Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Congo - 5th Session - 2009
6th May 2009, 9am - 12pm

National Report

8. The population growth rate is 7 per cent, according to estimates of the Bank of Central African States. Average life expectancy is 49 years. The infant mortality rate is 75 per 1,000 live births and the maternal mortality rate is 781 per 100,000 live births. The HIV/AIDS prevalence rate is 5.3 per cent for people aged 15 to 43.

9. The gross school enrolment rate is 51.4 per cent.

14. Legislative and regulatory measures transpose into the domestic legal regime the various international human rights accords and treaties to which the Congo is a party. In this context, we may cite the following legislative measures: Act No. 60-18 of 16 January 1960 on moral protection for Congolese youth; Act No. 18/64 of 13 July 1964 on prevention of the unlawful removal from the Congo of a child born to a Congolese mother and a foreign father; Act No. 15/66 of 22 June 1966, amending Act No. 19/64 of 13 July 1964 on protection of minor schoolchildren; Act No. 25-95 of 17 November 1995, amending Act No. 8/90 of 6 September 1990 and reorganizing the educational system in the Republic of the Congo; Act No. 10-2000 of 31 July 2000 on the establishment of a youth support fund; Act No. 9-2000 of 31 July 2000 on youth orientation; Decree No. 60-93 prohibiting children under 16 years of age from frequenting or visiting public places between 8 p.m. and 5 a.m.; Decree No. 60-94 of 3 March 1994 regulating the admission of minors under 16 years of age to cinemas and theatres; Decree No. 60-95 of 3 March 1995 regulating admission of minors under 16 years of age to dance halls and places selling alcoholic beverages; Decree No. 96-221 of 13 May 1996 regulating private education; Decree No. 99-281 of 31 December 1999 correcting Decree No. 96-221 of 13 May 1996 regulating private education; Decree No. 2008-127 of 23 June 2008 on the establishment, responsibilities, organization and functioning of commissions for the accreditation of private educational facilities.

28. Article 25, paragraph 1, of the Charter of Rights and Freedoms adopted by the Sovereign National Conference on 29 July 1991 governs the particular situation of a Congolese child: “Every child, without discrimination with regard to race, colour, gender, religion, national or social origin, wealth or birth, has the right to be protected by his family, society and the State in accordance with his needs as a child.”

62. Although the Constitution referred specifically to vulnerable social sectors, the Charter of Rights and Freedoms of 21 June 1991 was much broader in its coverage, as in article 32: “Everyone has the right to enjoy the highest attainable standard of physical and mental health. The State shall take the necessary steps to ensure:

(a) The reduction of maternal and infant mortality and the healthy development of the child;

65. The target for HIV/AIDS prevention is the adoption by 80 per cent of boys and girls aged 10 to 24 years of a safe approach to sexual relations.

66. The expected outcomes of the project for prevention of mother-to-child transmission of HIV/AIDS are a 20 per cent reduction in the figures for seropositive newborns and better access to counselling - voluntary screening of all women who undergo prenatal medical checks and medical, nutritional and psychosocial care for seropositive children. The Government has elaborated draft legislation, now awaiting adoption by the Council of Ministers, on protection of persons living with HIV/AIDS.

68. As to the situation of children, young people aged 10 to 14 and women of childbearing age, a programme consisting of two projects supported by the United Nations Children’s Fund (UNICEF) has been set up, concerning the prevention of HIV/AIDS in young people and of mother-to-child HIV/AIDS transmission.
The right to education is guaranteed by article 23 of the Constitution.

The educational system is regulated by Act No. 25-95 of 17 November 1995 modifying Education Act No. 8/90 of 6 September 1990 and reorganizing the educational system in the Congo. Education is provided free of charge in public schools.

In order to improve the quality of education, particularly basic skills acquisition, a Ministry of Technical and Vocational Education was established in the Republic of the Congo by Decree No. 2003-154 of 4 August 2003.

Private education in the Congo is governed by Decrees Nos. 99-281 of 31 December 1999 and 2004-327 of 16 July 2004 regulating the dispensation of private education. In addition, there is Decree No. 2008-127 of 23 June 2008 on the establishment, responsibilities, organization and functioning of commissions for the accreditation of private educational facilities.

With a view to promoting basic education, the Congo has resumed the programme for furnishing public primary schools with teaching materials.

This principle is set out in the following articles of the Constitution of 20 January 2002: Article 31: “It shall be obligatory for the State to assist the family in its mission as the guardian of the morals and values compatible with the republican system. The rights of the mother and child shall be guaranteed.” Article 32: “Marriage and the family shall be under the protection of the State. All children, whether born in or outside wedlock, shall have the same rights and duties vis-à-vis their parents. They shall enjoy protection under the law. Parents shall have obligations and rights vis-à-vis their children, whether born in or outside wedlock. The law shall establish the legal conditions relating to marriage and the family.” Article 33: “Every child shall have, without any discrimination whatsoever, the right to such measures of protection on the part of his family, society and the State as are required by his status.”

Congolese legislation accords special attention to vulnerable population groups, particularly children. Over the years, changes have been made with regard to perceptions of the protection of children. From 1960 to 1977, protection of children was based on medical, social and psychological elements. This explains why the relevant institution was within the Ministry for Health and Social Affairs.

The creation, by Decree No. 77/571 of 11 November 1977, of the Department of Supervised Education conferred legal and judicial status on the system for the protection of children during the period 1977 to 1998. This institution concerned itself exclusively with juvenile delinquents and children in moral danger.

The current Department for Legal Protection of Children was set up under the Ministry of Justice and Human Rights by Decree No. 99/85 of 19 May 1999. Its scope of activities is much broader than that of the previous departments. It is now in charge of juvenile delinquents, children in moral danger and children in physical danger.

