

UNSAFE RETURN

Refoulement of Congolese Asylum Seekers

**A report compiled by
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24th November 2011

**All truth passes through three stages. First it is ridiculed. Secondly, it is violently opposed. Third it is accepted as self evident.
Arthur Schopenhauer**

***'So they say to me, there, you went to a foreign country. You went and said that we don't respect human rights here. There, you accused us, that the government doesn't respect human rights, that we do, did things to you when you were detained, and that you were illtreated when you were in the country. And for having said that over there, here, on principle, we have to arrest you. Because there, you betrayed our country, you betrayed our government. So they arrested me, they took me. They took me after, after that, it was an interrogation of several hours.'* (sic)**

Refused Congolese asylum seeker describing his post return arrest in DRC
(Translation from French)

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ACRONYMS

AIT	Asylum and Immigration Tribunal
ANR	Agence Nationale de Renseignements – (National Intelligence Agency)
APARECO	Alliance des Patriotes pour la Refondation de Congo (Congolese Resistance Alliance of Patriots for the Refoundation of the Congo)
ASADHO	African Association Human Rights
COI	Country of Origin Information
COIS	Country of Origin Service
DEMIAP	L’État Majeur Général des Renseignements Militaires- Military Intelligence Agency
DGM	Direction Générale de Migration (Directorate General of Migration)
DRC	The Democratic Republic of the Congo
FCO	Foreign and Commonwealth Office
IAGCI	Independent Advisory Group on Country Information
IJ	Immigration Judge
(I)NGO	(International) Non-Governmental Organisation
IOM	International Organisation for Migration
MEP	Member of the European Parliament
MLC	Movement for the Liberation of Congo
MNC-L	Congolese National Movement - Lumumba
MONUC	United Nations Mission in Congo
MONUSCO	United Nations Stabilisation Mission in Congo
RCD-GOMA	Rally for Congolese Democracy – Goma
RAS	Refused asylum seeker
UDPS	Union for Democracy and Social Progress
UKBA	UK Border Agency
UNHCR	United Nations Office of the High Commissioner for Refugees
UNJHRO	United Nations Joint Human Rights Office
VARRP	Voluntary Assisted Return and Reintegration Programme
VSV	Voix des Sans Voix

Background to the Report

On 26th February 2007 a Congolese client of *Justice First* was forcibly removed from the UK on a charter flight to the Democratic Republic of the Congo (DRC), where he arrived on 27th February with his wife and children. After interrogation, the family was allowed to leave the airport. In the early hours of 28th February the client was arrested at the address his wife had given to the authorities at the airport. He was transferred to Kin Mazière prison where he was tortured. In the judgement in the BK Country Guidance case it is stated that British Embassy officials were unable to find evidence that he was held in Kin Mazière on the 27th February 2007. The client had not been arrested until the 28th. Joan Ryan, a Home Office Minister in 2007, assured Tees Valley MPs that the cases of all families removed on the 27th February charter flight had been investigated by senior caseworkers, who had acted in the best interests of the children. The children mentioned above have not seen their father for over four and a half years. Their father has spent these years in hiding in DRC and in exile. The children treasure two albums of photos of when they lived in Tees Valley, a time described as the happiest time in their life.

UK citizens kept in contact with Congolese friends who were refouled after 2007 and began to document their experience. Between 2009 and 2011 Southampton and Winchester Visitors' Group, Open Doors in Hull and two charities in West Yorkshire, Solace and Beacon, provided information about Congolese clients that had been refouled. A pattern of alleged inhuman and degrading treatment of returnees began to emerge. There is evidence that returnees were subjected to some form of ill treatment in the course of an interrogation process or during detention shortly after arrival at N'djili airport. In letters from UKBA refusing asylum, returnees had been assured that they were of no further interest to the Congolese authorities and that it was safe for them to return.

Introduction

This report has been prepared in response to a growing concern for the plight of Congolese nationals who have sought asylum in the UK, whose appeals have been refused and who have been forcibly removed to the Democratic Republic of the Congo between 2006 and 2011. During this period, first hand reports which were received from nine people who had been living in the Tees Valley area alleged inhuman and degrading treatment at the hands of the Congolese authorities. These were clients of *Justice First* (Reg. Charity No. 1116388) which was set up in 2006 to work with people in Tees Valley whose asylum appeals had been refused. *Justice First* helps clients explore ways to reengage with the legal process and offers practical support to those experiencing destitution.

As the United Kingdom has no monitoring mechanism in place to test the UKBA hypothesis of safety on return for rejected asylum seekers, the post return experience of *Justice First* clients began to be documented. Information in this report postdates the BK Country Guidance case, which proceeded through the High Court and Court of Appeal between 2007 and 2008 and which concluded there was no risk to failed asylum seekers removed to the Democratic Republic of the Congo.

During the compilation of this report efforts have been made to collate relevant information from other civil society groups that have monitored the post return experience of Congolese returnees. Of the 17 Congolese asylum seekers in this report who were removed to the Democratic Republic of the Congo between 2006 and 2011:-

- 10 were forcibly removed from the Tees Valley
- 1 Tees valley resident took voluntary return through the International Organisation for Migration.

- 1 has been forcibly removed from the North West
- 1 returned from Humberside through the assistance of IOM
- 1 returned from the Southampton area through the assistance of IOM
- 1 was forcibly removed from the Southampton area.
- Two were forcibly removed from West Yorkshire
- 9 children were removed with their parents from Tees Valley, 5/9 are now in a third country

Returnees had sought assistance for their post-return situation, and allowed their accounts, or parts of their accounts, to be used. Of the 17 returnees whose experience is included, 11 are men and 6 are women. The report also examines the removal and post-return experience of 9 children removed from Tees Valley with their parents. There is no post return information relating to one of these returnees, a *Justice First* client, who failed to contact family and friends following his arrival at N'djili airport. In the case of a second returnee who cannot be traced, all information has come from the International Organisation for Migration, which organised her voluntary return, and Refugee Action. In parts, therefore, figures will relate to only fifteen of the seventeen returnees. As returnees have requested anonymity, each refused asylum seeker (RAS) has been allocated a number in order to protect identity.

Civil society groups and experts involved in the BK Country Guidance case in 2007 had been criticised for not carrying out face to face interviews with those who had provided evidence of ill treatment on return. A visit was made to DRC in 2011 to assess more accurately the post return situation of Congolese who have provided evidence for this report.

'*Unsafe Return*' provides a credible account of the current situation of fifteen out of seventeen refused asylum seekers who were removed to DRC between 2006 and 2011 and evidence of serious risk and actual harm to them. It includes statements from independent witnesses which corroborate aspects of the accounts provided by these fifteen asylum seekers.

This report and the research for it have been funded by voluntary contributions.

UK responsibility towards those fleeing persecution

The UK has an obligation under nationally ratified international and human rights law not to return to persecution or risk of serious harm (*refoulement*) persons seeking asylum in the UK. Articles 1 and 2 of the 1951 Convention relating to the Status of Refugees define the obligations of the country of sanctuary to those fleeing persecution. The European Convention of Human Rights which was ratified in 1998 into the UK Human Rights Act provides protection in Articles 2 and 3.

Article 3: No one shall be subjected to torture or inhuman or degrading treatment or punishment.

In the United Kingdom there is no system in place to monitor the post return experience of rejected asylum seekers as UKBA believes '*that the best way to avoid ill-treatment is to make sure that we do not return those who are at real risk, not by monitoring them after they have returned.*' The Independent Asylum Commission recommended in its report, '*Safe Return*' (2008)¹ that every encouragement be given to '*developing a system which enables some record to be maintained of the subsequent history of refused asylum seekers after return to their country of origin.... Where there has been persecution on return, knowledge of such persecution would contribute towards better decision-making in the future. It could also*

¹ Independent Asylum Commission report '*Safe Return*' (2008)

contribute towards ensuring that country of origin information is kept as up-to-date as possible.' (4.4)

Justice First, also, believes that post-return monitoring will be a more accurate way to inform decision making and ensure safety of returnees. The lack of a mechanism to verify the UKBA hypothesis of safe return has put returnees at risk of suffering post return human rights violations. Meg Hillier, in a letter to MEP, Fiona Hall, dated 27th July 2007 gives, as a reason for not monitoring returnees to DRC, the fact that, as they had been found not to need the UK's protection, *'It would be inconsistent with that finding for the UK to assume an ongoing responsibility for them when they return to their own country.'* This ignores the UK's responsibility not to return unsuccessful asylum seekers to persecution or serious harm.

Ian Seiderman, Amnesty International's senior legal adviser, reported on the Saadi case (Italy, Tunisia) in which the Court ruled return to Tunisia was not safe. He stated that: *"This judgment should serve as a reminder to all states: not only are they not allowed to commit torture themselves, but they are forbidden from sending anyone to countries where they would be at risk of torture or other ill-treatment."*²

In the same letter she also states that all 38 Congolese returnees in the charter flight of the 27th February 2007 left the airport with minimal delay. Yet in the BK determination and reasons the Embassy official X is reported as stating in an internal e mail to the FCO, sent the day after the arrival of the charter flight, *'We were not able to witness all of them departing but at least 25 of the group were able to leave the terminal unmolested. DGM staff assured us that all 38 were at liberty.'*³ Returnees speak of receiving calls from others on the flight advising of arrests at home.

Evidence passed on to the relevant authorities

Residents in Tees Valley were greatly affected by the removal of the ten Congolese adults and their nine children, as they had been deeply embedded in the local community; in schools and churches, voluntary groups and children's liturgy groups, the University of Teesside and the Council of Faiths. One returnee had had permission to work and another had been given shelter by a local family as he was destitute. Of the ten adults, nine have been in contact with friends in the Tees Valley since their removal. They allege that they were subjected to ill treatment after their arrival in Kinshasa. The tenth person has not contacted family or friends since the day of his removal in 2008.

Since 2007 members of the community in the Tees Valley and beyond have, repeatedly, expressed their fears to MPs about the alleged ill treatment of Congolese friends removed to DRC. MPs and their constituents have received the same standard response from the Home Office, that there is no evidence that refused asylum seekers have been ill treated and that UKBA only remove people for whom it is safe to do so. For example, the Country of Origin Reports for DRC since 2007 indicate the Home Office has relied on the 'limited' information available to INGOs and Congolese NGOs to determine whether or not there is ill treatment of unsuccessful asylum seekers. The Country of Origin Information published in June 2009 refers to a meeting between a British Embassy official in Kinshasa and a policy officer of the Asylum and Migration Affairs Division of the Netherlands. The latter had spoken to NGOs Embassies and international organisations about the abuse of those refouled to DRC.

34.04 *'All of his interlocutors had said that the stories of abuse that they had heard had all come from Europe and their investigations had shown the allegations to be either false or doubtful, due to lack of evidence [4c]'*⁴ This is not first hand evidence. Evidence presented by

² http://ecfr.eu/content/entry/commentary_dworkin_on_saadi_vs_italy_ruling

³ Country Guidance case of BK (Failed asylum seekers) DRC CG [2007] UKAIT 00098.

