



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-third session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION**

Concluding observations: THE REPUBLIC OF THE CONGO

1. The Committee considered the initial report of the Republic of the Congo (CRC/C/COG/1) at its 1177th and 1179th meetings (see CRC/C/SR.1177 and 1179), held on 19 September 2006, and adopted at the 1199th meeting, held on 29 September 2006, the following concluding observations:

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, although it regrets that it was received with a seven year delay. The report provides detailed information on the legislative, administrative, judicial and other measures applicable in the Republic of Congo in respect of the rights enshrined in the Convention. The Committee notes with appreciation the written replies to its list of issues (CRC/C/COG/Q/1), which allowed for a clearer understanding of the situation of children in the Republic of the the Congo.

3. The Committee also appreciates the frank and constructive dialogue with the State party's high level delegation, and regrets that several experts from various ministries and agencies could not attend the meeting because of difficulties encountered in obtaining visas.

B. Positive aspects

4. The Committee welcomes:

(a) The creation of the Department for Legal Protection of Children within the Ministry of Justice;

(b) The establishment of the Inter-Ministerial Committee on the Follow-up of the Convention on the Rights of the Child; and

(c) The adoption of the Strategic Programme and the Framework for Operations 2004-2008 aiming at improving the situation of children.

5. The Committee also welcomes the ratification of:

(a) Convention No. 105 concerning the Abolition of Forced Labour of the International Labour Organization (ILO), on 26 November 1999;

(b) ILO Convention No. 138 concerning Minimum Age for Admission to Employment, on 26 November 1999; and

(c) ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 23 August 2002;

C. Main subjects of concern and recommendations

General Measures of Implementation

(arts 4, 42 and 44 (6))

Legislation

6. The Committee welcomes the fact that State party plan to adopt a Child Protection Code and to review its legislation with a view to ensuring its conformity with the Convention. However, the Committee is concerned that the State party's report does not provide sufficient information on the current status of the revision of domestic legislation and on the new laws on child rights.

7. The Committee recommends that the State party improve and harmonize its legislation in order to achieve compliance with the principles and provisions of the Convention, and adopt a comprehensive Child Protection Code which incorporates the rights enshrined in the Convention.

Coordination

8. The Committee notes that several ministries of the State party share the responsibility for the implementation of children's rights and that there is no mechanism with a strong mandate and adequate resources to effectively coordinate all activities undertaken to implement the provisions of the Convention.

9. The Committee recommends that the State party establish a permanent and effective mechanism, such as a children's commission provided with a strong mandate to effectively coordinate all legislation, measures, and other programmes aiming at the full implementation of the rights of the child enshrined in the Convention. The coordinating mechanism should also be provided with adequate human and financial resources in order to effectively fulfil its mandate, and should include civil society actors.

National Plan of Action

10. The Committee welcomes the adoption of the Strategic Programme and of the Framework for Operations 2004-2008, established with the support of UNICEF, which aims at improving the situation of children in many areas of concern. However, the Committee regrets the lack of information regarding the resources allocated to the Strategic Programme and to the Framework for Operations, the evaluation and the monitoring mechanisms of the Framework, and the results achieved so far.

11. The Committee recommends that the State party ensure that the Strategic Programme and the Framework for Operations cover extensively the rights of the child enshrined in the Convention and take into account the outcome document of the 2002 Special Session of the General Assembly of the United Nations “A World Fit for Children” (resolution S-27/2, annex), and that concrete time bound targets are defined. The Committee also recommends that the State party provide a specific budget allocation and adequate follow-up mechanisms for the full implementation of the Strategic Programme and the Framework for Operations. The Committee further recommends that the State party ensure that the plan of action is provided with an evaluation mechanism to regularly assess progress achieved and identify possible deficiencies.

Independent monitoring

12. While noting with appreciation the establishment of the National Human Rights Commission and the Office of the Mediator of the Republic (Ombudsman), the Committee regrets the limited mandate of these two institutions with regard to children’s enjoyment of their rights. The Committee expresses further concern at the limited resources allocated to the latter.

13. The Committee recommends that the State party provide the National Human Rights Commission and the Office of the Mediator of the Republic (Ombudsman), with an adequate mandate 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. In this regard, the Committee recommends that the State party, taking into account general comment No.2 (2002) on the role of national independent human rights institutions in the promotion and protection of human rights and the Principles relating to the Status of National Institutions (the Paris Principles, General Assembly resolution 48/134, annex), establish a special commissioner within the National Human Rights Commission, or a separate child commissioner outside the Commission, adequately resourced with trained personnel capable of dealing with complaints in a child sensitive manner, and ensure that children are well informed about the role and activities of this institution. The Committee recommends that the State party also ensure that adequate financial resources are allocated to these institutions and that the State party seek the technical assistance of UNICEF.

