



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/COD/CO/4
16 December 2009

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Forty-third session
Geneva, 2-20 November 2009

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT**

Concluding observations of the Committee on Economic, Social and Cultural Rights

Democratic Republic of the Congo

1. The Committee considered the combined second to fourth periodic reports of the Democratic Republic of the Congo on the implementation of the Covenant (E/C.12/COD/5) at its 31st, 32nd and 33rd meetings, held on 3 and 4 November 2009 (see E/C.12/2009/SR. 31, 32 and 33), and adopted, at its 51st and 52nd meetings, held on 17 November 2009, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined second to fourth periodic reports of the State party but regrets the 21 years delay in its submission. The Committee also welcomes the written replies to the list of issues (E./C.12/COD/Q/5/Add.1).

3. The Committee appreciates the opportunity to hold a dialogue with representatives of the State party and the answers to the questions raised by the Committee. However, it regrets the limited composition of the State party's delegation and that the information provided was in many cases not sufficiently detailed to enable the Committee to more fully assess the level of enjoyment of the rights provided for in the Covenant in the State party.

B. Positive aspects

4. The Committee welcomes the ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and its two optional protocols. It also welcomes the ratification of International Labour Organization (ILO) Conventions No. 87 (1948) on Freedom of Association and Protection of the Right to Organise; No. 105 (1957) on the Abolition of Forced Labour; No. 111 (1958) on Discrimination in Respect of Employment and Occupation; No. 138 (1973) on the Minimum Age for Admission to Employment; No. 182 (1999) on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; and No. 135 (1971) on Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking.

5. The Committee welcomes the promulgation of a new Constitution on 18 February 2006 which incorporates a wide range of human rights, including a number of economic, social and cultural rights. The Committee also welcomes the important legislation enacted by the State party, namely:

- The Child Protection Code in January 2009;
- The Law on Protection of Rights of People Living with HIV/AIDS in July 2008;
- Law No. 6/020 of 10 October 2006 and Law No. 08/013 of 5 August 2008 on the organization and functioning of the High Judicial Council;
- Law No. 015/2002 of 16 October 2002 on the Labour Code;
- Law No. 007/2002 on the mining code.

C. Factors and difficulties impeding the implementation of the Covenant

6. The Committee acknowledges the persistent instability and recurrent armed conflicts in some of the provinces in the State party, which pose great challenges to the ability of the State to fulfil its obligations under the Covenant. The Committee considers, however, that impunity for human rights violations and the illegal exploitation of the country's natural resources, including by foreign companies, constitute major obstacles to the enjoyment of economic, social and cultural rights in the State party. The Committee reiterates the primary responsibility of the State party for ensuring security in its territory and protecting its civilians with respect to the rule of law, human rights and international humanitarian law.

D. Principal subjects of concern and recommendations

7. The Committee regrets that the report of the State party and its written replies to the list of issues transmitted to it do not contain detailed factual information or statistics that would enable it to assess how far the rights set out in the Covenant are respected in the State party. The Committee considers such data to be essential for monitoring implementation of the Covenant.

The Committee urges the State party to provide more concrete information in its next periodic report on the practical application of the Covenant, including through disaggregated data and relevant statistics, regarding the implementation of its laws and administrative provisions in the various fields covered by the Covenant.

8. The Committee is concerned that in spite of the fact that international treaties supersede domestic legislation and that several rights enshrined in the Covenant were incorporated into the 2006 Constitution, domestic legislation which is contrary to the Covenant and to the new constitution have not been abrogated and laws giving effect to the provisions of the Covenant are hardly implemented. The Committee is also concerned that the State party has not given full effect to the provisions of the Covenant in the domestic legal order, especially by providing for judicial and other remedies for violations of economic, social and cultural rights.

The Committee urges the State party to ensure conformity of domestic legislation with the Covenant and to formally abrogate all legislation contrary to its provisions. In light of its general comment No. 9 (1998) on the domestic application of the Covenant, the Committee also urges the State party to take immediate steps, including legislative measures, to create and ensure effective domestic remedies for all economic, social and cultural rights and to include in its next periodic report precise information on judicial decisions which give effect to Covenant rights.

9. The Committee regrets that the creation of a national human rights commission which would take into account the Paris Principles relating to the status of national institutions was not established by the new Constitution of 18 February 2006.