⁴ Country of Origin Information (June 2009)

civil society groups in the UK to the Home Office is first hand evidence and should not be dismissed.

Amnesty International researchers were kept informed of the situation of the family removed in 2007. In July 2009, after the alleged arrest by Congolese authorities of the third *Justice First* client since February 2009, Amnesty International DRC researcher, Andrew Phillip, stated that the arrests seemed systematic and he offered to interview returnees. Due to a lack of time, Amnesty staff did not meet four returnees who had agreed to be interviewed during their visit to Kinshasa in October 2009 but it was arranged for two returnees to be interviewed by an AI partner organisation in November 2009. The statements arising from these interviews are not Amnesty International documents. In February 2010, AI stated they lacked time to pursue returnees' cases 'in any depth' but would try to help with any 'genuinely urgent cases'. In March 2010 Amnesty researchers were informed by e mail that contact had been established with a Tees Valley returnee who was in hiding in Kinshasa with her child. There has been no further contact with Amnesty International.

Following the removal of three asylum seekers from Stockton, on September 9th 2009 Stockton Council considered in Full Council and passed unanimously a motion that had been submitted in accordance with Council Procedure Rule 12.1 by Councillor Coleman:-

*'In light of recent deportation cases to the Democratic Republic of the Congo this Council expresses grave concern about the Country of Origin information relied upon by the UK Border Agency in determining individual risk. This information is flawed, out of date and fails to take into account the recommendation of the Human Rights Watch report that a UN Rapporteur assess the situation urgently. We call upon Immigration Minister Phil Woolas to suspend further removals to the Democratic Republic of the Congo, until proper account is taken of the experience of those returned recently. We ask him also to honour his assurance to Frank Cook MP that "the UK Border Agency will investigate any allegation of harm or ill treatment" (22nd June 2009) and the outcome of those investigations be used to inform a more up to date Country of Origin report.'*⁵

In February 2010 information relating to the clients of *Justice First*, Southampton and Winchester Visitors' Group and two Congolese returnees from Lancashire and Humberside was collated in a booklet and given to Dari Taylor MP. She arranged a meeting between Home Office Minister, Meg Hillier, and a delegation from *Justice First* on March 17th 2010. Included in the booklet were statements resulting from the two interviews carried out in Kinshasa by an AI partner organisation. As a result, a second meeting was arranged in Croydon in July with Mr. David Becker and colleagues charged with producing the Country of Origin Report for the Democratic Republic of the Congo. They had the booklet given to Meg Hillier on the 17th March and issues of concern arising from the testimonies it contained were discussed. At that stage, the Country of Origin report, which had been due to be published in September 2010 had been put back by seven months. As agreed with Mr. Becker, he and his colleagues were kept informed of the progress of this report by e mail. On behalf of its Congolese clients, *Justice First* has also been in contact with them about the date of publication of the updated COI report.

In 2010 the same information was passed to Fiona Hall MEP. She raised the issue of the ill treatment of Congolese returnees who had lived in her North East constituency in the European Parliament in October 2010. In October 2011 the issue was raised again in Strasbourg with MEPs from the North East and Yorkshire. It is reported that EU

⁵ <http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab12.pl?cmte=COU&meet=43&arc=71#egenkabid52>

Commissioner Piebalgs has commented that this is a 'complicated' issue and he would speak to EU Commissioner Malstrom (Home Affairs).

Fiona Hall has written to the Coalition Government to highlight the problems faced by the returnees and asked for the previous Labour Government's policy of returning people to the DRC to be re-examined. She tabled a question to the Council (EU Ministers) at the Joint Parliamentary Assembly (European Parliament – Africa/Caribbean/Pacific parliamentarians) held in Kinshasa between the 2nd and 5th December 2010.

*'In light of the growing evidence that asylum seekers are being returned to the DRC when it is simply not safe to do so, that many returnees repatriated to the DRC are arrested, imprisoned, abused or tortured soon after arrival, and that many returnees have therefore fled the country again or are in hiding, what concrete measures is the Council taking to improve the overall security situation and develop a co-ordinated approach among Member States with regard to the repatriation of asylum seekers to DRC?'*⁶

Information was passed on to Peers preparing for a Question in the House of Lords on 18th June 2009. On the 17th May 2011 peers again addressed the safety of refused asylum seekers to the DRC in the light of the increasingly compelling evidence of post return ill treatment. The response from Baroness Browning in 2011 was almost identical to that given in 2009 by Lord West of Spithead. On both occasions the replies given were deemed unsatisfactory.

Asked by The Lord Bishop of Winchester

To ask Her Majesty's Government what is the evidence for their assessment that asylum seekers returned to the Democratic Republic of Congo will be safe?

The Minister of State, Home Office (Baroness Browning): My Lords, failed asylum seekers are returned to the Democratic Republic of Congo only when we and the courts are satisfied that it is safe to do so. The Court of Appeal in December 2008 upheld the finding of the immigration and asylum Upper Tribunal that failed asylum seekers returning to the Democratic Republic of Congo were not at risk of persecution merely because of their involuntary return. Furthermore, inquiries made by the Foreign Office in Kinshasa have found no evidence that the returnees removed from the UK to the DRC have been mistreated.

Asked by The Lord Bishop of Winchester

To ask Her Majesty's Government why they have concluded that asylum seekers returned to the Democratic Republic of Congo will be safe from harm?⁷

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My Lords, failed asylum seekers are returned to the Democratic Republic of Congo only when we and the independent courts are satisfied that it is safe to do so, taking full account of the circumstances of the individual applicant. The Court of Appeal has upheld the Asylum and

⁶ www.europarl.europa.eu/meetdocs/2009.../862771-rep_en.pdf

⁷ Lords Hansard text for 17 May 2011 17 May 2011 (pt 0001) www.publications.parliament.uk > ... > Lords Hansard by Date

Immigration Tribunal's finding, based on all the evidence, that there is no general risk to failed asylum seekers returned to the DRC.⁸

Two of the returnees who were mentioned in the booklet passed to Meg Hillier and UKBA were IOM voluntary returnees. RAS12, a SWVG client, returned to his parents but left the DRC one month after return in 2008, as he feared for his safety. RAS 11 was arrested at N'djili airport and transferred to Kin Mazière prison where he was ill treated and robbed of the IOM money he had been given. After his release, he contacted the family he had lived with in the UK, who immediately contacted Jacqueline Hall from the IOM office in London. Security officers had prevented RAS11 from entering the IOM office in Kinshasa to report his arrest and ill treatment, as he had no identity papers. The family in the UK acted as intermediary between the London and Kinshasa offices, which resulted in RAS11 being admitted to the IOM building and receiving his reintegration package. A meeting was held in York in April 2010 with the UK supporters of RAS11 and Mr. Perry Vincent of IOM (North East). Concerns that travel documents issued to IOM returnees identified them as failed asylum seekers were passed on to Mr. Vincent, who, in order to 'better instruct' future returnees, said he would contact IOM both in Kinshasa and in London regarding:

- The integration package of RAS11
- IOM returnees having to give an address to DGM officials
- The reason why RAS11 was initially refused entry to the IOM office in Kinshasa and whether a client needs I.D. to enter.

In December 2010 at a constituency meeting with the Foreign Secretary, William Hague, the issue of the ill treatment of Congolese refused asylum seekers was discussed. A constituent had sent Mr. Hague a copy of the booklet handed to Meg Hillier. The Foreign Secretary asked to be sent a copy of the report, 'Unsafe return', when it was finished.

Objectives

This report aims to demonstrate the need for:

- A review of the UKBA assessment that it is safe to remove failed asylum seekers to the Democratic Republic of the Congo
- A system to monitor the post return experience of Congolese returnees to be established in order to inform policy
- Steps to be taken to ensure documents relating to asylum applications in the UK are not given to the Congolese authorities
- The conclusion by caseworkers that Congolese refused asylum seekers are '*low level activists*' in parties in opposition to President Kabila and of no interest to the authorities to be investigated, given that the Operational Guidance Note states that the risk to those being perceived to have a political profile in opposition to the Government fluctuates. There have been no updates regarding fluctuations in the situation despite an escalation in the violence against political opponents in the run up to the November 2011 election since December 2008
- First hand evidence collated by UK civil society groups to be taken into consideration when assessing safety on return

⁸ www.publications.parliament.uk > ... > Lords Hansard by Date

- A wider range of NGOs and INGOs to be consulted when drawing up Country of Origin Reports on DRC and for the latter to be regularly updated
- British Embassy assessments to be subjected to more rigorous scrutiny given that, in the past, they have proved inaccurate.

Methodology

This report details the post return experience of 14 involuntary and 3 voluntary returnees removed to the DRC between August 2006 and June 2011. 11/17 returnees lived in Tees Valley. Two lived in West Yorkshire, one in Hull, one in Lancashire and two in the Southampton area. The age range of the 11 men and 6 women is between mid-20s to mid-40s. 9 children aged between 16 months and 8/9 years of age were removed with their parents. 6/9 children aged 16 months to 7 were removed with their mothers. The father of one child lives in the UK. The returnees are known to the UK supporters they contacted post return.

It is our understanding that mobile phone calls are monitored by the Congolese authorities, there was, therefore, concern that returnees might be traced through calls made to them to arrange meetings. This fear was strengthened when a Congolese contact of the Mothers' Union was unwilling to be contacted by phone as 'our calling is controlled by our Government' and Sim cards are 'registered at ANR (service de sécurité) au Congo'. (Security services in Congo). Consequently, calls from the UK and from within DRC to arrange meeting were kept very brief.

The meeting with a Congolese Immigration official was arranged by a trusted third party.

Reference is made in this report to information in the 30th June 2009 Country of Information Report on the Democratic Republic of the Congo, as the COI has not been updated since 2009.

September – November 2011

Six of the fifteen returnees who are contactable were interviewed in person in an informal setting. Interviews were in the DRC in 2011. New contacts established since February 2011 led to a client from SOLACE and a man refouled in June 2011 also being interviewed. An interview with the Congolese client of Beacon could not be arranged due to there being mobile phone network problems. One female returnee was too frightened to be interviewed in person. The person sheltering her was interviewed and provided an audio recording and a written statement. Most returnees were contacted a week in advance. One returnee had taken steps to disguise his appearance when he came to the arranged meeting. He had had to take an alternative route when he came to a second meeting, as he had seen police on the street ahead of him and he has no electoral card for identification purposes. One returnee was met at night at a neutral place of his choice in order to arrange an interview.

The interviews were in French and were filmed or recorded. Lingala was spoken briefly by one returnee and one child spoke briefly in English. The following topics were covered during the interviews

- Reasons for claiming asylum
- Detention in the UK and removal to DRC
- Reception at N'djili airport
- Subsequent treatment by the Congolese authorities
- Prison conditions

- Bribes and post release experience
- Current situation and safety of the returnee

Transcripts in French of the interviews and translations into English are being made by the interviewer, a French teacher and two Congolese nationals. Written notes had been made in two cases and are being translated into English.