The system of justice for minors is marked by two basic legal texts: The Family Code (for children in moral danger) and the Code of Criminal Procedure (for juvenile delinquents).

Title X, chapter 1, of the Family Code governs the relations between parents and their offspring. When the functioning of the rights and duties attributed to the parents is jeopardized, the system of justice for minors comes into play through educational assistance. This approach is used only if social action fails or by referral or order of the juvenile judge. Juvenile courts

He has jurisdiction to order educational assistance measures. Section II, title X, article 328 of the Family Code states: “When the health, safety, morality or education of a minor are jeopardized or insufficiently protected owing to the immoral behaviour or disability of the father and mother or of the person accorded the right of guardianship, or when, owing to misconduct or unruly behaviour, a minor gives these individuals cause for very serious dissatisfaction or renders them incapable of exercising guidance, the juvenile judge may, on his own initiative, at the behest of the public prosecutor or at the behest of the father, mother or guardian, rule that the minor shall, for a period not to extend beyond the date of his coming of age, be visited regularly by a social worker or placed on probation.”

The juvenile judge is also competent to adjudicate only the least serious cases by ordering, for example, educational assistance measures on behalf of juveniles accused of committing minor offences. These measures may consist of social investigation, warning, return to parents or guardian, probation or placement in an institution.

This court adjudicates cases of a certain gravity. It is composed of the juvenile court judge, the president and two other judges. They are chosen for their competence and for their interest in issues affecting children.

The court may take decisions on the minor’s return to parents, warning, probation, placement in an institution or incarceration.

It is competent to adjudicate cases involving minors of at least 16 years of age who are charged with a crime. It is made up of the president of the appeals court or a judge appointed by him or her, two other judges, one of whom is a juvenile court judge, and a six-member jury.

It is responsible for applying legislation on the protection of children and for carrying out studies to facilitate the elaboration of legislation on the prevention of juvenile delinquency and protection of children. It also takes responsibility for the rehabilitation of juvenile delinquents and minors whose morality is endangered with a view to their integration into society and for administering the public institutions that specialize in the protection of children. In addition, it supervises the functioning of auxiliary services for children.

The Department for Legal Protection of Children has two decentralized branches: The Section for Non-Formal Educational and Probationary Activities, with facilities in Brazzaville, Pointe-Noire and Dolisie; The Brazzaville Observation Section, on which renovation work is almost finished.

There are special schools for individuals living with disabilities: such is the case of the Institute for Young Deaf People, established
by Decree No. 5907/MSPAS/DAS of 30 December 1972, where vocational training is provided.

99. The same is true of the Moungali special school, which takes mentally retarded children up to 15 years of age.

126. The morbidity situation is typical of sub-Saharan African countries, dominated by reproductive health problems. Mothers and children are particularly vulnerable.

133. There are major concerns with regard to access to primary school education, its equity and its quality. In 2005, primary school enrolment increased by 4 percentage points compared with the year 2004, with a gross admissions rate of 72.8 per cent as opposed to 69 per cent in 2004, yet despite this small increase, the system is by no means able to accommodate all the children of primary school age. The gross school enrolment rate went from 89 per cent in 2004 to 91.4 per cent in 2005; this includes overage and underage children.

134. These figures conceal glaring disparities among administrative departments and districts and also for children of minorities (indigenous populations), physically disabled children and orphans, whose access to primary school education is deemed negligible.

135. The same problem crops up in respect of gender equality. Girls account for 48 per cent of the school population as opposed to 52 per cent for boys, with the boy-girl parity index being 0.95. The reasons for this gap are the relative underschooling of girls in rural areas and early dropouts.

141. To this end, the Congo must:

(e) Promote respect for the rights of children;

(f) Ensure the distribution of school textbooks in all public primary schools;

(g) Make secondary and technical education free of charge;

(h) Set up new schools in the hinterland;

(i) Renovate run-down schools;

145. The Congo’s track record in the field of human rights is encouraging on the whole. Many situations in the economic, social, cultural, political, material and human spheres have been addressed. This is true of environmental improvements in the context of accelerated municipal development, the guaranteed minimum inter-occupational wage and the payment of the internal debt and of salary arrears. Other situations are awaiting a solution. These are the developmental challenges that Congo is still facing: improving governance; combating corruption, misappropriation of public funds, fraud and influence peddling; and improving the social situation of workers, particularly young people and other vulnerable groups.

**OHCHR Compilation of UN information:**

1. In 2000, the Human Rights Committee (HR Committee) called on Congo to withdraw its reservation to article 11 of the ICCPR. In 2003, the Committee on the Elimination of Discrimination against Women (CEDAW) urged Congo to accelerate its efforts to ratify the Optional Protocol to the Convention and to accept the amendment to article 20, paragraph 1, of the Convention. In 2006, the Committee on the Rights of the Child (CRC) welcomed the ratification of ILO Conventions Nos. 105, 138 and 182. It recommended that Congo ratify the Palermo Protocol and finalize the ratification process of the OP-CRC-AC and the OP-CRC-SC.

2. In 2006, while commending Congo for having drafted a law on the promotion and protection of the rights of indigenous populations, CRC was concerned that the draft law did not refer explicitly to the rights of indigenous children, and recommended amending the draft so as to ensure that it explicitly covered all areas of the Convention. It also recommended that Congo improve and harmonize its legislation and adopt a comprehensive child protection code.

4. In 2006, while noting with appreciation the establishment of the National Human Rights Commission and the Office of the Mediator of the Republic, CRC regretted the limited mandate of these two institutions. It recommended providing them with an adequate mandate and financial resources to enable them to monitor the implementation of the Convention at the national level and to deal with individual complaints, as well as with structural and systemic issues relating to the rights of the child. As of 20 February 2009, Congo does not have a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).