Resources for Children

14. While taking note of the State party’s efforts to increase the resources allocated to health, education, and social services provided to children, the Committee is concerned at the fact that the budget is inadequate to cover the basic requirements of children. The Committee welcomes

the actions of the State party to eliminate corruption but remains concerned at the negative impact corruption may have on the allocation of already limited resources to effectively improve the promotion and protection of children's rights, including their right to education and health.

15. The Committee recommends that the State Party pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups, including indigenous children and street children, "to the maximum extent of available resources and, where needed, within the framework of international cooperation". The Committee also recommends that the State party continue and strengthen its actions to prevent and eliminate corruption in all sectors of society.

Data collection

16. The Committee expresses its appreciation for the creation of a unit in charge of collecting and publishing data on the situation of children and welcoming the 2006 Plan of Action elaborated with the technical assistance of UNICEF which includes collection of data on the situation of children and women. However, the Committee is concerned at the absence of a systematic methodology for data collection and disaggregated data analysis in all the areas covered by the Convention, and in particular in relation to children belonging to vulnerable groups.

17. The Committee recommends that the State party develop a system for a comprehensive collection of data on all areas of the Convention in a way that allows for disaggregation and analysis. Particular emphasis should be placed on those groups who are in need of special protection, including indigenous children, street children, children in alternative care, children "informally" adopted, disabled children and children who head families. The Committee further encourages the State party to use this data for the formulation of policies and programmes in view of the effective implementation of the Convention, to continue its cooperation with UNICEF in this respect and to consider the publication of an annual statistical report on the implementation of the Convention.

Dissemination, training and awareness-raising

18. The Committee is concerned at the lack of dissemination of the Convention among children, parents and adults working with and for children, in particular in rural areas.

19. The Committee recommends that the State party strengthen its efforts to ensure that the provisions of the Convention are known and understood both by adults and children, and that additional progress be made to raise awareness of the principles and provisions of the Convention in rural and remote areas.

20. The Committee also recommends that effective and systematic training be provided to all professional groups working for and with children, including judges, lawyers, law enforcement officers, teachers, school administrators, health personnel, psychologists and social workers, in all areas of the country.

Cooperation with civil society

21. The Committee is concerned at the rather limited role played by civil society and, in particular of NGOs, in the promotion and implementation of the Convention on the Rights of the Child, especially in rural areas.

22. The Committee recommends that the State party encourage the active and systematic involvement of civil society actors, including NGOs, in the promotion and implementation of children's rights, in particular in rural areas, including by increasing their participation in the follow-up to the concluding observations of the Committee.

International Cooperation

23. The Committee notes that programmes and projects are being implemented in cooperation with the relevant international or regional organizations, intergovernmental or non governmental, in particular UNICEF. In this respect, the Committee recommends that the State party continue and strengthen a broad and open cooperation with the relevant organizations in order to fully benefit from their experience and competence, inter alia, to coordinate international aid.

2. General principles (arts 2, 3, 6 and 12)

General observations

24. The Committee notes 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. The Committee is concerned that children, especially those living in rural and remote areas, are excluded from the full implementation of the enjoyment of their rights, in particular with regard to the consideration of their best interests, the respect of their views, and the full development of their individual potentials.

25. The Committee urges the State party to ensure that all children on its territory enjoy all the rights enshrined in the Convention until the age of 18.

Non discrimination

26. While noting with appreciation that the Constitution prohibits discrimination, the Committee is concerned at the fact that those dispositions do not cover the full scope of article 2 of the Convention, inter alia birth and disability. The Committee is also concerned at the inadequate enforcement of the Constitution with respect to non-discrimination. It is further concerned in particular at the widespread ethnic-based discrimination against indigenous people. Furthermore, the Committee is concerned at the visible gender-based discrimination in education, clearly reflected in the ratio boys/girls in schools, and the trivialization of rape. Finally, the Committee is concerned at the discrimination against HIV/AIDS infected children, street children and refugee children, in particular from Rwanda.