Papers relating to the asylum case of RAS17 were filmed both when he handed them over in DRC and when they were removed from a sealed envelope, in the presence of a lawyer. This was to demonstrate that the documents had been sent from the DRC to the UK and could not have been provided by his supporters or lawyers in the UK. The UKBA identity card of RAS17 was also filmed in DRC.

RAS1 provided a letter with his name, which confirmed his membership of the Conseil de Resistance in the UK.

The person sheltering RAS3 provided documents relating to his University course and to his Church in order to prove his identity.

An interview with a member of the Congolese authorities was audio recorded and a transcript in French and translation into English made. The following topics were covered:

- Communication between Congolese and UK Immigration authorities
- Reception of refouled Congolese at the airport
- Treatment of those who have left DRC on a false passport
- Treatment by the authorities of those returnees found to have had a problem with the Congolese state
- Treatment of women and children

August 2006 – September 2011

Records were kept in French or in English of e-mails and phone conversations with the staff of NGOs and International NGOs assisting the returnees.

Communication with returnees was through e-mail or phone calls during this period. Individual records are documented but not detailed here in order to protect identity. Two mothers who are now living outside of DR Congo have sent information via fax or e-mail. RAS6 scanned her signed statement and sent a hard copy to the UK with a British businessman.

Information about the Southampton and Winchester Visitors' Group (SWVG) client who was forcibly removed was provided by SWVG. Their voluntary returnee also e-mailed directly.

A meeting was held in York in 2010 with Mrs Tessa Norton (Open Doors) and Mr. Perry Vincent of IOM in the North East of England. Information was passed on to Mr. Vincent and concerns about whether IOM had acted on information passed on in 2009.

Photographic evidence is held on computer of the injuries of RAS9. Scars of injuries RAS1 sustained during torture were filmed. Photographs of the medical treatment administered to RAS17 in her place of refuge and recordings and transcripts of phone calls between RAS17 and SOLACE were forwarded by its Chief Executive Officer, Mr. Andrew Hawkins.

Credibility

Asylum seekers whose asylum applications have been rejected are considered not credible by the Home Office. Character references were, therefore, sought from British citizens who had known the asylum seekers over a period of years, through Church, University, school and through having lived with them in the UK. These references speak of the integrity and good character of the failed asylum seekers who have provided information for this report.

A statement made by Mr. George O'Neill, Personal Assistant to Mr. Frank Cook, MP for Stockton North (1983-2010), made with the full support of Mr. Cook, speak of the integrity of RAS4. He goes on to state that the facts of the case, as presented to them strongly suggested RAS4 would be in danger from the authorities in Kinshasa. There is, also, independent evidence which gives credibility to the returnees and to their accounts. For example, in one case the Foreign and Commonwealth Office confirmed that a Congolese returnee had been arrested at N'djili airport, for 'administrative' reasons.

A lawyer corroborated in a face to face meeting the information that RAS1 had given in relation to the payment of a ransom for his 'extraction' from prison and, also, the denial of access to a lawyer.

After discussions between Amnesty International and a Congolese NGO, two returnees were interviewed in DRC. The notes sent from the NGO to AI were transcribed in French by an AI researcher who considered the experience of the male returnee to be the stronger and would make a stronger case for lawyers and MPs. (E-mail 4th January 2010). In the following extract, concern for the safety of refused asylum seekers from the UK is expressed.

'The [NGO] interviewer is of the opinion that Congolese refouled to Kinshasa should be told not to leave their own address with the authorities when they arrive in Kinshasa. According to him they are often a little lost and disoriented and are not aware of the prevailing situation in their country.'

When the researcher was asked for clarification of this statement, she e-mailed that *'The [NGO] employee who collected the information was concerned that if returnees give their home address in Kinshasa they might be involuntary [sic] putting themselves at risk.'*

E-mail of 13th January 2010. This is not a view of Amnesty International, as the statement was not an AI document.

This would appear to lend credibility to accounts by returnees that, having left their address with the Immigration authorities at the airport, they were harassed or rearrested ('recupérés') at home. Similarly, it is consistent with the statement from an Immigration official that special services are used by the authorities to go to homes at night to re-arrest returnees.

The address of RAS17 in DRC was printed on the travel document, issued by the Congolese Embassy in London and amongst the asylum documents handed to him by a Congolese Immigration officer at N'djili airport. IOM voluntary returnee RAS12 also states in an e-mail in 2009, *'The problem is the travel document contain (sic) all your details (address) they can trace you easily by the security services.'*

DRC Immigration forms require an address to be given by those entering the country as part of normal procedures. Why should an NGO advise returnees not to comply with this requirement? Amnesty International believes that people should comply with reasonable, lawful requests by state officials.

In an appeal heard on the 22nd February 2010, Immigration Judge Cockrill, in the determination allowing the appeal on refugee grounds, referred to returnees from the UK being *'systematically interrogated about their activities whilst in this country. A number were said to have been beaten. The appellant's general account was found to be one that was*

consistent with other returnees from this country.[] The way in which the appellant was treated again seems to be precisely how detainees are treated in DRC. Torture and ill treatment is routinely committed by government security services and armed groups on those detained. That is set out in the 2009 Amnesty International report.' The Appellant had been removed back to the DRC in 2007 where she was detained and questioned and severely mistreated physically and sexually. She had returned to the UK in 2008. Her account of ill treatment and the reasons why she was detained at the airport are consistent with those of the asylum seekers in this report who were deemed not credible, not of interest to the Congolese authorities and not to be at risk of ill treatment on return.

A returnee stated that the wish to give his account of his imprisonment is tempered by a fear to 'wake up a devil in dark.' The Special Rapporteur on Extrajudicial Executions stated that '*Being imprisoned in a DRC jail is often a fate worse than hell*' (Chief Inspector Evaluation report 2009 report).

The last Country of Origin Information report (June 2009) quotes from the USSD (2008).

14.04 *Even harsher conditions prevailed in small detention centers, which were extremely overcrowded, had no toilets, mattresses, or medical care, and which provided detainees with insufficient amounts of light, air, and water.*'⁹

The above statements are consistent with the testimony of Congolese returnees who state that they were subjected to inhuman and degrading treatment to obtain confessions about their activities in the UK and that they were accused of being political opponents of the President and of having betrayed both the country and its President.

Members of a Congolese NGO stated in 2011 that those who are refouled are imprisoned because it is assumed they have criticised the Government and betrayed the President. Elements of the returnees' accounts were corroborated in an interview with a Congolese Immigration official.

Issues of concern based on the findings of this report

- No mechanism to monitor failed asylum seekers removed to DRC from the UK.
- Home Office correspondence/documents and the judgement in the BK Country Guidance case suggest that UNHCR has monitored the arrival of those refouled to DRC. However, UNHCR staff have stated that it is not true to say they are monitoring, as failed asylum seekers do not come under their mandate.
- FCO and UKBA, though not monitoring the situation directly themselves, are dismissing first hand evidence from UK civil society groups as not concrete. Expert evidence has also been dismissed by the Home Office and the Judiciary.
- Returnees in 2009 and 2011 were forced to sign a document at N'djili airport to say they had left the airport without a problem but were then arrested.
- Returnees have alleged since 2007 that the Congolese authorities held documents from their UK asylum cases. This has always been denied by the Home Office. In 2011 information relating to a returnee's asylum claim, correspondence with his lawyer, Removal Directions and Travel document were handed over to Congolese Immigration authorities.

⁹ Country of Origin Information (30th June 2009)

- The International Organisation for Migration appears not to have investigated why an IOM returnee did not leave N'djili airport nor why a mother failed to return to their office to pick up her reintegration package until contacted by people in the UK.
- Travel documents issued to the failed asylum seekers by the Congolese Embassy in the UK indicate the home address of the returnee and give personal details and description. Arrival without a passport results in imprisonment.
- One returnee maintains he arrived in the UK on a DRC passport. It is maintained by the British Embassy that he was removed on a travel document.
- Nine of the fifteen failed asylum seekers were held in detention following removal from the UK and were subjected to torture and ill treatment. Children have also been imprisoned.
- Risk of arrest after leaving the airport building or of being picked up by security services at home, even after bribes have been paid for release from prison.
- Ransoms paid for the 'unofficial' release of returnees are not in the region of 5 – 10 dollars as stated in evidence given by Voix des Sans Voix in the BK Country Guidance case (2007). Ransoms are more in line with the amounts provided by two of the experts who gave evidence in the ¹⁰BK case, that is, several hundred dollars and, in 2010, thousands of dollars. The amount can depend on who is involved in the release.
- One female returnee was arrested days after she had visited the NGO, Voix des Sans Voix (VSV), in an attempt to report her post return experience. A second returnee was afraid to return to the offices of VSV after the murder of Floribert Chebeya, the President of Voix des Sans Voix, who was killed in Kinshasa in 2010. The body of Mr. Chebeya's driver was not found and he was declared dead in 2011.
- Children are at risk of being detained with their parents and of being kept apart from them in prison.
- Women are at risk of being raped in detention and men are at risk of sexual abuse
- Returnees and their families are harassed and have been injured even though ransoms have been paid for extraction from prison.
- Two returnees from Tees Valley are missing.
- Returnees have been forced to flee DRC, due to fear of further harm from the authorities.
- Voluntary returnees are at risk. Of the three voluntary returnees in this report, one was imprisoned, one is missing and another was forced to flee DRC one month after return due to fears for his safety.
- Second and third hand information from the British Embassy is given more credence than first hand information collected by Congolese NGOs and UK civil society groups.

¹⁰ Country Guidance case of BK (Failed asylum seekers) DRC CG [2007] UKAIT 00098.

- The Country of Origin report on DRC has not been updated since June 2009 and information which predates June 2009 is being used by caseworkers and judges in 2011. The Operational Guidance Note on the DRC has not been updated since 2008.
- The Country of Origin report on DRC suggests 'limited' information available to International and Congolese NGOs is relied on to determine whether refused asylum seekers are arrested and subjected to ill treatment on return.
- A wider range of organisations should be consulted when compiling both Country of Origin reports and Operational Guidance Notes.

Summary of the documented human rights violations

The following human rights of 9 children and 15 adults were violated after removal to the Democratic Republic of the Congo¹¹:

Article 3 – the absolute right not to be tortured or subjected to treatment or punishment that is inhuman or degrading.

- 13 returnees were subjected to some degree to interrogation, arrest, imprisonment, verbal, physical and sexual abuse, rape and torture.
- 6 children were imprisoned for periods between 2 days and up to three months.