5. In 2006, CRC welcomed the adoption of the Strategic Programme and of the Framework for Operations 2004-2008, which aim at improving the situation of children. However, it recommended that Congo provide a specific budget allocation and adequate follow-up and evaluation mechanisms for the full implementation of the Programme. CRC – combined second, third and fourth report due in 2010.

8. In 2008, the Sub-regional Centre carried out several missions to Congo, with the purpose of, inter alia, supporting the national human rights plan and the reporting to the Committee on the Rights of the Child; training trainers on gender and human rights; and training human rights for Congolese parliamentarians. The Centre also organized various regional activities outside of Congo, to which Congolese participants were invited.

9. In 2003, CEDAW noted with concern the continued persistence of stereotypical attitudes concerning the role and responsibilities of women. It urged Congo to increase its efforts, including by educational measures at all levels and beginning at an early age, to address such attitudes as they perpetuate direct and indirect discrimination against women and girls. CEDAW also recommended that a definition of discrimination against women be incorporated into domestic legislation and that Congo eliminate all forms of discrimination with respect to ownership, co-sharing and inheritance of land. It further recommended bringing marriage laws into compliance with the Constitution and the Convention, phasing out discriminatory family laws in a clear time frame, and amending the
11. In 2000, the Committee on Economic, Social and Cultural Rights (CESCR) noted that Pygmies were usually considered socially inferior and were severely marginalized in the areas of employment, health and education. In 2006, while noting with appreciation that the Constitution prohibits discrimination, CRC was concerned at the widespread ethnic-based discrimination against indigenous people, as well as against children living with HIV/AIDS, street children, disabled and refugee children.

14. In 2000, the HR Committee was concerned at the use of torture and cruel, inhuman or degrading treatment and recommended criminalizing such acts, punishing perpetrators, and not treating cases of torture as simple cases of voluntary infliction of blows and wounds. In 2006, CRC was concerned at allegations of torture and cruel, inhuman or degrading treatment, including rape, of children in detention by the military and the police. It recommended that all victims, including indigenous children, are provided with access to physical and psychological recovery and social reintegration as well as compensation.

16. In 2006, CRC was concerned that female genital mutilation (FGM) was still practised in some West African communities living in Congo. It recommended the adoption of legislation prohibiting such practices and targeted measures to ensure the eradication of FGM, including through widespread awareness-raising campaigns. It also recommended that children be encouraged to report these practices to health professionals and competent authorities.

17. The United Nations country team in 2008 reported that sexual violence committed by civilians was widespread. The perpetrators often knew the victims (in between 50 and 80 per cent of cases), and in approximately 20 per cent of cases, they were even related. The majority of victims were young girls (about half the victims were minors, and one in four was under the age of 13).

19. In 2006, while noting that Congo had ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others in 1977, CRC was concerned at the absence of legislation prohibiting trafficking in persons, particularly children, the fact that sexual exploitation of children was a widespread practice, and the fact that the Portella Law, prohibiting the presence of children in bars and night clubs, was not enforced. It recommended that these practices be criminalized by enacting legislation in conformity with the international standards and also recommended conducting educational campaigns to prevent and eliminate sexual exploitation, and to implement a comprehensive policy, in coordination with NGOs, for the prevention, recovery and social reintegration of child victims.

20. In 2008, the ILO Committee of Experts on the Application of Conventions and Recommendations noted that under article 334 of the Penal Code, the Government prosecutes individuals who encourage prostitution of others, recruit or act as intermediaries or exploit the prostitution of others. The Committee requested information whether domestic legislation includes provisions penalizing the client. The Committee reminded the Government of its obligations to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour including the use, procuring or offering of a child under 18 for the production of pornography or for pornographic performances. The Committee also requested that the Government adopt penalties for this purpose. It finally requested that the Government indicate the measures taken or envisaged to prohibit the use, procuring or offering of a child for illicit activities, in accordance with Article 3(c) of ILO Convention No. 182 and to adopt sanctions for this purpose.

21. The United Nations country team in 2008 drew attention to the highly visible problem of street children who had no family ties; there were some 1,900 of them, including 1,100 in Brazzaville and 800 in Pointe Noire. It noted that in those two main cities, it had been ascertained that nearly 1,800 children had been subjected to child trafficking.

23. In 2006, CRC was concerned that most officials dealing with juvenile justice were not aware of the rights of the child. It also expressed concern at the lack of juvenile judges, and at the fact that children are often detained with adults. It recommended that Congo implement the recommendations of the study on juvenile justice undertaken by Congo with the technical assistance of UNICEF; ensure that persons below 18 are only deprived of liberty as a last resort and, when in custody, are in any case separated from adults; provide them with a full programme of educational activities; and establish an independent monitoring system with access to juvenile detention facilities.

25. In 2006, CRC noted that the traditional perception of the child in Congolese society may be in conflict with the definition of the child enshrined in the Convention, in particular with regard to the age of majority, since in traditional views the transition from a play and learning stage of, development to work and marriage occurs sooner. CRC was also concerned at the limited human and financial resources available at the community level to provide assistance to families. It recommended strengthening the services of the Ministry of Social Welfare at the local level, by increasing the number of trained professionals working with families, and by ensuring that sufficient financial resources are allocated to these services.

30. Also in 2008, the ILO Committee of Experts requested that the Government indicate the manner in which children under 18 benefit from the protection provided for in article 3 (d) of the Convention No. 182, i.e. that they are not employed to carry out work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals. The Committee also reminded the Government to identify, after consultation with the organizations of employers and workers concerned, where the types of hazardous work determined exist, and to take the necessary measures in this regard.