The Committee calls upon the State party to speed up the process of establishment of a national human rights commission and ensure that it conforms to the Paris Principles and is provided with adequate financial and human resources. In light of its general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic social and cultural rights, the Committee urges the State party to ensure that the mandate of the national human rights commission fully covers economic, social and cultural rights and that it is empowered to receive individual complaints and conduct investigations. The State party is invited to include details of both the mandate and the principal relevant activities of the national human Rights commission in its next periodic next report.

10. The Committee expresses deep concern at the state of the justice system, characterized by a severe shortage of judges, lack of adequate resources, political and military interference and high levels of corruption. The Committee is also concerned that in spite of the recent adoption of the Plan of Action for Justice Reform, unless budget allocations to the justice sector, currently receiving only 1 per cent of the State budget, are significantly increased, the reform will fall short. The Committee is further concerned that the High Judicial Council has not been provided with the necessary resources for its effective functioning and that nominations and dismissal of magistrates continue to be decided in violation of the magistrate's statute.

The Committee urges the State party to strengthen its efforts to build an independent, efficient, adequately resourced and accountable justice system. The Committee calls upon the State party to exercise greater political will in fighting impunity by allocating the necessary resources for a prompt and full implementation of the recently adopted Plan of Action for Justice Reform and for the proper functioning of the High Judicial Council. The State party should also urgently create a school for magistrates and promulgate a code of conduct for magistrates. The Committee further calls upon the State party to respect fully the authority of the High Judicial Council regarding the nomination and dismissal of magistrates.

11. The Committee notes with concern that corruption remains endemic in the State party, and that the only State institution in charge of combating corruption, the Professional Ethic Code Observatory (*Observatoire du code de l'éthique professionnelle*) lacks resources, independence and credibility. The Committee also regrets that the tripartite agreement signed in February 2008 with South Africa and the United Nations Office on Drugs and Crime (UNODC) to fight corruption has not yet been implemented.

The Committee urges the State party to adopt strong, efficient and time-framed measures to promote good governance and combat corruption. In this respect, the Committee urges the State part to:

- (a) Recognize the urgency of eradicating corruption within all government agencies, including police forces at national, provincial and locals levels;**
- (b) Raise the awareness of politicians, law makers, national and local civil servants and law enforcement officers as to the negative impact of corruption;**
- (c) Train judges, prosecutors, the police and other law enforcement officers on the strict application of anti-corruption laws;**
- (d) Review its sentencing policy for corruption-related offences;**
- (e) Ensure that civil servants and military personnel do not resort to extortion from civilians by taking the necessary measures to this end, including payment of adequate salaries;**
- (f) Ensure the transparency of the conduct of public authorities, in law and in practice;**
- (g) Implement the tripartite agreement signed with South Africa and UNODC;**
- (h) Provide in its next periodic report detailed information about anti-corruption initiatives, progress made, and obstacles encountered, in combating corruption.**

12. The Committee is seriously concerned that human rights defenders, especially those denouncing corruption, the illegal exploitation of natural resources and supporting victims of

sexual violence are routinely exposed to arbitrary detention, threats and attacks by Government security, police forces and armed groups, illegitimate restrictions of their activities, judicial harassment, defamation campaigns and other forms of stigmatization.

The Committee urges the State party to take the necessary action in accordance with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms to end the ongoing harassment and persecution of human rights defenders and ensure that those responsible for the threats and attacks are duly prosecuted and punished. The Committee also recommends that the State party engage in a constant dialogue with human rights defenders to implement strategies for the protection and promotion of economic, social and cultural rights throughout the country.

13. The Committee is concerned that, in spite of the adoption of a mining code in 2002 and a mining plan in 2004, as well as the current review of all mining contracts, the illegal exploitation and mismanagement of the natural resources of the State party continue with the involvement of foreign companies. The Committee also notes with great concern that in the resource-rich province of Katanga which is under effective Government control, its extensive mining industry continues to be exploited to the detriment of the rights of people of this province who remain extremely poor and deprived of basic social services and infrastructure. The Committee is further concerned about the lack of transparency surrounding the current revision of mining contracts and the granting of new contracts to foreign companies, such as the exclusive concession granted in the field of uranium extraction. (article 1.2)

