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Responses to Information Requests

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28 June 2017

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Democratic Republic of the Congo: Prison conditions in Kinshasa, including the treatment of prisoners (2015–June 2017)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

In its *Country Reports on Human Rights Practices for 2016*, the US Department of State reports that conditions in "most prisons" in the Democratic Republic of the Congo (DRC) are "harsh and life threatening" (US 3 Mar. 2017, 4). In its *Freedom in the World 2017* report, Freedom House also reports that prison conditions in the DRC are "life threatening" (Freedom House 2017). According to *Country Reports 2016*, "most" prisons in the DRC experience food shortages and "gross overcrowding," while sanitary conditions and medical care are "inadequate" (US 3 Mar. 2017, 4). In correspondence with the Research Directorate, a representative of the Bill Clinton Foundation for Peace (BCFP)[1], a human rights NGO located in Kinshasa (Radio Okapi 21 Oct. 2015), described detention

conditions in Kinshasa as [translation] "subhuman" (BCFP 3 June 2017). Sources indicate that there are two official prisons in Kinshasa: the central Makala prison and the Ndolo military prison (BCFP 3 June 2017; VSV 15 June 2017).

Sources report that the Makala prison, which has a capacity of 1,500 inmates, currently houses approximately 8,000 inmates (US 3 Mar. 2017, 4-5; *Le Monde* 18 May 18 2017) or 8,220 inmates (BCFP, 7 June 2017, 1). In contrast, an article published in *Le Monde* in 2017 states that an [translation] "informal" official affirmed that the Makala prison housed 3,366 inmates (*Le Monde* 18 May 2017). In a January 2016 article, Radio Okapi, the UN radio in the DRC (Radio Okapi 22 Sept, 2014), reported that [translation] "inmate overpopulation at the Makala prison has crossed a worrisome threshold, according to some inmates and prison authorities who spoke out anonymously" (Radio Okapi 29 Jan. 2016).

Sources report that the Ndolo prison has the capacity to house 500 inmates (BCFP 3 June 2015, 11) or approximately 500 inmates (VSV 15 June 2017). In correspondence with the Research Directorate, a representative of La voix des sans voix pour les droits de l'homme (VSV), a human rights NGO established in Kinshasa-Ngaliema (VSV n.d.), indicates that the inmate population at the Ndolo prison is 5,000 (VSV 15 June 2017). A 2015 BCFP report states that the Ndolo prison houses 1,359 inmates (BCFP, 3 June 2015, 11). Sources indicate that the Ndolo prison was renovated by the Netherlands (BCFP 3 June 2015) or with funding from the Netherlands (Waza 5 Apr. 2011). An article published in 2011 on Waza, a platform intended to facilitate discussions on freedom of expression, governance and human rights in subSaharan Africa (Waza n.d.), reports that the Ndolo prison has been reopened [translation] "14 years after being shut down" (Waza 5 Apr. 2011). The same source explains that the Ndolo prison is made up of ten buildings for men, one building for women, hygienic toilets, a kitchen and an infirmary, and that it is [translation] "the only Congolese prison that meets international standards" (Waza 5 Apr. 2011). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The VSV representative explained that poor sanitation and promiscuity may [translation] "foster the transmission of contagious diseases" at the Makala prison (VSV June 15, 2017). Similarly, the BCFP representative wrote that, at the Makala prison [translation] "poor sanitation and promiscuity are the cause of many infectious diseases" (BCFP 7 June 2017). The article published by Radio Okapi in January

2016 states that the 11 buildings at the Makala prison are in a [translation] "filthy state," that some corridors smell of urine, that septic tanks "await the help of volunteers from charitable organizations in order to be emptied," and that inmates "rarely" shower owing to a lack of water (Radio Okapi 29 Jan. 2016). A BCFP report dated June 2017 indicates that inmates at the Makala prison make [translation] "monetary" contributions in order to ensure the cleanliness of their building (BCFP 7 June 2017, 1). Furthermore, according to the same report, each week the Red Cross provides soap for the daily care of prisoners (BCFP 7 June 2017, 1). The VSV representative wrote that the prisons in Kinshasa have [translation] "infirmaries" but that these are not "restocked with medication" (VSV 15 June 2017). Similarly, the BCFP representative stated that the health centre at the Makala prison is [translation] "without medication" (BCFP 3 June 2017). In a press release of 9 February 2017, the BCFP explained that inmates [translation] "die every day" in the Makala and Ndolo prisons, in part because of lack of care (BCFP 9 Feb. 2017). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The VSV representative stated that, to receive care in [translation] "specialized centres," sick inmates in Kinshasa "face a long and difficult procedure that may or may not be successful" (VSV 15 June 2017). Similarly, a report dated September 2012, prepared by the BCFP, states that, in the Makala prison, it is [translation] "difficult" for sick inmates to obtain "authorization to leave" in order to receive care outside the prison (BCFP 11 Sept. 2012, 4). In its June 2017 report, the BCFP states that the Congolese state cannot provide material and financial assistance for sick inmates, and that these inmates must themselves cover the costs of medical care and hospitalization, as well as security services (BCFP 7 June 2017, 1). Similarly, the VSV representative explained that it is up to sick inmates or their family members to [translation] "take [financial] responsibility" for the police officers charged with guarding them (VSV 15 June 2017).

