

**A&L GOODBODY AND IRISH REFUGEE COUNCIL  
ASYLUM LAW AWARD 2015**

*This assignment is open to all UCD students and is based on the details of a real life case on which A&L Goodbody and the Irish Refugee Council collaborated. For confidentiality reasons the name of the client has not been used but the names of some other individuals and the outline of events used in the question are real.*

### **Your Task**

You are a solicitor working with A&L Goodbody and you have volunteered to act for asylum seekers on a pro-bono basis. You have been asked to act for an individual from the Democratic Republic of Congo (**DR Congo**) who has recently arrived in Ireland in search of international protection. Your task is to draft a legal submission of no more than 2,500 words to the Office of the Refugee Applications Commissioner in support of your client's application for refugee status pursuant to the Refugee Act, 1996 (as amended). Please study the facts below and draft your submission citing relevant legislation, country of origin information, case law and other precedent (but only if relevant) and any other material you believe will aid your client's application.

### **Your Client's Story**

Robert Kidiaba was born in Kinshasa in 1985. He grew up and was educated in Kinshasa where he completed his Baccalaureate in 2003. Robert went on to attend graduate business school in Kinshasa where he studied management from 2006 – 2007. Thereafter Robert worked as a marketing agent for company called [**Sivop Industries**]. Robert married his wife in 2008 and has 3 children who are currently aged 2, 4 and 6 years old.

Robert had always felt very strongly about human rights abuses which took place in DR Congo, in particular those perpetrated by the government and its agencies. Robert had particular sympathy for human rights activists in DR Congo whom he believed were targeted and often terrorised or killed by agents of the State. One of the main reasons for this was that in 2006 Robert's aunt Héléne Mpaka and her husband Franck "Ngyke" Kangundu were killed and Robert's family believed that government authorities in DR Congo were responsible for these deaths. Robert's Aunt was a human rights activist who was involved with a human rights organisation called Réseau Africain des Femmes. Her husband Franck was head of the political section of the independent Kinshasa based daily newspaper called La Référence Plus.

Robert believed that the best way to fight against human rights abuses in DR Congo was to join an organisation that fought to uphold human rights. In 2008 Robert completed a course in human rights run by an organisation called Association Internationale pour la Défense des Droits Humains (**AIDDH**) which was an independent human rights organisation based in Kinshasa. AIDDH was part of an umbrella civil rights organisation in DR Congo called the New Congolese Civil Society which is known by the French abbreviation NSCC. The main goal of AIDDH was to fight against the violation of human rights in DR Congo and to motivate people to be aware of human rights and to uphold human rights law in DR Congo.

When Robert completed his course in human rights in 2008 he agreed to work with the AIDDH on a voluntary part-time basis. Robert began working as an investigator of human rights abuses and was soon put in charge of a team of 4 investigators which was tasked with investigating and uncovering human rights abuses and breaches of human rights law by members of the government in Kinshasa.

One of Robert's assignments was to infiltrate the majority government political party called People's Party for Reconstruction and Democracy (**PPRD**) which AIDDH believed were involved in election fraud in relation to the campaign for the re-election of the then incumbent president of DR Congo, Joseph Kabila.

In January 2010 Robert was involved in a peaceful protest which was organised by members of AIDDH at the parliament buildings in Kinshasa. The plan was to stage a peaceful protest outside the parliament building and hand in a petition in relation to what AIDDH believed to be election fraud. The police who were guarding the government building would not allow the protestors enter the building to hand over the petition. A fight broke out between some of the protestors and the police and Robert, who was recognised as one of the organisers of the protest, was arrested. Robert was detained overnight and was beaten by police while in custody, but was allowed to walk free the next morning. Robert believes that the reason he was allowed to go free without charge was as a result of negative coverage in the local media in relation to the treatment of the protestors by the police.

Following his arrest Robert continued his work with AIDDH as the presidential elections in DR Congo were due to take place in 2011. Robert became friendly with an army general known as General Faustin Munene when his cousin married the General's niece in 2010. General Munene was considered to be an opponent of the government in DR Congo at that time and the General took an interest in the work Robert was doing with AIDDH.

In September 2010 General Munene went missing. At the same time a government minister called Lambert Mende Omalanga appeared on a state owned TV station and said that General Munene was part of an armed resistance militia called the Army of Popular Resistance which was planning a military coup against the government, and that he was wanted.

Following this incident Robert appeared on a privately owned TV station in DR Congo called Canal Congo Télévision (**CCTV**) which was owned by the opposition leader in DR Congo at that time, Jean Pierre Bemba. On the show Robert specifically spoke about General Munene and his disappearance and the concerns of his family and followers in relation to his disappearance.

Shortly after his appearance on CCTV, Robert, along with around 250 other people who were perceived to be associated with General Munene, was arrested by government forces and taken to Ndolo Military Prison in Kinshasa. During his first few days of detention Robert was severely beaten and tortured by prison officers and government officials who were keen to find out information on what they believed was a planned military coup against the government.

After a number of days of detention members of the AIDDH contacted the prison and began to campaign for Robert's release. As a result of these efforts the beatings and torture stopped, but Robert was not released from Ndolo. Initially conditions in the prison were horrific. Robert was placed in an overcrowded cell with 15 other inmates (and only 6 beds). Food was very limited as was medical attention when needed. Robert was forced to clean out toilets with his bare hands at 6am every morning for his first 7 months in Ndolo.

Robert's treatment in Ndolo eventually improved as a result of the efforts of AIDDH and other international players such as the United Nations Organization Stabilization Mission in DR Congo (**MONUSCO**) and he was eventually given his own cell, sufficient food and was allowed visits from his wife and his associates in AIDDH.

But there was no sign of a trial date for Robert and Robert constantly worried that he would be executed in prison, as had been the fate of many other long term military prisoners and human rights activists in detention in DR Congo.

In January 2015 Robert escaped from Ndolo prison during a prison transfer. The escape had been facilitated by a Colonel in the military who had been bribed by Robert's family. After his escape Robert went into immediate hiding with one of his cousins where he and a number of members of his family planned his escape from DR Congo. Robert managed to obtain a passport and visa which would allow him to leave the country from a business associate of his cousin. Robert flew from Kinshasa to Dubai on 17 March 2015. There was a 5 hour stopover in Dubai and from there he flew to Dublin where he arrived on 18 March 2015.

Robert claimed asylum when he landed in Dublin and was directed to register as an asylum applicant with the Office of the Refugee Applications Commissioner. Robert was referred to Irish Refugee Council for legal assistance with his application, who in turn referred his case to A&L Goodbody Solicitors.

#### **Some Useful Links:**

1. <http://www.orac.ie/website/orac/oracwebsite.nsf/page/index-en>
2. <http://www.irishstatutebook.ie/1996/en/act/pub/0017/>
3. <http://www.irishrefugeecouncil.ie/>
4. <https://www.gov.uk/government/publications/democratic-republic-of-congo-country-information-and-guidance>
5. <http://www.unhcr.org/pages/49da0e466.html>
6. <http://www.unhcr.org/3d58e13b4.html>