27. The Committee recommends that the State party:

(a) Ensure that the Constitution is amended to prohibit discrimination on any grounds covered by the Convention;

(b) Intensify its efforts to ensure that existing legislation guaranteeing the principle of non-discrimination is fully implemented, in accordance with article 2 of the Convention;

(c) Adopt a comprehensive strategy, including comprehensive public education campaigns, and take appropriate legislative and administrative measures to ensure the actual elimination of discrimination based on any grounds against vulnerable groups, including indigenous populations, girls, HIV/AIDS infected children, street children and refugee children;

(d) Provide specific information in its next periodic report on measures and programmes relevant to the Convention taken with a view to eliminating discrimination against any group of vulnerable children; and

(e) Provide specific information in its next periodic report on the measures and programmes relevant to the Convention adopted by the State party to follow up on the Declaration and Programme on Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban in 2001, taking into account the Committee's general comment No. 1 (2001) on the aims of education).

Best interests of the child

28. While commending the State party for the inclusion of the principle of the best interests of the child in family and criminal law, the Committee is concerned that this principle is not always taken into account in practice, in particular with regard to indigenous children.

29. The Committee recommends that the State party strengthen its efforts to ensure that the general principle of the best interests of the child is understood, appropriately integrated and implemented in judicial and administrative decisions and in projects, programmes and services which have an impact on children and that it is applied to all children without discrimination.

Respect for the views of the Child

30. The Committee notes with appreciation the establishment of the Parliament of the Congolese Child and welcomes its activities. However, the Committee is concerned at the unclear role the Children's Parliament is expected to play in the development of child rights policy. The Committee is further concerned at the fact that the right enshrined in article 12 is not yet fully respected and implemented, particularly in families, schools, institutions and at the community level, as well as in judicial and administrative proceedings.

31. The Committee recommends that further efforts be made to ensure the implementation of the principle of respect for the views of the child. In this connection, particular emphasis should be placed on the right of every child to express his/her views freely in the family, at school, within other institutions and bodies, and in the community and society at large, with special attention paid to vulnerable and minority groups. This general principle should also be reflected in all laws, judicial and administrative decisions. In particular, the Committee recommends that the State party:

(a) Adopt the envisaged law on the inclusion of the Parliament of the Congolese Child in the parliamentary process;

(b) Develop community-based training programs for parents, teachers, judges and other professionals working with and for children with a view to promoting children's participation in all relevant settings;

(c) Systematically ensure the active participation of children and children associations and bodies in the development of national, regional and local policies or programs affecting them; and

(d) Seek the technical assistance of UNICEF.

32. Furthermore, the Committee draws the attention of the State party to the recommendations adopted on the Committee's day of general discussion on the right of the child to be heard held on 15 September 2006.

3. Civil rights and freedoms (arts. 7, 8, 13-17 and 37 a)

Birth registration and identity

33. While welcoming the law in which birth registration has become compulsory, the Committee expresses concern at the fact that a large number of children have still not been registered. The Committee is also concerned at registration fees and penalties attached to late birth registration, which may hinder the process. The Committee is also concerned at the lack of civil registry offices in remote areas and the insufficient awareness of the importance of registration.

34. In the light of article 7 of the Convention, the Committee recommends that the State party establish an efficient and accessible birth registration system, including for non-citizens, which covers its entire territory, including through *inter alia*:

(a) Promoting awareness and appreciation of the importance of birth registration through mass campaigns by providing information on the procedure of birth registration, including the rights and entitlements derived from the registration, through television, radio and printed materials or other means;

(b) Ensuring that birth registration is free of charge;

- (c) Introducing mobile birth registration units in order to reach remote areas;**
- (d) Taking appropriate measures to register those who have not been registered at birth, including indigenous children and refugee children; and**
- (e) Enhancing its cooperation with relevant United Nations programmes, funds and specialized agencies such as UNICEF and the United Nations Population Fund (UNFPA).**

Access to appropriate information

35. The Committee is concerned at the limited access of children to information aimed at the promotion of their social, spiritual and moral well-being and physical and mental health, taking into account the limited number of libraries, the majority of which were destroyed during the armed conflict. Furthermore, it is concerned at the easy access of children to harmful cinematographic material, due to the absence of regulations regarding access to the increasing number of video clubs in the Republic of Congo.

36. **The Committee recommends that the State party involve the High Council on Freedom of Communication in the implementation of a comprehensive policy focusing on the promotion of children's access to adequate information. The Committee also calls on the State party to monitor the increasing number of video-clubs by regulating children's access, in these video-clubs, to pornographic and violent films which are harmful to their mental, spiritual, moral and social development. The Committee also recommends that the State party ensure that the child has access to information and material from a diversity of national and international sources that are age-appropriate and respectful of the child's spiritual and moral well-being. In that regard, the State party should inter alia implement measures to increase the establishment of libraries, including mobile libraries in rural and remote areas.**

Corporal punishment

37. The Committee is concerned at the absence of an explicit prohibition of corporal punishment in the home, alternative care settings and penal institutions.