The Committee urges the State party to take all appropriate measures to ensure that its natural resources are not subjected to illegal exploitation and mismanagement; to review without delay the mining contracts in a transparent and participatory way; repeal all contracts which are detrimental to the Congolese people; and ensure that future contracts are concluded in a transparent and public way. The Committee also encourages the State party to implement the Extractive Industries Transparency Initiative (EITI) for which it has been a candidate country since 2008, in particular as regards the regular disclosure of revenues received from oil, gas and mining to a wide audience in a publicly accessible, comprehensive and comprehensible manner. The State party should also adopt appropriate measures to control the export of minerals and to impose drastic sanctions on those involved in the illicit trade in natural resources. The Committee further calls upon the State party to ensure that revenues derived from the mining sector are allocated for the development of the province of Katanga and that its inhabitants are provided with basic social services and infrastructure so that their living conditions may be improved.

14. The Committee is concerned that despite the adoption of the Forestry Code and a moratorium on concessions, illicit trade of wood and abusive exploitation of the country's forests continue to adversely affect the ecology and biodiversity and undermine the rights of indigenous populations, especially pygmies, to live in their ancestral lands and manage their forests according to their traditional practices. The Committee also expresses concern that

representatives of indigenous communities were not invited to take part in the second session of the inter-ministerial commission in charge of reviewing illicit logging contracts, although the session was devoted to the signature of contracts between local authorities and logging companies. (article 1.2)

The Committee urges the State party to enforce the moratorium on concessions until the mapping and zoning exercise is completed and to ensure that future forest concessions do not deprive the indigenous peoples of the full enjoyment of their rights to their ancestral lands and natural resources, and that the benefits thereof contribute to their poverty alleviation. The State party should ensure that forestry projects are centred on advancing the rights of forest-dependent peoples and conducted only after comprehensive studies are carried out, with the participation of the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned activities. The Committee encourages the State party to consider ratifying ILO Convention No. 169 (1989) on Indigenous and Tribal Peoples in Independent Countries.

15. The Committee is concerned that land-related disputes which were at the heart of the Ituri conflict and continue to be the source of conflicts in many provinces, remain unresolved and therefore may lead to new inter-ethnic confrontation. The Committee is especially concerned that the consultation process to revise the Land Law, although announced in the State party report, has not yet formally begun and that no other initiative is foreseen to prevent future land dispute. The Committee expresses further concern at the numerous cases of peasants expelled from their land due to mining operations in Kijiba, Kaposhi, Ngaleshi, Kifunga and Chimanga (Katanga). (article 1.2)

The Committee calls upon the State party to urgently launch a consultation process with a view to revising the current Land Law and securing land tenure. Until such a law is adopted and implemented, the State party should take all the necessary measures in consultation with local and regional authorities to solve the existing land conflicts and prevent further disputes. As part of its efforts, the State party should envisage financially supporting the sensitization and mediation activities of the Land Commission established in February 2008 in the province of Ituri and creating community-based land commissions in the other provinces. The State party should also inquire into the expulsion of farmers in Katanga and provide them with compensation and alternative locations for agriculture.

16. The Committee expresses serious concern that despite the international development aid that has been provided, no sustainable institutional framework for its absorption and utilization exists in the State party. The Committee is also concerned about the continuous decrease over the past decade of the resources allocated to social sectors, notably health and social protection, whereas budgetary allocations to defence and public security have increased considerably to reach 30 per cent of State expenditures. The Committee is even more concerned that only a small part of the low budgetary allocations to the social sectors are actually disbursed. The Committee considers that mismanagement of international cooperation aid and unbalanced budgetary allocations constitute serious breaches in the obligations of the State party under article 2.1 of the Covenant. (article 2.1)

The Committee draws the attention of the State party to its statement entitled “An evaluation of the obligation to take steps to the ‘maximum of its available resources’ under an optional protocol to the Covenant” (E/C.12/2007/1), and recommends that the State party which is currently voting the annual 2010 budget substantially increase its national spending on social services and assistance such as housing, food, health and education, so as to achieve, in accordance with article 2, paragraph 1, the progressive realization of the economic, social and cultural rights provided for in the Covenant. The Committee also urges the State party to use a human rights-based approach in the elaboration of the State budget and the utilization of international development aid with clear strategic budgetary lines for the most disadvantaged and marginalized groups and provinces. It further encourages the State party to foster transparency and accountability to improve effectiveness in the implementation of development programmes funded by international donors.