31. In 2003, CEDAW noted with concern the existence of very high maternal and infant mortality rates, low prevalence of contraceptives among women and men, and the lack of access of women to adequate pre-natal and post-natal care and family planning information, particularly in rural areas. It recommended raising awareness of and increasing access to health-care facilities and medical assistance.

33. In 2006, while welcoming the launch of the National Anti-Aids Programme (2005-2008) and the adoption of the Decree establishing the National Anti-AIDS Council, CRC remained concerned that only few HIV-positive children had access to antiretroviral drugs. It was
also concerned at the lack of comprehensive data and policy on paediatric HIV/AIDS, at the high level of transmission of HIV/AIDS, as well as at the fact that prevention was not sufficiently enforced among children and adolescents. It recommended the conduct of awareness campaigns and programmes; an adequate implementation of the National Anti-Aids Programme, including by providing it with the necessary funding; and to seek further technical assistance. For its part, the United Nations country team in 2008 pointed out that there was still work to be done in terms of care and awareness-raising, particularly for children and adolescents, so that they would be aware of the problem and would adopt behaviour involving lower risks.

35. In 2000, CESCR noted that the education system was seriously deteriorated as a result of economic mismanagement, shortage of resources and political unrest.73 In 2006, CRC was concerned at the visible gender-based discrimination in education, clearly reflected in the ratio boys/girls in schools. It was also concerned at the limited opportunities of children to engage in cultural and recreational activities and programmes. The United Nations country team in 2008 emphasized that, notwithstanding the efforts made in recent years, according to the Congolese household survey (ECOM-2005) 37 per cent of Congolese were deprived of an education, including 52 per cent of children, 36 per cent of adult women and 21 per cent of adult men. Women and children were the two population groups most affected.

36. In 2008, the ILO Committee of Experts noted that according to ILO statistics for 2000, a high number of children between 10 and 14 (namely 960,000 children) are economically active in one way or another. Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee requested the Government to provide information on measures taken or envisaged to increase school attendance and reduce school drop-out rates.

38. In 2006, CRC welcomed the establishment of the Inter-Ministerial Committee to coordinate actions on issues related to indigenous people and the programme designed for them. However, it was particularly concerned at the alarming situation of indigenous children, victims of economic exploitation, systematic violence, including rape, and systematic discrimination, in particular with respect to access to health services, education and birth registration. It recommended to adopt a plan of action for indigenous people which would address discrimination at all levels and take affirmative measures to ensure that indigenous children gain de facto enjoyment of their rights, in particular in the area of health and education.

44. The United Nations country team also described the problem of birth registration as a national emergency, as nearly one quarter of children under the age of 18 were not registered at birth. Since 2003, a partnership had taken hold between UNICEF, the Government and local NGOs to set up a campaign to support the registration of children who had been undeclared with the population register. To continue work in this field, UNICEF in September 2008 launched a study of the birth registration process.

**OHCHR Summary of stakeholders’ information:**

1. The Joint Submission (Contribution Conjointe) points out that the Universal Declaration of Human Rights provides considerable inspiration for the Constitution of the Congo, which has ratified many regional and international treaties, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and the African Charter on Human and Peoples’ Rights.

4. AAD/SRI note that the Act on the Family Code reasserts in its preamble that all Congolese citizens are equal before the law, and provides that women have the same rights as men in all areas of private, political and social life. The organizations state that, despite this equality before the law, and the fact that in many cases women have a school education and are therefore likely to know about their rights and about contraceptive methods, they continue to suffer unfair treatment, owing to the continued existence of traditional customs that consider women to be agents of reproduction rather than human beings able to express themselves freely, have protected sex, and make free use of sexual and reproductive health services. AAD/SRI add that, in this context, conjugal rape is not punished by law. These organizations recommend that a specific legal framework on sexual and reproductive rights should be established, specific education programmes implemented in order to raise people’s awareness of these rights, and cooperation between health centres, associations and schools promoted, with the aim of facilitating sex education in schools.

6. The Global Initiative to End All Corporal Punishment of Children (GIEACP) notes that corporal punishment of children is lawful in the home and that children have limited protection from violence and abuse under the Criminal Code, the Family Code and the Constitution, but these are not interpreted as prohibiting corporal punishment. It adds that corporal punishment is reportedly prohibited in schools and that it has been unable to verify that this is by law rather than only by policy or guideline. The GIEACP indicates that in the penal system, corporal punishment is unlawful as a sentence for crime but is not prohibited as a disciplinary measure in penal institutions and that it is lawful in alternative care settings. The GIEACP also mentions that in 2006, the Committee on the Rights of the Child expressed concern at the lack of explicit prohibition of corporal punishment in the home, alternative care settings and penal institutions and recommended its explicit prohibition in all settings “as a matter of priority”.

9. ACAT CONGO/FIACAT report that most of those currently being detained are women and children, and that over 500 people are being held in a prison designed for 150 people, living in insanitary conditions. According to the two organizations, women, men and children share the same cell blocks and are fed only once a day and sometimes not at all. ACAT CONGO/FIACAT say that family visits are subject to strict rules, and that all visitors must carry some money, which will be extorted from them.

27. AAD/SRI add that in its new anti-AIDS strategy (2009-2013) the National Anti-AIDS Council aims, by 2013, to increase the proportion of people undergoing syndromic management at a health facility from 55 per cent to 80 per cent; increase the proportion of adults aged between 15 and 49 who are aware of their serological status from 10 per cent to 50 per cent; reduce by 50 per cent the proportion of adults aged between 15 and 49 with high-risk sexual behaviour; and reduce to less than 15 per cent the proportion of adolescents aged between 10 and 17 who have high-risk sexual relations. AAD/SRI indicate that the National Anti-AIDS Council
receives technical and financial support from the Government and other donors.