The BCFP press release dated 9 February 2017 states that the food stores at the Makala prison are empty (BCFP 9 Feb. 2017). In an article published in January 2016, Radio Okapi quotes the inmates of the Makala prison, who state that their [translation] "meals consist of beans mixed with corn, called ... 'vungule,' a distortion of the French expression 'vous mourez' meaning 'you die'" (Radio Okapi 29 Jan. 2016). The VSV representative reported that the food provided to the

inmates at prisons in Kinshasa is [translation] "paltry" and consists of a single meal of rice and beans per day (VSV, 15 June 2017). Sources report that, in the DRC, inmates are fed by their family members, by the church (US 3 Mar. 2017, 4; BCFP 3 June 2017) and by NGOs (US 3 Mar. 2017, 4). *Country Reports 2016* states that the International Committee of the Red Cross assisted more than 7,900 detainees in the DRC who were "severely malnourished" (US 3 Mar. 2017, 4).

Sources report that security at the Makala prison is ensured by the inmates themselves (*Jeune Afrique* 7 Oct. 2015; BCFP 3 June 2017). According to an article published in 2017 in *Le Monde*, the Makala prison is run by the inmates based on a [translation] "hierarchy that authorizes all kinds of trafficking and violence" (*Le Monde* 18 May 2017). An article published in 2015 in *Jeune Afrique* states that security at the Makala prison is ensured by [translation] "an informal structure" that keeps a register of the comings and goings of inmates, as well as grievances and incidents in which they are involved (*Jeune Afrique* 7 Oct. 2015). In contrast, the VSV representative reports that security at prisons in Kinshasa is ensured by the Republican Guard, the Congolese National Police and prison staff (VSV 15 June 2017). According to a 2016 article in *Speak* magazine, published by Journalists for Human Rights, a Canadian organization working to [Speak English version] "strengthen independent media" in Canada and subSaharan Africa and which is interested in human rights (*Speak*, n.d.), [translation] "soldiers and police ... are responsible for ensuring security of the prison and its contents" (*Speak* 5 Feb. 2016). However, the same article states that security at the Makala prison is 90% ensured by the inmates (*Speak* 5 Feb. 2016).

The article published in 2017 in *Le Monde* cites a former inmate as stating that [translation] "the Makala prison works like the Congo: you need money and contacts to get by" (*Le Monde* 18 May 2017). Similarly, without giving any more details, the BCFP representative explained that getting a [translation] "good place" to sleep at the Makala prison means having to pay, and that senior Congolese officials have paid "more than US\$2,500" for a room (BCFP 3 June 2017). An article published in 2016 in *Speak* magazine states that prison cells in the Makala prison [translation] "are assigned based on different amounts," ranging from 1,000 Congolese francs (approximately C\$0.89) to US\$100; cells that cost between US\$50 and US\$100 are single-occupancy and "generally occupied by political prisoners and

high ranking inmates" (Speak 5 Feb. 2016). The same source explains that the rest of the cells are [translation] "for common use" and house 30 or more people (Speak 5 Feb. 2016).