17. The Committee is concerned that while pygmies continue to suffer extreme forms of societal marginalization, in particular with regard to their access to identity documents, education, health and employment and in spite of repeated calls by human rights bodies to address the situation, the State party has still not taken the necessary measures to end these human rights violations. The Committee also expresses deep concern that in war zones pygmies have been and continue to be subjected to mass rapes, extermination and persecution which are committed with total impunity. (article 2.2)

The Committee urges the State party to ensure that racial discrimination is criminalized as a specific offence and that perpetrators of acts of racial discrimination and crimes against pygmies are brought to justice. The Committee also urges the State party to train public officials and organize campaigns to enhance public awareness in matters of discrimination against pygmies.

18. The Committee, while noting the new provisions of the labour code concerning people with disabilities, regrets that insufficient information was provided in the State party report as to the concrete situation of persons with disabilities and the relevant laws which apply to them, including safeguards against abuse and neglect. The Committee notes with concern that in the absence of appropriate social services, most adults with disabilities have to resort to begging and their children are excluded from access to education and health care. (article 2.2)

The Committee draws attention to its general comment No. 5 (1994) on persons with disabilities and urges the State party to adopt comprehensive anti-discrimination legislation that provides persons with disabilities with judicial and social-policy programmes which enable them to live an integrated, self-determined and independent life. The Committee also urges the State party to consider ratifying the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto. The State party is invited to provide detailed information in its next periodic report on persons with disabilities, including children and women, with regard to their enjoyment of economic, social and cultural rights.

19. The Committee is concerned that the State party is not aware of the widespread discrimination against persons with albinism. The Committee also expresses deep concern that persons with albinism have been killed and their organs used or trafficked for witchcraft ceremonies. (article 2.2)

The Committee urges the State party as a matter of urgency to ensure the timely and efficient conduct of investigations and prosecution of those responsible for the killings and mutilation of persons with albinism. The Committee also urges the State party to apply itself to combating the discrimination against persons with albinism which takes place in the State party, and to this end, to establish close cooperation with and financially support the work of the associations promoting and protecting the rights of people with albinism, and conduct awareness-raising campaigns to combat superstitious beliefs which are detrimental to their well-being.

20. The Committee notes with concern that despite constitutional provisions guaranteeing the principle of equality between women and men, provisions that discriminate against women, such as the ones contained in articles 444, 448, 449 and 450 of the Family Code remain in force in spite of repeated calls from human rights bodies to repeal them. The Committee is also concerned that in spite of the high level of gender-based violence in the State party, priority has not been given to tackling this problem, as reflected by the slow process of drafting the law on gender equality and revising the Family Code; the limited number of women in public life and decision-making positions; and the persistent inequality in wages between men and women. The Committee is further concerned about the persistence of harmful traditional practices such as dowry payments, levirate marriage, polygamy, forced and early marriage, and female genital mutilation. (article 3)

In light of its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3) reminds the State party that this is an immediate obligation of States parties. The Committee considers that repealing all laws which discriminate against women requires firm political will and therefore urges the State party to proceed without any further delay to their repeal. The State party should also speed up the process of adoption of the law on gender equality, enact legislation prohibiting traditional practices that are harmful to women and girls and raise the minimum age of marriage for girls to 18 years of age. The Committee further recommends that the State party adopt measures without delay to modify or eliminate traditional practices and stereotypes that discriminate against women, make the promotion of gender equality an explicit component of all its national reconstruction and development strategies, undertake concrete measures to increase the number of women in decision-making positions and enforce the principle of equal pay for work of equal value.

21. The Committee notes with concern that in spite of repeated requests made by the ILO Committee of Experts on the Application of Conventions and Recommendations, the State party has not yet repealed legislation which allows the imposition of forced labour on detainees (Ordinance No. 15/APAJ of 20 January 1938) in the context of national food production programmes (Act No. 76-011 of 21 May 1976 concerning national development efforts and its Implementing Order No. 00748/BCE/AGRI/76 of 11 June 1976), and as a means of levying

taxes (sections 18 to 21 of Legislative Ordinance No. 71/087 of 14 September 1971 on minimum personal contributions). The Committee is also concerned that the obligatory civic work programme known as *Salongo* is still widely practiced. (article 6)

The Committee refers the State party to its general comment No. 18 (2005) on the right to work and urges it to repeal legislation which is not in line with the provisions of article 6 of the Covenant and to immediately put an end to the obligatory civic work programme.