28. IFHR/OCDH report that, for decades, indigenous peoples in the Congo have been living in a situation of exclusion, that their relationship with the neighbouring population is one of domination, discrimination and exploitation, and that they do not have access to justice, education, health or employment because of this marginalization. IFHR/OCDH say that in August 2004, through the Ministry of Justice, the Government initiated preliminary draft legislation on the promotion and protection of the rights of indigenous peoples, but that this initiative has not been followed up.

Final Report

8. S’agissant de la politique à l’égard des minorités, il a indiqué les mesures spéciales prises par le gouvernement en matière d’accès à l’emploi, à l’éducation et aux soins médicaux.

10. Par ailleurs, dans le domaine du droit à la santé, l’Etat a pris des mesures importantes parmi lesquelles la gratuité du dépistage et du traitement du VIH/SIDA ainsi que la gratuité du traitement du paludisme pour les enfants de 0 à 15 ans.

13. Le Chef de la délégation du Congo a informé que le Parlement congolais venait d’adopter une loi sur la protection de l’enfant ainsi que d’autres mesures particulières garantissant l’accès à l’éducation et à la santé à tous les enfants. Même si des insuffisances peuvent être relevées, elles ne contredisent pas pour autant la politique générale de sauvegarde des droits des enfants.

18. Brazil asked about the measures being taken to prevent stereotypical attitudes concerning the role and responsibilities of women and avoid discrimination against them and about the measures to prevent sexual exploitation of children and child labour. Brazil recommended that the Congo (a) reinforce women’s rights within the labour market; (b) accomplish progressively human right goals as set forth in Human Rights Council resolution 9/12. Brazil noted the Congo’s expectation of receiving technical assistance from the Human Rights Council and invited delegations to positively consider assisting the Congo in these endeavours.

19. Algeria noted that political commitment in relation to human rights is clear and that support of the international community remains, however, necessary. Algeria recommended that the Congo: (a) consider the appropriateness of taking measures to have the National Commission for Human Rights accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights; (b) request support from the United Nations Programmes and Agencies to establish programmes and strategies for literacy and employment training for women in order to improve their conditions and their participation in the development of the country; (c) continue efforts undertaken in the area of protection and realization of the rights of the child, particularly regarding access to education.

20. France asked about the implementation of recommendations of the Special Rapporteur on contemporary forms of racism to prevent and punish violence against members of the Pygmy community. Also, it asked if the Congo intended to respond favourably to the proposal of UNHCR to establish a joint expert commission to review and amend the draft law on refugees. France recommended (a) to take all appropriate measure to eliminate all forms of discrimination against women, in particular in respect to property, the sharing and inheritance of land and access to education, the labour market and political life. France also recommended that the Congo (b) adopt laws prohibiting such practices as female genital mutilation and take focused measures to ensure that these practices are dropped as a result of broad awareness-raising campaigns; (c) adopt measures immediately and in line with human rights international standards with respect to the rights of children to prohibit in particular child labour and prevent, criminalize and punish sexual exploitation and child trafficking; and (d) sign and ratify the Optional Protocol to the Convention of the Rights of the Child concerning the involvement of children in armed conflicts (CRC-OP-AC).

23. The Netherlands recommended that the Congo (a) guarantee that each detainee has them effective right to contest the legality of his or her arrest, (b) end immediately the detention of those who are not held in detention centres as foreseen by article 241 of the Code Penal, (c) introduce legislation that eliminates discrimination in ownership, co-sharing and inheritance of land, (d) protect victims of sexual violence and criminalize marital rape, (e) give women equal rights in marriage and pre-marriage, and (f) prohibits female genital mutilation. The Netherlands finally recommended (g) that in line with ICCPR, Congo repeals article 331 of the Penal Code that criminalizes same sex practices between consenting adults, also with a view to more effective HIV/AIDS prevention and treatment of vulnerable sectors of the Congolese population.

24. Morocco requested further information on legislation and institutional measures for children with specific needs and for those who require alternative care. Morocco recommended that the Government take additional measures to strengthen the fight against discrimination against women. Morocco noted that both countries have signed a cooperation agreement in the area of education with a view to modernizing and promoting education and vocational training. In this spirit, Morocco asked about the nature of the difficulties confronting that sector and the type of assistance the Congo would like to receive from specialized agencies of the United Nations.

25. Djibouti noted with satisfaction the electoral law of 2007 complementing the law of 2007 setting minimum quotas for female candidates in elections. Djibouti encouraged the Congo to continue its efforts in promoting and protecting human rights, in particular these related to women and children, and recommended that it continue efforts to combat all forms of discrimination which may victimize vulnerable groups, such as indigenous communities and the disabled. It also recommended paying special attention to the condition of persons in prisons and continuing its capacity-building policy in the field of health care services.

26. The United States of America recommended that the Congo (a) allow for greater freedom of expression for members of the press in advance of the election, including political reporting and granting equal media access to and coverage of opposition candidates; (b) encourage civic participation, including of civil society, in the electoral process; (c) finalize and enact the draft law prohibiting all forms of trafficking; (d) develop formal procedures for identifying trafficking victims among vulnerable populations such as females in prostitution, street children and Pygmies; (e) train police and social workers to implement these procedures; (f) increase efforts to
provide care to trafficking victims and end the practice of jailing children found in prostitution and increase efforts to raise awareness among vulnerable populations of the danger of trafficking.

27. The United Kingdom welcomed Congo’s political dialogue under the Cotonou Agreement and their renewed commitment towards good governance and the rule of law. They noted NGO concerns on the implementation of commitments under the CAT, access to justice for detainees and detention conditions and asked what steps have been taken in response. They noted that the Penal Code criminalises homosexual acts which is contrary to the ICCPR. The United Kingdom recommended that the Congo (a) take steps to ensure prison conditions are independently monitored, perpetrators of acts of torture are duly prosecuted and that detainees have the right to a fair trial; (b) take all necessary measures to ensure the forthcoming elections are peaceful, free and fair, and occur in a climate free of intimidation and where the right of assembly is fully respected; (c) take further steps to address discrimination against women and vulnerable groups including children, persons belonging to minorities and indigenous people; and (d) remove the provisions that criminalize homosexuality.