38. **The Committee urges the State party to:**

- (a) Explicitly prohibit all forms of corporal punishment in the family, penal system and other institutional settings and alternative care systems as a matter of priority;**
- (b) Sensitize and educate parents, guardians and professionals working with and for children by carrying out public educational campaigns about the harmful impact of corporal punishment;**
- (c) Promote positive, non-violent forms of discipline as an alternative to corporal punishment,**

(d) **Implement appropriate policies and programmes for the prevention, recovery and reintegration of child victims; and**

(e) **Provide children with child sensitive mechanisms to lodge complaints in case they are victims of violence, including corporal punishment.**

39. In this respect, the Committee draws the attention of the State party on its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.

Torture and other cruel, inhuman or degrading treatment

40. The Committee is concerned at allegations of torture and cruel, inhuman or degrading treatment, including rape, of children in detention by the military and the police.

41. **The Committee urges the State party to take effective measures to protect children from torture and other cruel, inhuman or degrading treatment. The Committee emphasizes the urgent need to investigate all reported cases and prosecute military personnel, law enforcement officials or any person acting in an official capacity responsible for such acts. The Committee recommends that the State party ensure that all children victims of torture, or cruel, inhuman or degrading treatment, including indigenous children, are provided access to physical and psychological recovery and social reintegration as well as compensation, giving due consideration to the obligations enshrined in articles 38 and 39 of the Convention. The Committee further recommends that the State party establish a child sensitive mechanism to receive complaints from children who may have been victims of torture, or cruel inhuman or degrading treatment by law enforcement officials.**

4. Family environment and alternative care (arts 5; 18 (1-2); 9-11; 19-21; 25; 27 (4); and 39)

Family environment

42. The Committee is concerned at the limited human and financial resources available at the community level to provide assistance to families.

43. **The Committee recommends that the State party strengthen the services of the Ministry of Social Welfare at the local level, by increasing the number of trained professionals working with families in order to assist them in addressing and preventing difficulties which they may encounter, and by ensuring that sufficient financial resources are allocated to these services.**

Alternative care

44. While taking note of the study undertaken by the State party on alternative care, the Committee is concerned at the proliferation of orphanages and the lack of regulation and monitoring of the latter.

45. **The Committee recommends that the State party establish quality standards for orphanages and monitor their functioning, in order to ensure that such standards are respected and that children receive adequate care, preferably in small family-like units, in conformity with the provisions of the Convention.**

46. **The Committee also recommends that civil servants and relevant authorities receive adequate training on quality standards for orphanages. Finally, the Committee recommends that these orphanages be equipped with reliable and child sensitive complaints mechanisms.**

47. **The Committee further recommends that the State party provide:**

(a) **Economic and social support to extended and foster families so that they may educate the children for whom they have accepted responsibility; and**

(b) **Economic and psychosocial support to children who head families and act as parents so that they may continue their education, when necessary.**

Adoption

48. While noting with appreciation that the legislation regarding adoption takes into account the principle of the best interests of the child, the Committee notes the increasing practice of intercountry adoption and expresses concern at the lack of compliance of adoption procedures with article 21 of the Convention. The Committee is also concerned at the absence of data and monitoring mechanisms for national and intercountry adoptions.

49. **The Committee urges the State party to:**

(a) **Ensure the compliance of the legislation on adoption with article 21 of the Convention;**

(b) **Establish a comprehensive national policy and guidelines governing adoption in order to ensure that domestic and intercountry adoption are performed in full compliance with the best interests of the child and the appropriate legal guarantees in accordance with the Convention;**

(c) **Strengthen its monitoring of intercountry adoptions, in particular by ratifying and implementing the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 1993; and**

(d) Conduct a child rights-based assessment of the practice of “informal” adoption, involving all stakeholders, in order to ensure that this practise is in full compliance with the principles and provisions of the Convention.

Child abuse and neglect

50. While noting with appreciation that the State party has undertaken a study on punishment for persons who committed sexual violence, the Committee is concerned at the allegedly high incidence of child abuse, including domestic violence and incest.

