineffective or potentially unsafe, according to one survey.<sup>8</sup>



**47%** of women in the same survey who continued their pregnancy did so out of fear of death from the side effects of unsafe abortion methods.<sup>9</sup>



## What Are the Next Steps to Implement the Law?

Judges and legal representatives have an important role to play in upholding and enforcing access to safe abortion under the law.

Legal professionals and experts at all levels can follow the law—as effected by the Maputo Protocol—by taking the following steps:

- » **Rewrite judicial policies and penal codes** at provincial and district levels to include **Maputo Protocol terms** around abortion.
- » **Adopt language in professional ethics codes** to signal support for all rights and services described in the Maputo Protocol.
- » **Revise restrictive policies at the parliamentary level and remove abortion-related penalties** to ensure women have access to the legal rights guaranteed under the DRC's updated law.
- » **Make legal rulings based on the Maputo Protocol** rather than out-of-date laws that punish women.

By complying with the Maputo Protocol, legal officials can help protect women's lives and basic human rights—including sexual and reproductive rights—and reduce stigmas that affect women's choices and threaten their health.

## References

<sup>1</sup> “Reproductive Health Law in the Democratic Republic of the Congo: Review of the Arguments,” Permanent Multisectoral Technical Committee, Democratic Republic of the Congo (October 2014).

<sup>2</sup> Sophia Chae et al., “The Incidence of Induced Abortion in Kinshasa, Democratic Republic of Congo, 2016,” *PLoS ONE* 12 no. 10 (2017).

<sup>3</sup> Chae, 2017.

<sup>4</sup> Chae, 2017.

<sup>5</sup> Chae, 2017.

<sup>6</sup> Ministère du Plan et Suivi de la Mise en œuvre de la Révolution de la Modernité (MPSMRM), Ministère de la Santé Publique (MSP), and ICF International, Democratic Republic of Congo Demographic and Health Survey 2013–14 (Rockville, MD: MPSMRM, MSP and ICF International, 2014).

<sup>7</sup> Kirsten Johnson et al., “Association of Sexual Violence and Human Rights Violations With Physical and Mental Health in Territories of the Eastern Democratic Republic of the Congo,” *Journal of the American Medical Association* 304, no. 5 (2010): 553–62.

<sup>8</sup> Gillian Burkhardt et al., “Sexual Violence-Related Pregnancies in Eastern Democratic Republic of Congo: A Qualitative Analysis of Access to Pregnancy Termination Services,” *Conflict and Health* 10, no. 30 (2016).

<sup>9</sup> Burkhardt et al., 2016.

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