29. Turkey hoped that the priority attached to gender issues will result in the improvement of equality between men and women and that the recommendations by the Committee on the Elimination of Discrimination against Women should be taken into consideration in preparing the new bill for the protection of the victims of sexual violence. Turkey invited the Congo to combat discrimination affecting women and girls in the schools, taking into account the concerns expressed by the Committee on the Rights of the Child. It encouraged the Congo to take the best possible advantage of the poverty reduction strategy initiative which should help in improving the access of the poor to basic social services.

30. The Holy See noted that the death penalty has not been carried out since 1979 and recommended that the Congo (a) fully abolish the death penalty. Noting that, despite efforts, one third of Congolese are still deprived of education and women and children are the most affected, it recommended that the Congo (b) continue to invest in education, giving special attention to women and girls. While noting that maternal mortality remains high despite the progress regarding maternal health, it recommended that the Government (c) further invest in obstetrics clinics and in the information of skilled birth attendants. It noted that in prisons, however, women and men, children and adults are not always separated. Prisons are often overcrowded and healthcare is inadequate. The Holy See asked how the Congo intends to confront this problem and to improve the situation of prisoners, especially of women and children.

33. Azerbaijan commended the establishment of the National Human Rights Commission and the Office of Mediator, but joined with CRC in recommending that those institutions be provided with an adequate mandate and financial resources. Azerbaijan recommended that the Congo increase its efforts, especially educational and public awareness measures, to improve the realization of women’s rights. It urged the Congo to (a) reinforce efforts to combat discrimination against women; (b) incorporate instruction on human rights in school curricula; and (c) abolish capital punishment.

34. Argentina recommended that Congo (a) adopt all necessary measures to ensure the right to life and protection of the individual, in particular the effective incorporation in domestic legislation of the prohibition of the practice of torture in accordance with the Convention Against Torture and the abolition of the death penalty from its Penal Code; (b) adopt legislation to prohibit practices of sexual violence affecting Congolese women in line with CEDAW which Congo has also ratified. It also suggested the eradication of the practice of female genital mutilation. Argentina asked about the concrete measures to ensure women’s right to health and if the Congo addresses criminalization of trafficking in children and sexual exploitation of children and if not, it recommended (c) that such acts be made criminal in line with international standards. It recommended that the Congo (d) ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CED), and (e) ratify OP-CEDAW, the Convention on the Prevention and Punishment of the Crime of Genocide, the Palermo Protocol and the Optional Protocols to CRC.

36. Burkina Faso noted that progress has been made in terms of normative measures on human rights or in terms of creation of mechanisms in this area. It recommended that the Congo makes further efforts to combat violence and sexual abuse against children for the effective realization of their rights. It asked for more information about the bill for the promotion and protection of human rights of indigenous communities and the present status of the adoption of this law. In conclusion, Burkina Faso encouraged the Congo to pursue efforts to continue to improve the rights of Congolese people.

39. South Africa noted that the Congo faces significant challenges particularly in the areas related to combating HIV/AIDS, high infant and maternal mortality rates, absence of legislation prohibiting the trafficking of persons, street children, access to education and health facilities and child labour. It sought clarification on the Congo has done to provide adequate schooling facilities, increase school enrolment rates and provide access to clean water and basic health services, and how it intends to facilitate access to affordable judicial services. It recommended that the Congo consider reviewing strategies aimed at comprehensive protection of children with a view to developing a plan and aligning it with the provisions of CRC and all applicable international human rights instruments to which the Congo is party.

40. Gabon noted that the status of Congolese women has improved over the years thanks to the creation of the Ministry of Promotion of the Women and the Integration of Women in Development. These trends merit the support of the international community, including technical assistance from OHCHR. Gabon recommended in line with the recommendations of the Committee on the Rights of the Child, to sign and ratify CRC-OP-AC. Gabon encouraged the Congo to further cooperate with the mechanisms for the promotion and protection of human rights, including special procedures.

41. Italy noted that according to figures provided by UNICEF, about one quarter of children are not registered at birth and recommended that the Congo (a) improve procedures aimed at raising the percentage of children registered at birth. Italy commended the de facto moratorium on executions and recommended that the Congo (b) consider the complete abolition of capital punishment in its internal legislation. Regarding the rights of minorities, Italy acknowledged the ongoing efforts by the authorities to draft specific norms in this
field and recommended that the Congo (c) approve in the shortest period of time and implement the new law regarding indigenous peoples with the aim of safeguarding minority rights in the country, specifically those of the Pygmies, and (d) guarantee the right to receive, seek and impart information and ideas in compliance with article 19 of ICCPR.

43. Les droits des enfants sont garantis. L’enseignement est obligatoire jusqu’à l’âge de 16 ans. Les jeunes filles jouissent de l’égal accès à l’école. La préoccupation du Congo demeure le maintien de la jeune fille à l’école. Les frais scolaires ont été supprimés et des mesures relatives à la gratuité des manuels scolaires à l’enseignement primaire ont été prises. En ce qui concerne la santé des enfants, le traitement contre le paludisme est gratuit pour les enfants de zéro à quinze ans.