51. **The Committee recommends that the State Party take the necessary measures to prevent child abuse and neglect, including by:**

(a) Establishing effective mechanisms to receive, monitor and investigate complaints on cases of child abuse, and ensure that perpetrators are brought to justice;

(b) Ensuring that complaints are collected in a manner that is child sensitive and respectful of the privacy of the victims;

(c) Implementing a comprehensive policy, in coordination with NGOs, for the prevention and recovery of child victims;

(d) Carrying out preventive public education campaigns on the criminal character and detrimental consequences of abuse and ill-treatment of children, in particular rape;

(e) Adopting a Plan of Action to combat any form of violence against children;

(f) In the context of the previous recommendations, paying special attention to children victims of incest; taking measures to bring perpetrators to justice; ensuring that confidentiality and privacy are fully respected in those legal proceedings, and that interviews are conducted in a manner that is child sensitive;

(g) Providing support for the operation of a 24-hour three digit toll free helpline;
and

(h) Seeking the technical assistance of UNICEF.

52. **In the context of the Secretary-General’s in-depth study on the question of violence against children and the related questionnaire sent to Governments, the Committee acknowledges with appreciation the written replies of the State party to this questionnaire. The Committee recommends that the State party use the outcome of the Regional Consultation for West and Central Africa, held in Mali from 23 to 25 May 2005, as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual and mental violence and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.**

53. **In addition, the Committee would like to draw the States party's attention to the report of the independent expert for the United Nations study on violence against children (A/61/299) and to encourage the State party to take all appropriate measures to implement the overarching recommendations as well as setting-specific recommendations contained in this report.**

Gang rape

54. The Committee is very concerned about the disturbing trend of gang rape which particularly affects indigenous girls.

55. **The Committee recommends that the State party take all necessary legislative measures to effectively criminalize this activity; ensure that perpetrators are brought to justice; and provide children with social services, including counselling, aiming at their psychological recovery. The Committee also recommends that the State party undertake a study on the root causes and implications of this criminal activity. In this regard, the State party should seek the technical assistance of UNICEF.**

5. Basic health care and welfare (arts 6; 18 (3); 23; 24; 26; 27, (1-3))

Children with disabilities

56. While welcoming the legal and institutional framework protecting persons with disabilities, including children, as well as the adoption of a National Plan of Action for the African Decade for Persons with Disabilities (1999-2009), the Committee is concerned at the fact that children with disabilities still face a number of difficulties which continue to hinder the development of their potentials and hamper their enjoyment of a full and decent life and participation in the community. The Committee is also concerned that children with disabilities are not included in regular schools as much as possible.

57. **The Committee recommends that the State party, in accordance with the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted at its day of general discussion on the rights of children with disabilities held on 6 October 1997 (CRC/C/69, paras. 310-339):**

(a) Further encourage the inclusion of children with disabilities into the regular educational system and their inclusion into society;

(b) Pay more attention to special training for teachers and make the physical environment, including schools, sports and leisure facilities and all other public areas, accessible for children with disabilities; and

(c) Improve and strengthen early detection and treatment services through health and education sectors.

Health and access to health care services

58. While noting with appreciation the launch of the National Health-Care Development Plan and its specific programmes, the Committee is concerned with the growing incidence of child mortality, especially among children under five years of age, malnutrition and maternal mortality. The Committee is also concerned at the widespread incidence of malaria which is considered the primary cause of mortality and morbidity, and at the spreading of infectious diseases resulting from unsanitary conditions and the lack of drinking water, in particular in rural areas. The Committee is further concerned at the low immunization coverage in the State party, and at the fact that fees are sometimes enforced on parents. The Committee is deeply concerned at the standard and quality of care provided in health facilities, including unqualified health care workers, lack of medicines, as well as lack of sanitation and clean drinking water. Finally, the Committee is concerned at the fact that 50 % of the urban population and 76 % of the rural population use traditional latrines, which constitutes a high risk of contamination of ground- and rainwater.

59. **The Committee recommends that the State party strengthen its efforts in improving the health situation of children, including through:**

(a) Ensuring the provision of necessary medical assistance and health care access to all children, with an emphasis on the development of primary health centres; and guaranteeing that the latter are equipped with adequate health facilities and maintained in satisfactory sanitary conditions, including access to clean drinking water;

(b) Urgently addressing the issue of infant and child mortality, especially by focusing on preventive measures and treatment, including vaccination uptakes, improved nutrition and the prevention of communicable diseases and malaria;

(c) Increasing efforts to further reduce maternal mortality throughout the country;

(d) Adopting and implementing a national law on marketing of breast-milk substitutes and promote exclusive breastfeeding for at least six months;

(e) Ensuring that all segments of the society are informed, have access to health education and are supported in the use of basic knowledge of child health and nutrition, including the advantages of breastfeeding;

(f) Providing hospitals with sufficient obstetric supplies and emergency medicines;

(g) Reviewing existing policies and practices, and ensuring that health care is provided free of charge and without discrimination to all children of families unable to afford the payment fees;

(h) Strengthening efforts to combat malaria;

(i) Providing adequate water sanitation and access to clean drinking water throughout the country, and

(j) Making available appropriate health services to address specifically the needs of indigenous people.