Article 5 – the right to liberty and security of person

- 9/15 returnees suffered imprisonment and 1 was arrested but escaped from officers
- 6/15 returnees have faced harassment forcing them to flee their homes and local environs for safety in other countries. 5 children fled with their mothers
- 5 /15 returnees' family / friends were subject to threats and harassment in their homes or in the house where they were being sheltered.
- 3/15 suffered both imprisonment and harassment and threats at home
- 3/9 children witnessed threats at home to their parents and abduction of their father
- 6/15 returnees spent time in hiding after release and 1/4 women before her arrest
- 1 returnee who suffered human rights violations following his arrival in DRC and during detention in Kin Mazière prison has not made contact with his family and friends in the UK since June 2009

Article 7 – the right not to receive punishment without law

- 7/10 *Justice First* clients are known to have been imprisoned without access to a lawyer and without being judged. Three of the other returnees were also imprisoned

¹¹ One male returnee has not made contact with his family and friends since his removal to Kinshasa in 2008. One female returnee has made no contact since 2010. The violations of the rights of only 15 adults are recorded.

without access to lawyers. A member of the legal profession has confirmed that one returnee was held in an underground cell in Kin Mazière without access to a lawyer

Article 8 – right to respect for private and family life, your home and correspondence

- 6 returnees are known to have been forced to flee the DRC and 5 have been forced to move location due to fears for the safety of the returnee or family members and friends and 7 are known to remain in hiding in 2011 as they fear for their safety
- 7/15 cannot live in their former homes or in the homes of relatives/friends due to harassment in the home.
- 1/4 women could not live in her home because she feared future harm having been followed from the airport by men in a Jeep. She was arrested subsequently
- One mother reports that the family home was destroyed in 2007. The mother of one child cannot establish contact with her family
- 3 children have not seen their father for four and a half years. The father of one child resides in the UK. 2/4 women live in precarious conditions with their children. One mother is living outside the DRC with her children and has had to move room twice. Another mother has had to move location in DRC with her children because she of threats

Article 2 protocol 1 guarantees the right to an education

- 2 children are still not in education in November 2011. 3 children could not access education for more than three years.

Convention on the Rights of the Child.

Article 3 states the best interests of the child must be the primary concern in decisions made about them and they should be taken into account by policy makers when making such decisions.

Article 6 states children have the right to live and Governments should ensure they develop healthily.

Article 9 states children have the right to live with their parents.

Article 19 states children should be protected from violence and physical and mental mistreatment.

Article 10 states children have the right to stay in contact with both parents and to stay together as a family.

Four children who are still living in the Democratic Republic of the Congo are suffering from hunger. At least three children removed from Tees Valley succumbed to malaria. Three were at risk of losing their parent from the same disease.

The reassurance in letters to MPs from the Home Office that returnees are removed to Kinshasa, 1,000 miles from the ‘conflict’, omit to mention the danger of returning people to a

city where returnees state they no longer have family networks, homes have been destroyed, there is no prospect of employment. An INGO in March 2009 refers in an e-mail to people arriving in Kinshasa from the East, 'in truth there has been a steady influx for several months but most are accommodated by friends and relatives although they obviously put pressure on the already scarce resources in town.' This was apparent in Kinshasa in 2011.

Post Return experience

Political affiliation of returnees

The returnees in this report were perceived or actual political opponents of the current DRC regime. The UKBA Country of Origin Information Report for DRC (2009) refers to the human rights of those who are both '*real and supposed political opponents of President Joseph Kabila*' being violated. (Amnesty International 2007 Report: Torture and Killings by State Security Agents still endemic). The current Operational Guidance Note guides decision makers to reject low level perceived political opponents as they are considered not to be at risk on return. In UKBA refusal letters Tees Valley returnees were described as low level activists of no interest to the authorities. In a letter to Dari Taylor MP dated 21st April 2009, Mark Griffiths, Assistant Director of Removals Logistics, refers back to an Immigration Judge's findings that '*I reject the appellant's account of being involved with the UDPS and of her and her husband's difficulties. I find that she has not established that the authorities within the DRC are interested in her.*' The appellant was imprisoned, tortured and raped after return. To date she has not found her husband.

Of the report's returnees:

- 8/17 are members of the UDPS (Union pour la Démocratie et le Progrès Social – Union for Democracy and Social Progress)
- 1 is a member of MNC – Albert Onawhelo (Mouvement National Congolais - Congolese National Movement –Lumumba)
- 1 is a member of the MLC (Mouvement pour la Liberation du Congo - Movement for the Liberation of Congo)
- 1 is the President of an unregistered political opposition party
- 1 is a member of the RCD – Goma (Rassemblement Congolais pour la Démocratie - Rally for Congolese Democracy)
- Unknown political affiliation in 5 cases (two returnees are missing)
- 2 are members of APARECO

One returnee was warned not to be involved in politics. '*It's true that things are such that, today, I'm no longer involved in politics. I'm no longer involved, I'm no longer involved in what I was doing before. And I don't make any political speeches anymore, so, in that sense, nobody bothers me because I don't even show up in all those public places.*' The returnees who have no electoral card, which serves as an identity card, cannot vote in the November 2011 election. One returnee, who does have an electoral card, said that it offers no guarantee of safety.

Extracts from the interview with returnee RAS17

RAS17 was removed in 2011 and taken to the DGM office at N'djili airport where he was told to sign a document.

"They said 'you have to sign these papers that we have, to tell the authorities that you have arrived safely, and that you have had no problems here'." He goes on to say there was 'a man who took this pile of documents which he handed over to me. And when he gave me them, I saw that this file was from England. How can this man be giving me these documents? And a little later, he said to me 'I'll be back'. He went out of the office. When he went out of the office, two soldiers arrived with another guy who was dressed in civilian clothes.' RAS17 managed to escape during transfer to prison. He states that he realised that he was at risk of

‘being killed, because there, for sure, they’re going to think I’m a combatant, I’m so on and so forth.’

He continued, *‘So I can’t understand that Immigration in England is sending these documents here. So, if I am to believe this, then, they are exposing us to danger because here people are killed. Here, there are no human rights. To give these documents to Immigration would get me killed, so, it’s really impossible, I just can’t believe these actions.’*

‘Well, my life is not safe because I’m not at home. Today I’m here, tomorrow I’m there because my family is reported missing. People in the area tell me that the Democratic Republic of Congo special services are looking for me. So, I’m not calm. I’m a wanted man. So as a wanted man, a political man like me, I’m here, I run a thousand risks to be murdered, I run a thousand risks to be easily killed. I live like an animal in the forest. I am not calm, I am not calm.’

In the neighbourhood he says *‘They tell me – don’t stay here, because if you’re caught, you’ll be killed, you’ll be killed. We’re telling you this and we promise it.’*

Adults

The following were violations experienced by 15 of the 17 returnees. Periods of imprisonment were between one day and 3 months. Returnees were verbally abused and in some cases were threatened with death. Six men were detained in the ANR (Agence Nationale de Renseignements – National Intelligence Agency) prison, Kin Mazière. One escaped before reaching the prison he was being transported to. One female returnee was held in the ANR prison Tolérance Zero, one in a cachot (small dugout cells) and one in the vicinity of the airport. Four women were threatened at the airport and one is known to have been threatened with death during her imprisonment.

- Arrested at the airport: 6/15
- Arrested after leaving the airport building and transferred to Kin Mazière: 2/15
- Arrested after leaving the British Embassy in Kinshasa 1/15
- Arrested at home 3/15
- Threatened with death in Tolérance Zero by officers 1/15
- Threatened at the airport 4/15

Congolese human rights activists and a lawyer confirmed that detainees are not given access to lawyers during their imprisonment. Returnees reported the following ill treatment in prison:

- Handcuffed, blindfolded and severely beaten: 1/15
- Severely beaten 6/15
- Electric shock treatment: 2/15
- Sexual abuse 2/10 men
- Rape 2/5 women
- Slaps and blows with hand/fist 2/5 women

The removal of RAS3 was cancelled more than once. After a ‘successful’ removal, she was told by officers that ‘they’ had been waiting for her for a long time. She was taken to a cachot (dungeon) by ANR officers and beaten severely. She required medical treatment after release.

Some returnees have indicated that they were handed over to Congolese Immigration officers at the foot of the stairs leading down from the aircraft. However, RAS10 was met by Congolese police. A large bribe had been paid. He was interrogated by Police and

Immigration officers at the airport and then taken to a small police facility 'quelque part' (somewhere).

RAS1 was forced to sign a discharge form stating he had left the airport unconditionally, only to be arrested after leaving the airport building. A returnee in June 2011 was forced to sign a similar document before being arrested.

RAS2 was held all day at the airport, assaulted and questioned by plain clothes officers who asked her:

- where she was from and her address in Kinshasa,
- her name and the name of the father of her children
- the names of all her family in Kinshasa
- what she had been doing in the UK
- why she had been refouled
- how long she had been in the UK

A photograph was taken of her when she said she was from UK. Officers commented in Swahili that she was from the country of the resistance, where the '*combattants*' beat visiting Congolese officials. She was released from the airport but followed by a Japanese type 4 x 4 vehicle

RAS4 *'I left the airport without a problem. When we left and arrived at a place called Kisangani, I saw one jeep with 4 people without uniform. They asked if I was RAS4 and they said you must come with us. I tried to resist. They started to beat me and pushed me violently into the jeep. They brought me in the prison called Kin Mazière. I didn't know I was in Kin Mazière but after all the events I realised I was in there.'*

RAS6 states that Immigration officers transferred him over to the National Police.

RAS13 stated that he was detained at the airport and beaten in prison. He required medical treatment following his release.

RAS11 indicated that it was the travel document which had led him to be detained by Immigration officials, who passed him over to officers who were based at Kin Mazière. He was beaten during his detention and needed medical treatment after his release. His IOM reintegration money was stolen in prison.

One returnee stated: *'He paid this money to the police so that I'd be freed. From that moment on, I was held by the police, but all the while, telling me that I'd not be ill-treated because money had been paid. They were simply going to guard me, to prevent me being arrested or being followed.'*

The treatment of RAS16 was witnessed at the airport. The witness helped RAS16 until it became necessary for her to go into hiding elsewhere. A second returnee believes that the presence at the airport of officials who were to deal with the British escorts, led to him being allowed to leave the airport. However, he was '*recupéré*', arrested at home.

The post return experience of children

'The sad fact is that children end up within our detention estate because their parents refuse to go home – even when an independent judge reviewing the case at first hand, or on appeal, says they have no right to stay.'

'I would much prefer it if families returned home voluntarily and saved the taxpayer the £11,000 it costs for an enforced removal.'

Immigration Minister, Liam Byrne.
New Statesman, September 2008¹²

In a debate in Westminster Hall on the subject of Enforced Removal (Families with young children) on the 10th January 2006, Jeremy Corbyn MP stated:

'I hope that the Minister recognises that it cannot be fair, right or just to deport anyone to Congo until there is some measure of peace there. Taking a child out of a school in Britain and dropping them in Congo with no follow-up whatever cannot be right, fair or just.'

Chris Mullin MP stated: *'To those of us who are – or were- member of the Government, the children tend to be only numbers. I attended meetings at No. 10 and the Home Office where there was talk of targets and tipping points.'*

The Tees Valley parents removed to the DRC feared for their children's fate. However, refusal letters stated that families could resume family life in the DRC and maintain contact with family members and friends in the UK by modern means of communication. Yet, after the trauma of detention and enforced removal from the UK, six children were imprisoned in Congolese prisons. Neither single people nor family groups have been able to resume a normal family life due to threats to the families. Returnees say that people are now frightened to be associated with them. People have refused to rent rooms to them, to give them a job, even to have them living in the neighbourhood again.