44. A propos du droit à la santé, le Congo a reconnu que la question de la mortalité maternelle et infantile est préoccupante. Face à cette situation, des efforts sont déployés en vue de la construction, de la réhabilitation, de l’équipement des centres hospitaliers et autres centres de santé maternelle et infantile dans tous les départements du Congo. De même des efforts importants sont déployés pour la formation et le recrutement des agents de santé. Par ailleurs, les soins de santé sont administrés indistinctement à tous les patients. Le dépistage et le traitement du VIH/SIDA sont gratuits pour tous les patients quelles que soient leurs orientations sexuelles.

45. Les violences sexuelles à l’égard des enfants et des femmes sont réprimées par la loi. Les cas de pratiques de mutilations génitales relevées ne sont pas des pratiques relevant de la culture congolaise. Toutefois, le Gouvernement a pris note des remarques faites à ce sujet.

53. En vue de l’amélioration des conditions des détenus, le Congo a inscrit au budget d’investissement 2009 des ressources financières y afférentes. Les hommes, les femmes et les enfants ne partagent pas les mêmes cellules dans les prisons. Par ailleurs, les investissements en cours permettront d’assurer la séparation du point de vue géographique des lieux de détention des prisonniers. L’accès des prisons congolaises est autorisé aux organisations des droits de l’homme qui en font la demande. Un accord existe à ce sujet entre le Congo et la Croix-Rouge internationale.

54. Slovenia noted as challenges for the Congo the death penalty and the ratification of some conventions. It recommended that it (a) consider legally abolishing the death penalty as soon as possible and accelerating ratification of all human rights treaties to which it is not yet a party, particularly CESC-OP, ICCPR-OP 2, CEDAW-OP, CAT-OP and both Optional Protocols to CRC. Slovenia noted the creation of the Ministry for the Advancement of Women and the Integration of Women into Development. However, according to the Committee on the Elimination of Discrimination against Women, discrimination against women persists and Slovenia is particularly concerned by female genital mutilation and the high number of rapes reported, including among the members of Pygmy community. Slovenia asked what additional measures Congo has undertaken to decrease the number of victims of violence against women, including female genital mutilation. Slovenia recommended that the Congo (b) implement the Committee’s recommendation with regard to the Act of 1920 which in current form prohibits the advertising of contraceptives and consider establishing and providing adequate resources for a sufficient number of “safe houses” for victims of domestic violence.

56. Tunisia noted that the Congo profoundly devoted to the respect and promotion of human rights and that Congolese law grants a particular place to human rights by enshrining them in the Constitution and in various codes. Tunisia referred to the achievements of the Congo in the area of human rights, in particular the policy regarding promotion of the rights of women, the national action plan and the successful projects for promoting women’s emanicipation by involving them in public affairs. In conclusion, Tunisia recommended that the Congo continue its efforts in the area of equality of gender and promotion of the health of mothers and the girl child.

57. Nigeria commended inter alia the reforms by the Congo with regard to vulnerable groups, the establishment of the Department for Legal Protection of Children, the centre for research, information and documentation on women and the special schools for the disabled testifies to the concerns of the Government for these vulnerable groups. Nigeria also noted the challenges that the Congo is facing and which impede the full realization of promoting and protecting human rights of its population. These challenges include weak political and socio-economic structures, lack of vital infrastructure, corruption and misappropriation of public funds. Nigeria thereby called on the international community to provide the Congo with much-needed technical and financial assistance as well as capacity-building for the promotion and protection of human rights for its people.

58. Canada urged the Congo to ensure that democracy and rule of law, the two pillars of good governance, are respected. Canada recommended that the Congo (a) step up its efforts to make the community aware of the risks of HIV and establish a campaign to increase awareness among young people. It also recommended that the Congo (b) open an inquiry as soon as possible into all allegations of torture and of deaths in detention, and prosecute and convict those who have committed acts of torture in prisons or other places of detention and (c) establish a program to monitor places of detention and a training programme with respect to human rights for staff working in places of detention. It further recommended that the Congo (d) adopt measures, together with NGOs and anti-corruption groups, to combat corruption, in particular in the judicial system, and promote respect for human rights. Canada requested more information on the arrests of two anti-corruption activists, Christian Mounzeo and Brice Mackosso.

59. The Czech Republic recommended that the Congo (a) ensure the independence of judiciary, improve access to justice and (b) provide specific training aimed at the protection of human rights in particular of women, children and persons of minority ethnicity, sexual orientation or gender identity to all law enforcement and judicial officials. Regarding protection from torture, it commended the Congo for signing CAT-OP in 2008 and recommended (c) early ratification of CAT-OP and the establishment of a national preventive mechanism. Further in this area, it recommended the following: (d) review conditions in all prisons and detention facilities with a view of ensuring their compliance with the Minimum Standards of Treatment of Prisoners, in particular to establish separate juvenile detention facilities; (e) ensure effective investigation of and accountability for all cases of torture and death in detention. As to the protection of human rights of asylum seekers, it recommended that the Congo (f) prepare and adopt a national legislation establishing an effective asylum procedure and ensuring protection of all human rights of these persons. Finally, it recommended to (g) decriminalize
same-sex sexual activity between consenting adults and adopt measures to promote tolerance in this regard, which would also facilitate more effective educational programmes for the prevention of HIV/AIDS.

62. Japan asked about the efforts to ensure fair and transparent function and guarantee the political rights of citizens at the July elections. Japan noted that issues such as the prevalence of infectious diseases like HIV/AIDS, inadequate medical care for mothers and children, and lack of access to safe drinking water, pose a large problem for Congo but applauded the efforts made with the cooperation of international organizations and donors to improve health care. It noted that concerns remain over whether these measures have been effectively implemented. Japan recommended Congo (a) to make further improvement efforts on this front. Japan noted further efforts are needed for working towards equal-opportunity education. In addition, concern was raised regarding sexual exploitation of children, including child pornography, and child labour. Japan asked what concrete measures, including provisions in the legal system being taken to address these specific concerns regarding the rights of the child. Japan commended the creation of a Ministry for the Advancement of Women and the Integration of Women into Development and a quota system for women candidates running for elected office but noted that unequal access to the labour market and educational opportunities continue to be raised. In this regard, Japan recommended that the Congo (b) strengthen its efforts regarding equal access of women to the labour market and educational opportunities.