HIV/AIDS

60. While welcoming the launch of the National Anti-Aids Programme (2005-2008) and the adoption of Decree No. 2002/360 of 30 November 2002 establishing the National Anti-AIDS Council, the Committee remains concerned at the fact that only few HIV-positive children have access to antiretroviral drugs. The Committee is also concerned at the lack of comprehensive data and policy on paediatric HIV/AIDS and at the high level of mother-to-child transmission of HIV/AIDS.

61. The Committee is further concerned at the fact that prevention is not sufficiently enforced among children and adolescents through their acquisition of the needed knowledge, and adoption of low-risk behaviours.

62. **The Committee recommends that the State party:**

(a) Provide antiretroviral treatment to HIV-positive children and expand the coverage of voluntary HIV tests for pregnant women;

(b) Strengthen its measures to expand facilities and medical training for the diagnosis and treatment of HIV/AIDS;

(c) Strengthen its efforts by conducting campaigns and programmes to raise awareness about HIV/AIDS among adolescents, particularly among those belonging to vulnerable and high-risk groups as well as the population at large, so as to reduce discrimination against children infected and affected by HIV/AIDS;

(d) Adequately implement the National Anti-Aids Programme (2005-2008), including by providing it with the necessary funding; and

(e) Seek further technical assistance from, inter alia, the United Nations Joint Programme on HIV/AIDS and UNICEF.

63. **In this respect, the Committee wishes to draw the attention of the State party to its general comment N° 3 (2003) on HIV/AIDS and the rights of the child, and on the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37).**

Harmful traditional practices

64. The Committee is concerned that female genital mutilation is still practised in some West African communities living in the Republic of the Congo.

65. **The Committee recommends that the State party adopt legislation prohibiting such harmful practices and take well targeted measures to ensure the eradication of female genital mutilation in all communities living on its territory, including through widespread awareness-raising campaigns, and encourage children to report these practices to health professionals and competent authorities.**

Standard of living

66. The Committee is concerned that a large number of Congolese families live in poverty which results in their being unable to cover the basic requirements of their children. The Committee is also concerned that there is no social security system for the high number of unemployed persons and their children and that the minimal family allowances have not been raised for many years.

67. The Committee recommends that the State party take adequate measures to reduce poverty in order to allow parents to fulfil their responsibilities vis-à-vis their children, including their duty to ensure that children enjoy an adequate standard of living, in particular with respect to the provision of health, housing, nutrition and education. The Committee further recommends that the State party guarantee access to health services and educational institutions free of charge for all children, including meals in schools for disadvantaged children.

6. Education, leisure and cultural activities (arts. 28, 29 and 31)

Education

68. The Committee notes with appreciation that the State party has adopted legislation whereby primary education is compulsory and free of charge. The Committee is however concerned at the insufficiency of budget allocations for pre-primary, primary, and secondary schools, and the poor quality of education. The Committee is also concerned at the common practice of parents' associations having to support the functioning of the educational system by contributing to the salaries of teachers, as well as to the operating and investment expenditure of schools, such as building and furnishing of classrooms facilities. Furthermore, the Committee is concerned at the large number of repetition and drop-outs, overcrowded schools, the low attendance in secondary school, the insufficient number of trained teachers and available school facilities. The Committee is further concerned at the low number of children graduating from primary school and the lack of vocational training for children, in particular those who drop out of school. Finally, the Committee is concerned at the limited access of indigenous children to education.

69. The Committee recommends that the State party:

- (a) Increase public expenditure on education, in particular primary education;**
- (b) Ensure that primary education is free of direct and hidden costs and compulsory, and that all children are enrolled in mandatory school;**
- (c) Pay specific attention to disparities in access to schools based on sex, socio-economic, ethnic and regional grounds, and ensure all children's full enjoyment of the right to education;**

(d) Increase the number of well trained teachers, especially female, taking into account the lack of qualified teachers, and provide additional school facilities, particularly in rural areas;

(e) Undertake additional efforts to ensure access to informal education to those children who dropped out of school before graduation, including indigenous children, street children, orphans, children with disabilities, and former child soldiers;

(f) Strengthen vocational training, including for children who have left school before completion;

(g) Improve enrolment in secondary schools;

(h) Facilitate access to pre-primary education; and

(i) Seek technical assistance from UNICEF, in particular to improve access to education for girls and indigenous children.