- 6/9 children were imprisoned, 3/9 held separately to their mothers. Five children are known to have been traumatised by their removal from the UK and subsequent imprisonment in the DRC. Two children have received psychological treatment in another African country following their flight from DRC. Three children required medical treatment following their imprisonment in DRC, one child was treated in an intensive care unit and two children treated in the Paediatric Unit in the same hospital.
- 6/9 children are living in poor conditions, 3/9 have been separated from their father for over four and a half years and had no schooling for three and a half years. 1/9 was separated from his father in the UK.
- 6/9 children are known to be experiencing hunger. Three have no access to water, nor sanitation at the room they are sharing with another family.
- 7/9 children are known to have been ill from the time they arrived in DRC. Illnesses suffered are malaria, chicken pox, gastroenteritis and scabies.

An Amnesty International partner organisation confirmed in 2009 that RAS8's children had suffered from malaria and skin complaints. They did not attend school between February 2007 and September 2010. They have moved house more than once for safety reasons. The children have recently spoken of the harsh conditions they are forced to endure due to being unable to live in the family home and the exile of their father. They know their father was threatened. The eldest child said that his parents had told the truth when they had sought asylum in the UK.

Two children referred to in this report had been forcibly removed from their home in Kinshasa in 2007 by armed soldiers. In the UK they were removed without warning from their home; transferred to detention and then to Heathrow Airport and accompanied on Kenya

¹² www.newstatesman.com/subjects/no-place-for-children

Airways flight 101 by uniformed men and women. Allegedly, one mother was prevented from holding her distressed baby during the flight. Detained at the airport, the mother describes her children as ‘deshydratés’ and ‘choqués’ (dehydrated and in shock) and running high temperatures. A subsequent psychological report found that the children were suffering from traumatic shock. The distressed baby had become ‘faible’ (weak) and the mother describes crying and shouting out as he lost consciousness and she watched ‘la mort de mon enfant’ (the death of my child). The baby was transferred to an Intensive Care Unit and recovered after treatment.

All the children referred to in this report have witnessed ill treatment of their parents after removal from the UK and have suffered imprisonment or ill treatment themselves, thereby, intensifying the psychological harm already caused. Documents relating to medication prescribed to the children transferred to hospital were received by fax and are held on file by *Justice First*.

Inhuman and Degrading treatment

On 24th July 2007, Presidential candidate Marie Thérèse Nlandu, who had herself been imprisoned in DRC, told members of the All Party Parliamentary Group-Great Lakes that, “*Congolese in Britain today are taken as real opponents of the Kabila regime. Deporting them to the Congo of today means handing them over to death or arbitrary arrest.*” The experiences detailed below from those who have been removed from the UK in the years since this speech appear to indicate that she was correct.

Evidence relating to interrogation methods and the conditions in which returnees were held suggests that returnees were subjected to physical and psychological treatment that amounts to torture. According to the International Rehabilitation Council for Torture Victims, common methods of physical torture include beating, electric shocks, burns, rape and sexual assault. Psychological torture commonly includes isolation and threats.¹³ On 29th September 2010 Armand Tungulu, who was resident in Belgium and on a visit to Kinshasa, was arrested for throwing stones at the Presidential motorcade. He was detained and on the 2nd October it was announced that he had died in custody, reportedly, after committing suicide

Evidence in the public domain confirms that NGOs are not allowed access into the prisons where the returnees were held in Kinshasa. ‘*Local and international human rights monitors and Congolese lawyers have limited access to ANR detention centers across the country and in some places, like Kinshasa, have no access at all.*’

Human Rights Watch, ‘We will crush you’ 2008¹⁴

A letter from the British Embassy in Kinshasa dated 23rd June 2009 stated that, following the Guardian article of May 28th 2009, which alleged that two Congolese refouled to DRC had been tortured, a British Embassy official attended Kin Mazière prison. The official was allowed access to the logbook to ascertain whether asylum seekers refouled from the UK had been detained in the cells. He also cross checked the ‘secret’ logbook submitted in evidence in the article against ‘*a number of official documents on the Kin Mazière (DGRS) files*’. (Directions Généraux de Renseignements Speciales) The names of the returnees were not registered as having been arrested and held.

¹³ www.ircct.org/what-is-torture/defining-torture.aspx

¹⁴ Human Rights Watch ‘We Will Crush You’ (2008)

RAS1 was imprisoned in a small underground cell into which many prisoners had been confined, compelled to breathe the air of a cell used for all physiological needs.

'They took me in their car and drove me straight at the Kin Maziere Prison where I've been put in the cell. It's was an awful experience : very bad condition of life because have to pee and to eat, to sleep at the same room and on the floor. No food was been given and sometimes we were forced to drink our own human urine and were beating.' (sic)

Asked in 2011 if the prisons breach human rights conventions in his opinion, he replied, *'Ils violent totalement toutes ces conventions.'* (They completely breach all those conventions).

Et la nourriture, l'eau, qui va te donner la nourriture?(And food, water, who gives you food?). RAS1 replied, *'Qui va te donner la nourriture? Personne, personne.'* (Who is going to give you food? Nobody, nobody.)

RAS10 was also imprisoned in Kin Mazière. *'The treatment was very bad. I wasn't alone there. I met there some other people. I didn't have proper food, neither clean drink. We didn't have bed to sleep on. We slept on the floor. The place was dirty, (sic) no clean toilet, no court yard to exercise etc. Some people, especially those you didn't bribe were sometimes beaten.'* (sic)

This is consistent with Country of Origin Information of February 2007 which¹⁵ recognises that in prisons *'There usually were no toilets, mattresses, or medical care, and inmates often received insufficient amounts of light, air, and water.'* RAS10 received two stab wounds to his upper back and was electrocuted. Scars of the wounds are on film.

RAS2 stated that: *'During the night of the 22nd May, officers of the State secret services spotted me there where I was living []. They beat on the door. We refused to open and they broke down the door and took us to a place which neither I nor my sister knew. They separated me from my daughters and my sister. I remained alone with the officers. They took me into the cachot (dungeon) of the security services: Tolerance Zero on Avenue 24th November where I stayed for three months. I didn't know where they had taken my children. I shouted out asking where they had taken my children. One of them hit me across the mouth telling me to be quiet. He waved his gun at my head threatening me with death. I was living in difficult horrible conditions. I was raped and slept on the floor on a piece of cardboard. I was their object with which they could do what they liked. I was tortured.'*

RAS4 *'The reason for my arrest was because I am from London, from UK. I am supposed to be one of the people against Kabila regime. They said to me I must be punished. I was beaten severely and if you saw my body you could understand what happened to me.'*

RAS9 stated: *'They took to [sic] KinMazier, took off my shirt, belt and shoes. I was put in the jail in that building. You could not imagine what I saw once inside that room, words may lack to express it, it was horrible, people were half agony, beaten and naked, some their skins were burned with fire or liquid such as acid, stinging like smell of decay bodies in side. You could not breath properly. It was a real hell. I did not deserve it.'* [sic]

RAS14 stated: *Sunday (date) they came to check me and the got my money I put on my sock I wore. The same day they beat me up.'* [sic]

RAS5 described her detention with her children as follows: *'When we arrived in Kinshasa we were arrested by the police and the Immigration officers. We were still in a wretched state after such a long journey of suffering, we were put in a place which was used for detention with children, to judge us.'* *'In Europe it was winter but in Kinshasa it was very hot, the*

¹⁵ Country of Origin Information (February 2007)

children really could not stand it, they were dehydrated and in shock. As Pierre was already weak, he was severely dehydrated and had a temperature. He lost consciousness. Michel* and Jeanne* had a temperature and were also dehydrated.'*

* Pseudonyms given.

Treatment of women

'Take much care when deporting a woman or a lady, most the time the chance to be raped is about 70 %, see (rapes and complications) in the countries like Congo.' Doctor S who worked with rape victims in Kinshasa.

One female returnee had been imprisoned in DRC before she applied for asylum in the UK. During that time she had been raped. In the determination refusing sanctuary, the Immigration Judge stated that she had not been of interest to the authorities because of her low level activism and, therefore, had not been imprisoned in the DRC. She was removed from the UK to be repeatedly raped during a three month period of detention. The women continue to suffer psychologically and physically. One returnee has remained in contact with staff at SOLACE where she was receiving counselling prior to her removal. Andrew Hawkins, CEO of SOLACE stated that her *'health has deteriorated since she was removed to the Congo. She has been in hiding for the past two years, living on next to nothing, and it is touch and go whether she will survive'*. The medical treatment she received thanks to UK friends had to be administered in the place where she was hiding.

- 3/5 women suffered the distress of being arrested with their children
- 1/3 suffered the trauma of watching her children become ill and one slip into unconsciousness
- 2/3 women suffered the trauma of their children being separated from them during their imprisonment
- 1/5 women was arrested following her visit to the office of NGO La Voix des Sans Voix
- 2/5 women were interrogated in prison and two at the airport
- 2/5 women were raped.
- 1/5 women states the treatment she was subjected to amounted to torture
- 1/5 women was beaten on the buttocks, requiring prolonged medical treatment
- 2/5 women are afraid to leave the house for fear of arrest
- 2/5 women live far from where they lived previously and live in fear of more harassment and abuse by officers
- 2/5 women have fled the country
- 1/5 women is suffering pain and trauma as a result of rape and torture in prison. She does not have the means to access medical care in the country where she has now taken refuge. She and her children were living in a room and do not have a fixed address and no means of support
- 2/5 women in DRC cannot live at their home address with their children

Access to detainees

8/11 returnees who were arrested did not have access to a lawyer.

When asked if he had had access to a lawyer during his detention in Kin Mazière, RAS1 replied that, if in ANR or DEMIAP (L'Etat-Majeur General de Renseignements Militaires - Military Intelligence Agency) detention, *'You are not given the opportunity to meet your lawyer. You do not have the right to speak. You cease to live like a human being.'*

Also, *'I was not tried., I didn't have the time to see the lawyer because you will never be allowed to see your lawyer.'* Asked if he could communicate with people outside of prison he replied, *'No, there is no way of communicating, there is no way.'*

RAS1's lawyer confirmed he had been held incommunicado in an underground ANR prison. Information in the public domain suggests that RAS1's comments are credible and underline how difficult it is to ascertain whether refused asylum seekers are imprisoned.