63. Spain noted the programme of disarmament demobilization and reintegration initiated in 2006 which is still being applied. It also noted the problem of birth registration which is a matter of national emergency. Nearly a quarter of those under 18 have not been registered at birth. Cooperation between the Government and UNICEF is exemplary in this respect. Spain noted the establishment of the Human Rights Commission and of the Office of the Mediator. Nevertheless, the mandate of these institutions is still very limited. Spain recommended (a) that these institutions be given appropriate mandates and the financial resources they need. A restructured Commission could be accredited as a national human rights institution. The Congo should increase its efforts, including through educational measures, to end discriminatory attitudes against women. Spain also recommended (b) the inclusion in domestic legislation of a definition of discrimination against women, together with the elimination of all discrimination related to possession, shared, ownership or inheritance of land; (c) that matrimonial legislation be made compatible with international instruments with a clear schedule so that family legislation can be replaced together with the abolition of the ban on advertising for contraceptives; (d) adopt legislation to prohibit such practices as well as a message to assure the eradication of female genital mutilation, including campaigns to increase awareness on this issue.

71. Cameroon noted with satisfaction inter alia the provisions and the diversity of the programmes adopted on questions such as HIV/AIDS, and the fight against discrimination against women. Cameroon encouraged the Congo to intensify its measures to promote and protect the rights of the child, the rights of the handicapped, and to strengthen the rule of law and good Governance while continuing its efforts in the policy regarding displaced persons and refugees. It urged the international community to provide massive support through multiform aid to Congo to strengthen its technical capacity in the area of human rights.

72. Angola noted that gender inequality in access to education remains a challenge particularly in rural areas and asked on policies to improve this situation. Angola recommended that the Congo (a) continue its efforts to promote and facilitate school attendance, in particular among children from economically disadvantaged families and ensure non-discrimination within the school environment. It noted that the Congo ratified the Convention for the Suppression of the Traffic and the Exploitation of the Prostitution of Others. Angola recommended that the Congo (b) reinforce national legislation prohibiting trafficking in persons, in particular children. As the rights of indigenous peoples continue to be a challenge, Angola recommended to (c) streamline and fine-tune policies to improve indigenous people’s rights.

73. Belgium considered major challenges in the field of human rights remain in respect to justice, prison system and violence against women. It stressed specifically that the current situation of the National Human Rights Institution which is no longer accredited to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. In past, the Committee on the Rights of the Child had already expressed concern about the mandate and source of financing of this institution. Belgium recommended that the Congo (a) do everything to fulfil its obligations in the field of human rights and step up its efforts with respect to the rights of persons from vulnerable groups, including persons in detentions, women and children. Belgium also recommended that the Congo (b) ensure that the national human rights institution complies with the Paris Principles and that the institution seek accreditation from the International Coordination Committee.

Conclusion and Recommendations

79. The recommendations formulated during the interactive dialogue have been examined by Congo and the recommendations listed below enjoy the support of Congo:


14. Review conditions in all prisons and detention facilities with a view to ensuring their compliance with the Standard Minimum Rules for the Treatment of Prisoners, in particular to establish separate juvenile detention facilities (Czech Republic);

23. Continue implementing measures to handle the problem of violence against women and combat impunity in this regard (Sweden); take further steps to address discrimination against women and vulnerable groups, including children, persons belonging to minorities and indigenous people (United Kingdom);

24. Adopt laws prohibiting female genital mutilation and take focused measures to ensure that such practices are dropped as a result of broader awareness-raising campaigns (France); prohibit female genital mutilation (Netherlands); adopt legislation to prohibit female
genital mutilation and measures to eradicate this practice, including campaigns to increase awareness of this issue (Spain);

25. Adopt legislation prohibiting practices of violence affecting Congolese women in line with CEDAW and eradicate female genital mutilation (Argentina);

26. Continue efforts undertaken for the protection and realization of the rights of the child, particularly regarding access to education (Algeria);

27. Consider reviewing strategies aimed at the protection of children with a view to developing a comprehensive plan for the care of children and aligning them with the provisions of the CRC and all applicable international human rights instruments to which the Congo is a party (South Africa);

28. Improve procedures aimed at raising the percentage of children registered at birth (Italy);

29. Make further efforts to combat violence and sexual abuses against children for the effective realization of their rights (Burkina Faso);

30. Adopt measures immediately and in line with international human rights standards to protect the rights of children and in particular to prohibit child labour and prevent, criminalize and punish sexual exploitation and child trafficking (France);

31. Reinforce national legislation prohibiting trafficking in persons, in particular children (Angola); criminalize trafficking in children and sexual exploitation of children, in line with international standards, (Argentina);

32. Finalize and enact the draft law prohibiting all forms of trafficking and develop formal procedures for identifying trafficking victims among vulnerable populations such as females in prostitution, street children and Pygmies, and train police and social workers to implement these procedures (United States);

38. Continue to invest in education, giving special attention to women and girls (Holy See);

39. Continue efforts to promote and facilitate school attendance, in particular among children from economically disadvantaged families, and to ensure non-discrimination within the school environment (Angola);

40. Incorporate instruction on human rights in school curricula (Azerbaijan);

42. Continue its efforts in the area of the promotion of gender equality and of the health of the mother and the girl child (Tunisia);

47. Fulfil its obligations in the field of human rights and step up its efforts with respect to the rights of people from vulnerable groups, including persons in detention, women and children (Belgium);