70. In this respect, the Committee draws the attention of the State party to its general comment No. 1 (2001) on the aims of education. In addition, the Committee recommends that the State party incorporate human rights, and particularly the Convention on the Rights of the Child, into the school curricula at all levels. In order to do so, technical assistance should be sought from the Office of the High Commissioner for Human Rights and UNICEF.

Leisure and cultural activities

71. The Committee is concerned at the limited opportunities of children to engage in cultural and recreational activities and programmes in the country.

72. The Committee recommends that the State party undertake measures to increase children's access to, and improve the quality of sports facilities, cultural, leisure and other educational and recreational activities.

7. Special protection measures (arts. 22, 30, 38, 39, 37 b-d, 32-36 n)

Refugee children

73. The Committee notes with satisfaction that the revised asylum policy in place has enhanced the protection of asylum-seeker and refugee children who are unaccompanied or separated from their parents. However, the Committee is concerned that access to education and health is not fully guaranteed for refugee children. The Committee is also concerned at reports of increased violence and discrimination against refugee children, especially from Rwanda, and at the fact that Rwandan children are not integrated in the regular educational system.

74. The Committee recommends that the State party ensure access to health and education to all refugee children in the country and that it take all appropriate measures to

protect refugee children, in particular girls, from physical or mental violence, including sexual abuse, maltreatment, exploitation and neglect. In this respect, the Committee further recommends that the State party seek the technical assistance of the Office of the United Nations High Commissioner for Refugees.

Child soldiers

75. While noting that the State party has resorted to international cooperation to address the issue of child soldiers and initiated a Disarmament, Demobilization and Reintegration process, the Committee is concerned that many former child soldiers and children, including girls, do not receive adequate assistance for physical and psychological recovery. The Committee is also concerned that former child soldiers are not reintegrated in the educational system.

76. The Committee recommends that the State party ensure that all children who directly or indirectly took part in the armed conflict are provided with services aimed at their full physical and psychological recovery, as provided for under article 39 of the Convention, and that special attention be paid to the specific needs of girls. The Committee also recommends that the State party increase its efforts to set up appropriate programmes and institutions and ensure that former child soldiers are reintegrated in the regular educational system.

Substance abuse

77. While noting the establishment of the Interministerial Technical Committee for Combating Drugs, the Committee is concerned that many adolescents are affected by drug abuse and alcohol consumption.

78. The Committee recommends that the State party strengthen its measures to prevent and eliminate drug and alcohol abuse among children and to support recovery programmes for children victims of drug abuse, including by providing the Interministerial Technical Committee for Combating Drugs with adequate resources. The Committee further recommends that the State party seek technical cooperation from, inter alia, the World Health Organization and UNICEF.

Economic exploitation, including child labour

79. While noting with appreciation the ratification by the State party of relevant ILO Conventions, as well as the adoption of an appropriate legislative framework, the Committee is concerned at the lack of data on the issue of economic exploitation of children. The Committee is also concerned at information according to which children, in particular indigenous children, are exploited economically. Finally, the Committee is concerned at reports that children, in particular from the Democratic Republic of Congo and indigenous children, are recruited to clean sewers and latrines manually, which is extremely hazardous to their health.

80. The Committee urges the State party to develop and implement, with the support of ILO, UNICEF, and NGOs, a comprehensive plan of action to prevent and combat child labour, in full compliance with ILO Conventions No. 138 and No. 182, which the State

party has ratified, and to pay special attention in this regard to vulnerable and migrant children.

Sexual exploitation

81. While welcoming the study on the sexual exploitation of children which is being conducted with UNICEF's support, the Committee expresses concern at sexual harassment in schools. It is also concerned at the fact that sexual exploitation of children is a widespread practice. The Committee is also concerned at the fact that the *Portella Law* prohibiting the presence of children in bars and night clubs is not enforced.

82. The Committee recommends that the State party:

(a) Undertake awareness-raising educational campaigns targeting the public at large and schools in particular to prevent and eliminate sexual exploitation;

(b) Ensure adequate resources in order to investigate cases of abuse, prosecute such crimes, and impose adequate sentences;

(c) Provide further resources to support the physical and psychological recovery of all children affected by sexual exploitation;

(d) Train professionals, in particular those working with the administration of justice, in order to receive, investigate and process complaints in a child-sensitive manner respecting the privacy of the victims; and

(e) Implement a comprehensive policy, in coordination with NGOs, for the prevention, recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children.