The Special Rapporteur on the independence of judges and lawyers reported in May 2008 that *'Many persons are reportedly held without access to their families, to a judge or to a lawyer, in known and unknown places of detention. The Director of the ANR denied the existence of these places in an interview with the Special Rapporteur.'*

When asked whether Congolese NGOs would be able to access prisons to look for a missing Tees Valley returnee, Amnesty International staff stated in an e-mail, *'If the person is in Camp Tshashi or any other special services custody, they will probably have no access, but they can, if necessary, make pressure of their release.'*

The Amnesty International Annual Report 2011 states that, *'In September, the DRC ratified the Optional Protocol to the UN Convention against Torture, which requires it to grant access to places of detention to national and UN observers. In March, during the UN Universal Periodic Review, the government opposed a recommendation to grant UN observers access to detention centres, including those of the National Intelligence Agency (Agence Nationale de Renseignements, ANR) and the National Guard.'*¹⁶

E-mails and a letter relating to SWVG returnee, RAS13, were included in the booklet handed to Meg Hillier in March 2010. A SWVG volunteer had written regarding his arrest, ill treatment and subsequent medical treatment. The name of RAS13 was deleted in the e-mails and letter in order to protect his identity and he was referred to by his nickname. It was when cross referencing in 2011 that it was realised that RAS13 was, in fact, one of the asylum seekers mentioned in the Guardian article of May 28th 2008 by Diane Taylor. The evidence in this report supports the description of ill treatment in the Guardian article. (Britain sending refused Congo asylum seekers back to threat of torture).

Interrogation

Letters from UKBA refusing asylum stated that returnees were low level activists in their opposition parties and of no interest to the Congolese authorities. Yet, returnees were arrested and held in ANR detention facilities. In a *War and Peace Reporting* article in July 2009¹⁷, Andrew Philip of Amnesty International is quoted. He describes ANR as follows: *'Opposition and civil society activists accused of violating state security are also targeted. "This is their stock in trade," Philip said. "Most of these intelligence services that depend directly on the presidency are not subject to parliamentary oversight or scrutiny. They are not subject to the ministry of justice scrutiny,"* He stressed that people such as (United Nations) human rights monitors or local human rights activists *'have a lot of problems'* getting into ANR detention. This is consistent with information from the US State Department in 2008.

Evidence about interrogation methods suggests that returnees were subjected to mis treatment and held in conditions that amount to torture. Nine returnees are known to have been interrogated about their activities in the UK, either at the airport or in prison, or both. Of these

¹⁶ www.amnesty.org/en/annual-report/2011

¹⁷ iwpr.net/report-news/secret-police-accused-torture

- 5/15 returnees were interrogated at the airport
- 5/15 were interrogated in Kin Mazière or Tolérance Zero
- 1/15 was interrogated in a cachot (small dugout cells))

The current Country of Origin Information report, from 30th June 2009, includes the following reference: 18.05 The World Organisation Against Torture's (OMCT) Annual Report 2007¹⁸, released in June 2008, stated: *"The Congolese authorities are extremely sensitive to activities that could adversely affect their credibility and image abroad, and denunciation of human rights violations is carried out in an environment that is exceedingly dangerous for defenders. This year again, they have paid a heavy toll: assassinations, clandestinity, exile and persecution."* [16a] (p44)

The refused asylum seekers were accused of being traitors, of having betrayed both the country and the President, of having said that there were no human rights in the DRC. They allege they were tortured to make them name others involved in perceived anti-government activities in the UK. Guards and those charged with interrogation accused returnees of coming from the UK where people speak ill of the President. Three were accused of having attacked President Kabila's Minister She Okitundu in London. In a case heard at the then Asylum and Immigration Tribunal in February 2010, the appellant states she was accused of being involved in the aforementioned attack. Immigration Judge Cockrill refers to the anger in Kinshasa after this attack. In 2007, 2009 and 2010 interrogators were still returning to this issue, accusing those removed from the UK of involvement and torturing them to name others involved.

A female returnee was accused of being a spy in Kinshasa for the Resistance in the UK. One returnee was asked by his interrogators what he thought his fate would be, now that he had been refouled from the UK, where he had sought protection but where he had not been protected. He alleges that interrogators told him that it was possible for the removal of specific failed asylum seekers to be negotiated and that it was possible to bribe the 'white man'.

The Institute for War and Peace Reporting¹⁹ (2nd July 2009) states that the Centre de Droits de L'homme reported the arrest of a man in Lubumbashi *'because he had criticised DRC President Joseph Kabila,' He was accused of the offence of offending the Head of State. "I was severely tortured, flogged, then plugged to electrical power, and I underwent strangulation of my genitals for the whole night of March 16, by ANR agents.'*

At the time of this report, a Justice First client was held in ANR detention and, a few weeks earlier, a British Embassy official had been given access to ANR registers to check on the detention.

On 29th September 2010 Armand Tungulu, who was resident in Belgium and on a visit to Kinshasa, was arrested for throwing stones at the Presidential motorcade. He was detained and on the 2nd October it was announced that he had died in custody, reportedly, after committing suicide

A MONUC Radio OKAPI news report refers to Congolese politicians in the UK. On 16th March 2010 it had carried a report on the Enyele uprising in Equateur. In his public confession Ciceron Baokolo, 'who is close to Oudjani, the spiritual chief of the Enyele' stated: *'that he was in charge of the transport for Oudjani as his driver and boatman.*

¹⁸ www.omct.org/files/2008/11/5164/omct_annual_report_2007.pdf

¹⁹ iwpr.net/report-news/secret-police-accused-torture

*According to him the Enyele uprising is backed from the city of London in Great Britain by certain Congolese politicians.*²⁰

The husband of RAS2 was from Equateur province. The returnee was arrested two months after this public confession and tortured to make her confess that her husband was a rebel and that she had been involved in the attack on She Okitundu. Her husband has been missing since 2006.

RAS1 was interrogated by ANR to make him admit he was involved in the attack on She Okitundu on 26th October 2006 and that he belonged to a group in opposition to Joseph Kabila in Great Britain. When in the UK he had been a member of the Congolese Resistance Council and an active member of UDPS.

RAS4 was asked what reason had been given for his arrest and ill treatment in Kin Mazière. He stated: *'Because I am from London, from UK.'*
'I am supposed to be one of the people against the Kabila regime. They said I must be punished.'

RAS3 was questioned by ANR about her activities in the UK and the people she knew.

A photograph was taken of RAS2 when she said she was from UK. Officers commented in Swahili that RAS2 was from the country of the resistance, where the *'combattants'* beat visiting Congolese officials. In Tolérance Zero RAS2 was in the custody of the secret services and tortured to make her admit that her husband collaborated with rebels. She was threatened with death because she came from England and was a member of the resistance, who were enemies of President Kabila. She was tortured and raped repeatedly. RAS2 was accused of being a contact for the Resistance of London in Kinshasa. A named officer had threatened her with death during her imprisonment.

RAS9 was interrogated in Kin Mazière by Secret Service officers about his activities in the UK. He alleges that officers who interrogated him were in possession of photographs from a March in 2006 and they wanted the names of others involved. He was tortured to make him confess to being involved in the attack on She Okitundu.

RAS10, when asked what he had been questioned about, stated: *'Well, they began by asking questions about my name, my date of birth, where I'd come from, what I'd done there. Why I'd gone and talked like that about our government.'*

RAS16 states that she was asked about her activities in the UK and that the escorts gave *'mes documents de l'Angleterre'* (my documents from England) to the Congolese authorities at the airport.

Extortion and Ransom

- 1/15 ransom was paid from the UK
- 3/15 ransom was paid by family and friends in DRC
- 2/15 bribe was paid before removal
- 2/15 money stolen from returnees in prison
- 4/15 returnees had money or belongings stolen from them at the airport
- 1/3 voluntary returnees was given money in the UK to assist passage through the airport

²⁰ radiookapi.net/.../quatre-presumes-c... - Congo (DRC)

Payment is known to have been made to Congolese officials before removal from the UK. Future safety is not guaranteed by these payments. RAS14 referred to the situation in DRC prisons. It was, generally, required to pay a bribe to secure release from prison, including payments of money, and of food. He said it was usual to be mistreated and that people from poor families might risk death from hunger.

In two cases returnees were robbed at the airport and further sums were demanded from families for the release of the returnees from prison. However, paying money for release did not mean freedom, as people continued to be harassed after their release, told to lie low or leave the country. RAS1 had changed £70 into Congolese francs at the airport. Two men in a Japanese type Jeep, with no licence plate, detained him after he had left the airport building and stole the money before arresting him. His family was asked for 800 dollars for his release from Kin Mazière. 380 dollars were sent in a first payment by UK friends but release could not be secured until a second payment of £220 was made.

RAS2, who was removed from the UK in a wheelchair, was forced to hand over 100 dollars she had been given by UK escorts for her transport from the airport. Her family was asked to pay 25,000 dollars because the authorities knew she had come from London. \$6,000 were paid. Ransoms did not ensure safety. RAS2 was told by the officer who took the bribe that she must leave the country the very day she was released. RAS4 was told that he was still in danger and it was not safe for his friend to shelter him. He must leave the country. Two returnees referred to repeated demands for money at home.

RAS4's friend negotiated his release from Kin Mazière. He believed money was paid but the amount is not known. He was told that he was still in danger and it was not safe for his friend to shelter him. He must leave the country.

Though the British Embassy confirmed the detention and release of a returnee on resolution of 'documentation' problems, *'Of course, no mention was made of the \$1000 bribe paid to get him out.'* (UK supporter)

RAS9 had money stolen from him during his first period of imprisonment.

RAS 11's IOM money, £500, was stolen from him in Kin Mazière.

Though money had been paid to ensure RAS10 was released from prison, he was told he must not to be seen, must not speak of what had happened to him and must not take part in political activities. He remained in hiding for about several months.

RAS14 stated in a phone call to *Justice First*, *'Right now a soldier with [sic] full of bullets was asking me for money two minutes ago then treated me as a wrong person. I'm shaking by now and asking myself what level of breaking law have I done to be sent home in this period and in these conditions?'*

A friend who had sheltered a returnee for a short time was arrested and tortured for information. His family paid \$ 500 for his release.

Two returnees referred to repeated demands for money at home. Though money had been paid to ensure one returnee was released from prison, he was told he must not to be seen, must not speak of what had happened to him and must not take part in political activities.

Safe Return

Home Office and Foreign and Commonwealth Office viewpoint

Letters to MPs from the Home Office and the FCO contain inaccurate information, as exemplified by a letter from Phil Woolas, pp'd by Lin Homer, to Fiona Hall MEP (stamped 9th August 2009) suggesting the British Embassy consults 'regularly' with the Transitional Government, which had ceased to exist in 2006. In the House of Lords in 2011, Baroness Browning refers to the Country of Origin Information on DRC as having been updated in 2010. Though considered out of date and recommendations for updates having been made by the IAGCI (Independent Advisory Group on Country Information), established by the office of the Independent Chief Inspector of the UKBA, Mr. Vine, no update has been made to the COI as of November 2011.