Sources report that inmates escaped from the Makala prison on 17 May 2017 following an armed attack (BCFP 7 June 2017, 2; *Jeune Afrique* 2 June 2017). Sources explain that the attack was intended to liberate Ne Muanda Nsemi, the [translation] "guru" of Bundu Dia Mayala (BCFP 7 June 2017, 2) or Bundu dia Kongo, a politicalreligious sect (*Jeune Afrique* 2 June 2017). In an article published in June 2017, *Jeune Afrique* reports that a commando unit [translation] "made up of approximately 80 followers" of this sect launched the attack (*Jeune Afrique* 2 June 2017). Sources report that this incident resulted in the escape of 4,191 (BCFP 7 June 2017, 2) or nearly 5,000 people (*Jeune Afrique* 2 June 2017). In contrast, sources state that government representatives mentioned fifty escaped inmates (BCFP 7 June 2017, 2; *Jeune Afrique* 2 June 2017). The BCFP June 2017 report states that the [translation] "massive escape" of 17 May 2017 resulted in [translation] "several dead" and others injured (BCFP 7 June 2017, 4). Similarly, in the 2017 article by *Le Monde* reports that, according to the government, a police officer and five attackers were killed during this incident (*Le Monde* 18 May 2017). The *Jeune Afrique* article from June 2017 indicates that the Justice minister later acknowledged that this incident was [translation] "a humiliation for the DRC" and that, according to his "entourage," "a commission was set up to shed light on this matter" (*Jeune Afrique* 2 June 2017). Sources state that the prison director, Thaddée Kabisa, was dismissed (*Jeune Afrique* 2 June 2017; BCFP 7 June 2017, 4). A 2015 report from the United Nations Human Rights Council states that [UN English version] "[t]he dilapidated prison infrastructure [in the DRC] combined with negligence, and sometimes corruption of prison guards" may explain the escapes (UN 27 July 2015, para. 55).

Sources report that there are cases of detention without conviction in the DRC (BCFP 3 June 2017; Radio Okapi 29 Jan. 2016). According to an article published in 2015 by Avocats sans frontières (ASF), lawyer Joséphine Mfulu, [translation] "a member of the 'pretrial detention' pool of the Kinshasa-Matete bar, supported by ASF," explained that 70% of inmates at the Makala prison are in pretrial detention (ASF 12 Jan. 2015, in italics in the original). The same source cites Gaëlle Vandeputte, Chief of Party for RCN Justice et Démocratie (RCN J&D) [2], as stating

that detention in the DRC [translation] "violates the fundamental freedoms set out in article ... 9 (on arbitrary detention) of the Universal Declaration of Human Rights" (ASF 12 Jan. 2015). The BCFP report published in 2015 states that, out of a total of 1,359 inmates at the Ndolo prison, some 766 are waiting for a verdict or have not been convicted (BCFP 3 June 2015, 11). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The article published in 2015 by ASF reports the statements of Sylvie Ntumba, lawyer and member of the Kinshasa-Gombe bar, according to whom, [translation] "the current law protecting children provides for a series of measures for placing and looking after children in private homes. Unfortunately, many minors are still placed in a reserved building at the Makala prison" (ASF 12 Jan. 2015). Similarly, the 2015 report of the BCFP states that the Makala prison houses 314 minors, including 304 boys and 10 girls, who [translation] "are languishing in prison without trial" (BCFP 3 June 2015, 2). The same source states that eight mothers with children under 10 months of age are incarcerated at the Makala prison [translation] "without beds, without mattresses, without food and without sanitary equipment" (BCFP 3 June 2015, 2). Still according to the same source, most of these people are being detained for minor offences such as [translation] "assault and battery, public insults, breach of trust and debt" (BCFP 3 June 2015, 2-3). According to the 2015 BCFP report, minors do not receive any professional training intended to facilitate their integration into society after their release (BCFP 3 June 2015, 3). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to *Country Reports 2016*, the DRC government has made efforts to improve prison conditions, such as issuing "collective presidential pardons" to women, youths and young adults under 30, and to individuals over 65 who did not commit violent crimes (US 3 Mar. 2017, 5). The same source reports that the ministries of Justice and Health have issued a decree according to which "local health zones" would assume responsibility for the medical needs of detainees (US 3 Mar. 2017, 5). According to the same source, the ministries have made "some effort" to standardize procedures to enable the implementation of the decree, but the

results have been "limited" (US 3 Mar. 2017, 5). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The Clinton Foundation, located in New York, indicates that it is not affiliated with the BCFP, located in the DRC (The Clinton Foundation June 28, 2016). According to a 2017 article published in *Le Monde*, the BCFP is [translation] "active in the Makala prison" (*Le Monde* May 18, 2017).

[2] The mission of RCN J&D is to [translation] "promote and support community and transitional justice as well as democratic practices in transitioning or developing societies and states" (RCN J&D n.d.).

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