Trafficking

83. While noting that the State party has ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others on 25 August 1977, the Committee is concerned at the absence of legislation prohibiting trafficking in persons, particularly children.

84. The Committee recommends that the State Party take the necessary measures to criminalize trafficking in persons, particularly children, by enacting legislation in conformity with the Convention on the Rights of the Child and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. The Committee also recommends that the State party ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children which supplements the United Nations Convention against Transnational Organized Crime.

85. The Committee further recommends that the State party provide information in its next report on:

(a) Programmes and activities aiming at the psychological recovery of children victims of trafficking;

(b) Existing bilateral or multilateral agreements on the issue of trafficking ensuring that special attention is paid to the needs of children who are returned to their country of origin; and

(c) Progress made in relation to a study which the State party should conduct on the root causes and implications of trafficking.

Juvenile justice

86. While welcoming the study on juvenile justice undertaken by the State party with the technical assistance of UNICEF, the Committee is concerned that most officials dealing with juvenile justice are not aware of the rights of the child. It expresses further concern at the lack of juvenile judges in the country, and at the fact that children are often detained with adults.

87. **The Committee recommends that the State party implement the recommendations of the study on juvenile justice. The Committee also recommends that the State party fully bring the system of juvenile justice in line with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules), and the Vienna Guidelines for Action on Children in the Criminal Justice System; and the recommendations of the Committee made at its day of general discussion on juvenile justice held on 13 November 1995 (CRC/C/46, paras. 203-238). In this regard, the Committee recommends that the State party:**

(a) Take all necessary measures to 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;

(b) Take urgent steps to substantially improve the conditions of detention of persons below 18 when deprived of their liberty in conformity with international standards;

(c) Provide that persons below 18 deprived of liberty are provided with a full programme of educational activities (including physical education);

(d) Establish an independent monitoring system with access to juvenile detention facilities;

(e) Train professionals in the area of recovery and social reintegration of children; and

(f) Seek technical assistance from the United Nations Interagency Panel on Juvenile Justice.

Children belonging to a minority or indigenous group

88. The Committee notes with appreciation that the Constitution prohibits discrimination and welcomes the establishment of the Inter-Ministerial Committee to coordinate actions on issues related to indigenous people. It also commends the State party for having drafted a Law on the Promotion and Protection of the Rights of Indigenous Populations in the Republic of the Congo and for having elaborated with the technical assistance of UNICEF a development programme designed for indigenous populations. However, the Committee is concerned at the alarming situation of the latter, in particular indigenous children, who are victims of economic exploitation, systematic violence, including rape, and systematic discrimination, in particular with respect to access to health services, education and birth registration. The Committee is also concerned that the draft Law on the Promotion and Protection of the Rights of Indigenous Populations does not refer explicitly the rights of indigenous children.

89. **The Committee recommends that the State party:**

(a) Amend the draft Law on the Promotion and Protection of the Rights of Indigenous Populations in the Republic of the Congo, so as to ensure that it explicitly covers all areas of the Convention on the Rights of the Child;

(b) Adopt a Plan of Action for Indigenous People which would address discrimination at all levels;

(c) Dedicate more attention to securing the physical integrity of indigenous children;

(d) Take affirmative measures to ensure that indigenous children gain de facto enjoyment of their rights, in particular in the area of health and education; and

(e) Take due account of the recommendations adopted by the Committee following its day of general discussion on the rights of indigenous children held in September 2003.

8. Optional Protocols to the Convention on the Rights of the Child

90. The Committee welcomes the enactment of the Acts authorizing accession to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and accession to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography respectively.

91. The Committee recommends that the State party finalize the ratification process of the Optional Protocols to the Convention on the Rights of the Child on the Sale

of Children, Child Prostitution and Child Pornography, and on the Involvement of Children in Armed Conflict.

9. Follow-up and dissemination

Follow-up

92. The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, inter alia, by transmitting them to the members of the Council of Ministers or the Cabinet or a similar body, the Parliament, and to provincial or State Governments and Parliaments, when applicable, for appropriate consideration and further action.

Dissemination

93. The Committee further recommends that the initial report and written replies submitted by the State party and the related recommendations (concluding observations) adopted by the Committee be made widely available in the languages of the country, including (but not exclusively) through the Internet to the public at large, civil society organisations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.

10. Next Report

94. The Committee invites the State party to submit a consolidated second, third and fourth report, by 12 November 2010 (the due date of the fourth report). This is an exceptional measure due to the large number of reports received by the Committee every year. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.