FCO monitoring of the situation in Kinshasa is flawed. Days before a charter flight, a Home Office letter of the 19th February 2007 states that the latest report from the FCO was that Kinshasa was 'stable' *'streets are calm throughout the city' The Kinshasa authorities are now able to contain any aggressive demonstrations with proportionate force..* *'Since the beginning of December there have not been any significant violent incidents on the streets.'* This assessment proved inaccurate. The Human Rights Watch report²¹ 'We Will Crush you' (2008) describes a brutal crackdown in Kinshasa during this same period. Dave Anderson MP, in a letter to Home Office Minister, Joan Ryan, describes Kinshasa as a war zone following the violent confrontations between President Kabila and Vice President Bemba's troops on the streets of Kinshasa in March 2007. He urged that rejected Congolese asylum seekers should not be removed at that time. Children removed from Middlesbrough on the charter flight were caught up in the violence. They said they had never heard gun shots before. Despite the inaccurate assessment of February, Immigration Minister Tony McNulty in a letter pp'd by Meg Hillier states that, again, the FCO informed the Border and Immigration Agency on 2nd August 2007 that *'conditions in Kinshasa and the surrounding regions are stable and likely to remain so for the foreseeable future'* The HRW report 'We will crush you' details the crackdown in Kinshasa between 2006 and 2008 when hundreds of political opponents were murdered.²²

If the FCO is monitoring the situation in DRC why, in January 2010, was Fiona Hall MEP informed by Ivan Lewis MP, that, in response to a request to verify the closure of Kin Mazière prison in 2009, it was necessary for the British Embassy to *'investigate'*. Information about the closure had been disseminated in the UK.

The current DRC OGN (2008) does not comment on the reception of refouled asylum seekers at N'djili airport. The most recent COI (June 2009) report does so (34.02). It presents a monitored situation at the airport which may involve some bribery (5-10 US dollars) and questioning as to why the returnee left the country and applied for asylum but does not involve detention nor torture. This contrasts with the description from FAS 12 that the airport, at the time of his removal, was *'chaotic, there are the police, security services and the army at the checkpoint.'* The airport in 2011 presents a more controlled picture and access to the terminal building is restricted. The 2009 COI cites the UNHCR as reporting that VSV had an office at the airport and was 'closely monitoring' the reception of rejected asylum seekers by Immigration 'agents'. According to the UNHCR, VSV was not aware of cases of detention and torture of rejected asylum seekers.

The report refers to the UNHCR having stated that the International Office for Migration (IOM) Kinshasa, the Mission of the United Nations in the Democratic Republic of Congo

²¹ Human Rights Watch 'We Will Crush You' (2008)

²² Human Rights Watch 'We Will Crush You' (2008)

(MONUC), the Association Africaine de Defense des Droits de l'Homme (ASADHO) and UNHCR staff who were "... at times present at the airport [in Kinshasa] ..." did not hold the information to confirm the existence of instances of the detention, abuse or torture of failed asylum-seekers. [48a] (p2)²³

*'With the **limited** information available to UNHCR, it does not have evidence that there is a systematic abuse, including detention and mistreatment, of failed asylum-seekers returned to the DRC through Kinshasa airport.'* [48a] (p2)²⁴ It should be noted that the UNHCR statement re: presence at the airport [in Kinshasa] was dated 19th April 2006.

A more recent communication from UNHCR (26/01/11) states: *'Rejected asylum seekers are not part of our mandate. We do not monitor the situation of rejected asylum seekers at the airport, unless we are informed in advance of the date and time that they will return and that there are concerns that the rejected asylum seeker might be arrested or abused. Abuse can be reported to the UN Human Rights Office in Kinshasa.'* This is consistent with evidence relating to the role of the UNHCR from Expert 2 during the BK Country Guidance case, evidence which was rejected as 'unfair' by Judges Storey, Warr and Davey. They judged that, *"to state that UNHCR exists for refugees and not for the safety of rejected asylum seekers"* shows serious ignorance of UNHCR's own policy and practice.²⁵

The US State Department 2008 Human Rights Report on DRC indicates the difficulties experienced by the UN Human Rights office. *'On April 21, the ANR denied access by UNJHRO officers to holding cells in five provinces (Kinshasa, Bas-Congo, North Kivu, Orientale, and South Kivu), claiming that the directors of the cells were unavailable. According to the UNJHRO, this type of denial commonly occurred despite the fact that UN Security Council Resolutions related to MONUC's mandate state that UN Human Rights Officers are to be granted immediate and unhindered access to all holding cells and places of detention.'*

Country of Origin reports have quoted a UNHCR response to allegations of the ill treatment of failed asylum seekers. The date of the response was 19th April 2006. The date is not stated in the 2009 COI. The May 2007 COI report stated the UNHCR had staff, at times, at the airport but they had not 'witnessed' arrests. In 2011 it was observed that UN staff were not allowed full access to the airport building. Returnees stated they were the last to leave the aircraft and were collected at the foot of the stairs leading down from the plane, thereby, rendering it less likely their arrest would be witnessed. Some returnees were arrested outside the airport or at home and transferred to prison. The arrest of RAS1 may not have been witnessed but his lawyer confirmed it happened. The Congolese Immigration officer confirmed that returnees are arrested and punished in secret, away from the eyes of NGO staff, in prisons where people are killed. The June 30th 2009 COI quotes the UNHCR as follows, *'With the limited information available to UNHCR, it does not have evidence there is systematic abuse, including detention and mistreatment of failed asylum seekers returned to the DRC through Kinshasa airport.'* [48a] (p2) Limited information is, apparently, being given preference over first hand evidence from the UK. In 2011 the UNHCR in Kinshasa confirmed that they do not liaise with the British Embassy about failed asylum seekers.

Amnesty International identified two NGOs that might, on request, assist refused asylum seekers when they arrive at N'djili airport. The NGOs would incur costs of, approximately,

²³ COI Report 30th June 2009

²⁴ COI Report 30th June 2009

²⁵ Country Guidance case of BK (Failed asylum seekers) DRC CG [2007] UKAIT 00098.

\$50 dollars, including \$ 5 dollars for parking fees at the airport, \$20 dollars for their airport entry fee and the remainder for 'other taxes'. This information would appear to be out of date in 2011 when access to the airport terminals is very restricted. Two UK charities requested UNHCR staff meet returnees in February and April 2011, although, initially, UNHCR staff offered to go to the airport to meet the flights, staff were not present when the flights arrived. One flight arrived two hours later than expected. UNHCR staff state they were not allowed to check passenger manifests. When assistance was requested for a third returnee, UNHCR staff suggested the Human Rights office in Kinshasa be contacted. . However, staff there stated that they could not meet returnees at the airport, as they could not be involved in 'hypothetical' violations of human rights however, should a returnee's human rights be violated after refoulement, the returnee should contact their office. Returnees are reluctant to do so and have expressed fears that Human Rights organisations are 'watched' by secret services. RAS2 was arrested two days after trying to see Floribert Chebeya at the office of Voix des Sans Voix in Kinshasa.

VSV is reported by the FCO as also having a contact point at the airport, also. VSV has stated that they have financial difficulties and only ever send someone to the airport if they are made aware of a case. In a telephone conversation in 2010 Floribert Chebeya confirmed to a *Justice First* trustee that there was no VSV office at N'djili airport. When questioned about the existence of such an office, a Congolese human rights activist commented, "Who would allow an NGO to have an office at the airport?" He added that people who are *refouled* are imprisoned because it is assumed they have criticised the Government.

VSV have stated that they are involved in regular (approx. monthly) consultation with the British Embassy in Kinshasa, and that such consultations have, at points, involved discussion of some cases of deported Congolese.

Unsafe return

The Home Office stresses the removal of Congolese is only carried out when the courts have decided the applicant does not require protection and it is safe for them to return to their country. In view of compelling evidence that it is not safe, what steps are being taken to verify whether the assurance of safety given to rejected asylum seekers and their families is sound and why the Court decision that it is safe to return to resume family life is flawed?

It is the assessment of the author of this report, based on first hand experience, that refused asylum seekers had not been removed to safety in DRC but had been exposed to danger.

One returnee could not leave a compound for months '*Because I was told to hide, that they were looking for me, that there were sound reasons for this. The reason is that they don't respect human rights in Congo, and that I had said the government had arrested me, and that at the time of my return, I was being sought after, to be put in prison. And there, I was going to be ill-treated. That's why they told me not to show myself. Don't show yourself because you don't know who can see you, who can recognise you and who can arrest you. We, we've taken the money; we've done our job, that's the police.*' (Conversation in 2011)

Since 2006 returnees have stated in e-mails and during phone calls to UK citizens that they are not living in safety. RAS14 alleges he was reporting to the British Embassy each week in 2006, at around the time of the election.

Four returnees refused to be met at home for fear of attracting attention in their neighbourhood. One woman was met in the vicinity of where she was being sheltered. The interview took place in a half built room, to which two chairs had been brought. She had had to move from her previous place of hiding due to threats to the head of the household. Another female returnee did not accept phone calls from an interviewer until the Pastor sheltering her had met with the interviewer. She then accepted a phone call and reiterated the

Pastor's words that she was not safe and dare not leave the house. One female agreed to be met at the home of a relative who had taken her in.

Returnees mentioned the fear of being in a place where there might be a problem which attracts a police presence and, though innocent, they might be picked up and transferred to jail again, where they might be identified. RAS1 and his lawyer stated that he could only leave the place he was staying at night. RAS8 wears a scarf to cover her head when she goes out.

Safe return has not been enjoyed by IOM voluntary returnees. One is untraceable, one lives under a different identity and, a third, having returned to his parents, fled the DRC because he felt unsafe.

Former DRC Presidential candidate Marie-Thérèse Nlandu asked MPs of the All Party Parliamentary Group – Great Lakes in 2007, “Who will protect these illustrious UNKNOWN Congolese? Will Britain deport them with everything I have just explained? In the knowledge that she will surrender these defenceless men and women to certain death?”

RAS 15 - IOM voluntary returnee

The case of Tees Valley resident RAS15 was not followed up immediately, as it had been hoped that her return was, indeed, successful. RAS15 returned to DRC through the International Organisation of Migration Voluntary Assisted Return and Reintegration Programme. She returned to DRC with her small child. .

For completeness of this report, it was decided to ascertain whether she had successfully reintegrated into life in DRC. When a professional who had helped RAS15 in the UK was asked if she had reintegrated successfully, it became apparent RAS15 had not responded to any calls after her arrival in DRC. A call was made to IOM staff in Leeds who suggested contact be made with a senior caseworker in London.

14th January 2011 CR spoke to E, a senior caseworker at IOM London, who confirmed that RAS15 had returned with her child, that she had not picked up her reintegration package and was still eligible to do so. E advised not to be concerned about RAS15 as IOM returnees were safe on return. E was not aware of the post return imprisonment of RAS11. She agreed to follow up the case of RAS15 and informed CR that RAS15 had picked up her reintegration package. This reassured those who had known her in the UK.

18th January 2011 there was a further call to E who agreed to ask Kinshasa staff to contact RAS15. E was concerned.

25th January E reported that staff in Kinshasa could not contact RAS15 by phone and she would ask them to go to her address.

11th February E called to say RAS15 could not be found. *IOM-Kinshasa said staff had spoken to her on the 2nd February and were sure it had been her on the phone.* Staff went to the address they had but she was not there. They had, also, gone to an old address she had given. The neighbours did not know her.

24th February 2011 There was no further news. E intended to e-mail Kinshasa.

Further calls to E's number went unanswered, the last one being on the 18th April 2011.

In view of the subsequent e-mail exchange in June 2011, it is unlikely that IOM-Kinshasa staff would recognise the voice of RAS15 on the phone and be able to state with any certainty it was her. She had made only one visit to the IOM office in early 2010.

27th April 2011 Call and e-mail to Refugee Action which had taken over the voluntary return programme from IOM. One month later an employee confirmed the e-mail had been forwarded to managers.

Refugee Action forwarded e-mails to IOM, which confirmed that RAS15 had not picked up her reintegration package, contrary to the information given in January, and that *'RAS15 has not contacted the IOM office since her initial visit, when she arrived.'* IOM visited the address recorded for RAS15 in February 2011, only after concern for her safety and that of her child was voiced in the UK.

Refugee Action took over the voluntary returns contract in 2011 and are, apparently, in the process of establishing networks on the ground. They are aware of a *couple* of problems in *specific* countries and act on any information they receive. With regard to returnees who experience problems, the mechanism is to *'contact clients after they return and ask whether there were any problems at the airport, or after they returned to their final destination.'* When made aware of problems, RA *looks into* setting up *'meet and greet'* at the airport, alerts UKBA to problems they might be able to assist with and discusses with future returnees how they will deal with such issues if they arise.

Interview with a Congolese Immigration Officer

A member of the Congolese Immigration Services was interviewed face to face in DRC in 2011. The interview took place in an informal setting and was conducted in French and was audio recorded. The officer did not show ID due to fear for his safety. His testimony would appear to support the evidence given here by refused asylum seekers and the author's assessment that Congolese are not being removed to safety.

He explained the process of receiving those who are refouled as follows. The UK Immigration authorities contact the Congolese Immigration authorities prior to the removal of asylum seekers and the names of those to be removed are given. The Immigration services in DRC will study and analyse the returnee's file in their possession in order to establish whether the returnee has a problem with the Congolese state, such as a breach of state security. In such a case the Immigration Service will contact the Security Services. If the returnee has no problem with the state but has left the country on a false passport, the asylum seeker must still be punished by imprisonment. The Congolese authorities will know from the documents that a returnee is holding that he or she has been refouled. A person will be questioned about how they reached the UK and which document he or she used to get there.

Once the Immigration authorities know the returnee has arrived at the airport, they go immediately to pick him or her up for interrogation. If the person has a political problem the Immigration Service must know and he or she will be 'put' where people who have problems are 'kept'. Such returnees were sent previously to Kin Mazière and now to Tolerance Zero. In such a case, the returnee can have no excuse, there will be no pity shown. People are caught and can be killed in Tolérance Zero. Punishment does not take place at the airport but in secret, 'behind the scenes' (entre coulisses). It is difficult to bring about release from prison but, if a person is released, there are security services who go at night to re-arrest him or her. *'That is the danger.'* Similarly, if people are released in front of witnesses the same officers will be used to rearrest them. Those who have a problem with the state will be severely ill treated and duly punished. He or she will run the risk of being killed (éliminé). Detainees do not have access to lawyer. Any communication with the outside is very difficult.

Female returnees can be ill treated and there is the risk of rape if they are left in the hands of 'less educated' officers. Children may be arrested along with parents and can be 'recupérés'

(picked up) by their families at a later date. NGOs meet their 'staff' from abroad at the airport. Staff may be present at the airport but punishment is carried out away from their eyes.

Conclusions reached

- That decisions since 2006 refusing protection to Congolese asylum seekers have been flawed and, consequently, have resulted in people being unjustly removed back to inhuman and degrading treatment,
- That the UKBA hypothesis that it is safe to return people to the DRC is unsound
- That there is no effective monitoring of those refouled to DRC and unsuccessful asylum seekers do fall outside the mandate of the UNHCR
- That when inhuman and degrading treatment has been reported to NGOs this information has not been acted on nor shared and is being used for 'information' only.
- That a policy exists to punish asylum seekers who are suspected of having spoken out about having been ill treated in the DRC and the lack of human rights in the DRC, thereby, betraying their country and the President.
- That the travel document identifies failed asylum seekers and therefore places them at further risk on return.
- That returnees are not able to resume family life nor to live in safety.
- That children are at risk of imprisonment upon return.
- That those refouled to the DRC on a travel document are suspected of having left on a false passport, an offence which will be punished by imprisonment
- That returnees who have been arrested and subjected to inhuman and degrading treatment are frightened to approach NGOs which, they believe, are being monitored by the state security services. A belief reinforced by the death of Floribert Chebeya, President of Voix des Sans Voix.
- That NGOs and UN cannot access the airport and are not able to 'witness' arrests
- That the UKBA suggestion that returnees should report instances of inhuman and degrading treatment to the British Embassy is not realistic. The Embassy is not easily accessible to people without money for transport. At the end of the road where the Embassy is situated there is a manned military road block. Congolese G4S are on duty at the Embassy's reception windows.
- That some of the content in letters from the Home Office to MPs and MEPs is not accurate. For example, a letter from Immigration Minister, Phil Woolas, pp'd by Lin Homer, states the British Embassy is in touch with the Transitional Government, in the DRC. The Transitional Government ceased to exist in 2006. Also, information from Baroness Browning in reply to a Question in the House of Lords is not correct. She states the Country of Origin Information for DRC was updated in 2010. It was not updated in 2010 and has not been updated as of November 2011.

- That the issue of failed asylum seekers refoiled to inhuman and degrading treatment is considered to be a 'complicated' one at European level.
- That MPs in the UK have expressed fears for the safety of refoiled Congolese constituents.

Recommendations

- That Country of Origin Information be updated to reflect the findings of this report.
- That, until there is a review of the policy that it is safe to return people to the DRC, no further removals should be carried out.
- That until the hypothesis of safe return can be tested through an effective monitoring system, people should not be removed to DRC.
- That, as recommended by the Independent Asylum Commission, UKBA and the FCO begin a meaningful dialogue with UK civil society groups and individuals who have remained in contact with those refoiled to the DRC
- Steps be taken to ensure that no document relating to a returnee's asylum claim be given to Congolese authorities
- That, based on the experience with IOM, more robust procedures be put in place to ensure that UKBA partner organisations do not facilitate voluntary returns without a verifiable reassurance of safe passage and without a functioning network on the ground to follow up the well being of returnees.
- That any investigation carried out by FCO or UKBA be done discreetly, so as not to identify those who have, courageously, given testimony for this report and not to place them at further risk.

Acknowledgement

The Congolese returnees in this report were known to UK citizens who believed their accounts of post return ill treatment and who did not forget their Congolese friends and neighbours. This gave hope and courage to those who had experienced trauma and ill treatment after their removal from the UK. This report has been made possible by a growing number of citizens who were willing to give of their time, money and talents in the hope that a truth that has been resisted for almost a decade will be accepted as 'self evident'.

APPENDIX A

Case of BEACON returnee P

It was not possible to arrange to meet P in 2011 because of mobile network problems. As there were few details relating to her experience, apart from anecdotal evidence from her relative in the UK who said she was not safe, the case of P was not included in the body of the report.

The following is from a statement by Will Sutcliffe, the Hosting Coordinator at BEACON, relating to P, who was removed in 2011.

'I spoke to a lady named S. at UNHCR in London on 15th, giving her P's charter flight details and estimated time of arrival in Kinshasa and asking if it would be possible for UNHCR to meet P on arrival at the airport. She explained that, whilst UNHCR cannot meet people at Kinshasa, she would email an NGO in Geneva who operate in Kinshasa, to ask if they could do so. P was deported on *, having called me at 08.30 that morning as she was about to be put on the flight, pleading that I try do do more to prevent her deportation. After her return, members of the DRC community in Bradford made various attempts to contact P by phone. They established that she had arrived but could not gain further information of any substance.

On 17th February I spoke again to S who told me that Protection Officers from MONUSCO had been at the airport to meet P but been told that there had been no charter flights expected and that the last international flight was due in at 01.30 that morning. As they were not given access to the manifest, they were unable to confirm whether she was on this flight or not. On 18th I emailed S to ask who had provided this information to the MONUSCO officers. Not having received a reply, I emailed again on 28th February. Having still not received a reply, I phoned S on 22nd March. She told me that she must first speak to her supervisor to establish whether they can contact MONUSCO. If the answer was positive, she would then ask them if they were willing to divulge this information. I followed this call up with a confirmation email on 24th March. On 31st I received an email reply from S stating that UNHCR was not able to add any more information to what they had said previously and suggesting that I contact MONUSCO directly with my enquiry (she provided their contact details).

I then tried on a number of occasions on 19th April to fax MONUSCO on the number provided, but received a 'Line Error' message on each occasion. On 20th I emailed S asking if she would check that I had been given the correct number. Not having received a reply, I rang UNHCR on 26th April and learned that S had left and been replaced by T: I then emailed her and received a reply stating that the fax number was in fact correct. After several more unsuccessful attempts, I emailed my query to MONUSCO on 27th April. I have not received a reply.'

APPENDIX B

Additional Cases

During the meeting in Croydon in 2010 it was suggested that *Justice First* was the only organisation reporting the ill treatment of Congolese refused asylum seekers removed to DRC. As result Mr. Bone and Mr. Brice were asked if they knew of Congolese who had suffered ill treatment post return. Both replied in the affirmative and provided the following information by e-mail which supports the evidence in this report. The case of Family N had been included in the booklet give to Meg Hillier but, as there was no further information about the family, it has not been included in the body of the report. Again, in response to the suggestion that *Justice First* was alone in reporting unsafe returns, updates regarding the situation of M were requested by e mail.

Case B

Some 7/8 years ago I used to visit asylum seekers and met African pastors visiting them. One pastor was from the DRC who was also seeking asylum.

I used to visit him as well to improve my French and discuss people's situations.

After about 2 years later he was taken into detention and returned to the DRC.

Some weeks later I was with a DRC family who phoned him so that we could speak.

He told me that he had to pay the guards at Kinshasa airport to get out with only a beating. They took everything from him, including his clothes, so that he had to walk naked into the city to a friend's house. He then hid in a church for months. He felt he was one of the lucky ones not to disappear, go to prison or be found dead.

Anthony Bone

Newcastle-upon-Tyne

Case R

R was arrested and tortured by Police and Secret Services after denouncing government involvement in a massacre in DRC. He sought sanctuary abroad and was held for 18 months in a detention centre. He agreed to return to DRC and was arrested at N'djili airport by Immigration officers who handed him over to Secret Services, officially, to verify identity. He was held in a 'secret place' for approximately two months during which time he was, again, the victim of ill-treatment, torture and death threats. A parish priest, who knew R, ascertained where he was being detained through contacts, who took steps to secure R's release. R was sheltered by the parish priest, who sought medical treatment for him before arranging R's onward flight in order to seek sanctuary once again.

Alan Brice, Manager,

Centre for the North East of England Freedom from Torture

Family N

On * 2007 the N family with whom I was acquainted, were removed from their home in * and put on a plane the very next day. Reportedly, Mr N was detained on arrival by the DR Congo authorities and his family and friends have heard no further news from him - he has become one of the 'disappeared'. His wife told supporters in the UK that having been harassed by the DRC authorities she and her son had gone into hiding.

Kevin Egan

Other cases of unsafe return have been disclosed but have not been fully verified.