22. The Committee expresses concern at the insufficient measures taken by the State party to address the situation of thousands of artisanal miners who work in harsh conditions, without employment contracts, protection, adequate clothing, equipment or training provided to them by trading companies. The Committee is also concerned that whereas neither the Government nor the trading companies which directly benefit from the work of artisanal miners accept responsibility for their lives and welfare, large sums of money are extorted from artisanal miners by the authorities, customs and police forces, as well as by the associations which are supposed to protect their interests. The Committee further notes with concern that the labour inspectorate is under-resourced, subject to external influence and therefore unable to exercise effective control over miners' working conditions (article 7).

The Committee calls upon the State party to continue to revise mining contracts and to adopt a clear strategy, with the participation of trading companies, to prevent accidents in mines. The State party should also ensure that trading companies provide miners with an employment contract and fulfil their obligations with regard to safety and health in the workplace as defined in the Labour Code. The Committee urges the State party to strengthen its labour inspectorate, lift the ban on inspection visits in force since 1994 and ensure that independent investigations into all reported cases of deaths and injuries in mines and into cases of extortion of money from the miners are duly sanctioned. It also recommends the State party to consider ratifying ILO Convention No. 155 (1981) on Occupational Safety and Health and the Working Environment and its accompanying protocol, as well as Convention No. 176 (1995) on Safety and Health in Mines.

23. The Committee expresses concern about the numerous cases of harassment, arrest and detention of trade union officials, the obstruction of trade union activities in certain enterprises and the creation of sham unions in the private sector, in particular the natural resources industry, to discourage the creation of genuine unions.

The Committee urges that anti-trade union actions be duly investigated and that those responsible for such actions be brought before the courts and punished in accordance with the law. The Committee also calls upon the State party to take appropriate measures to ensure freedom to form and join trade unions, prevent interference in the management and operation of trade unions and remove restrictions to the right to establish unions in the civil service and in decentralized administrations. The Committee affirms that the rights of workers as provided for under article 8 of the Covenant can only be exercised in a climate free from violence, pressure or threats of any kind. (article 8)

24. The Committee notes with concern that although the State party recognizes the malfunctioning and extremely limited coverage of the social security system, insufficient measures have been taken to address the situation, as reflected in the very slow process of adoption of a social security code and the lack of concrete measures taken to provide protection and assistance to the most disadvantaged and marginalized groups. (article 9)

The Committee, while recognizing the difficulties of the State party, considers that budgetary constraints should not be invoked as the only justification for the lack of progress towards the establishment of a social security system. The Committee urges the State party to speed up the process of adoption of a social security code and the establishment of a sustainable social security system. The Committee also calls upon the State party to take all necessary measures to provide social assistance to those who are presently without any protection, with a view to enabling persons and families in need, including informal sector workers and the most disadvantaged and marginalized individuals and families, to live life in dignity.

25. The Committee is gravely concerned about the high levels of sexual violence and atrocities, including ethnically motivated rapes committed collectively and publicly by all armed groups including by the Congolese Army (FARDC) and the National Congolese Police (PNC), in violation of international human rights and humanitarian law. The Committee regrets that the two laws on sexual violence adopted in 2006 have so far been ineffectively implemented and that perpetrators continue to enjoy impunity. The Committee is alarmed that men accused of rape are often granted bail or released as a result of out-of-court settlements or corrupt practices, while survivors of sexual violence end up rejected by their families, without health care, socio-economic reintegration support or compensation being provided to them by the State party. (article 10.1)

The Committee further notes with concern that impunity also prevails for sexual abuses which are increasingly committed outside conflict zones, as well as for domestic violence which is widespread in the State party. (article 10.1)

The Committee urges the State party to urgently implement the comprehensive strategy against sexual violence endorsed by the Government in April 2009 and to allocate the necessary human and financial resources for this strategy to reach its four main goals, namely: combating impunity, protection and prevention, security sector reform and provision of a multi-sectoral response for survivors. The Committee urges the State party to ensure without any further delay that consistent and sustainable budget allocations are made to provide survivors of sexual violence with immediate compensation, psychological support and health care.

The Committee also urges the State party to address sexual abuse in the wider context of gender-based violence and to take all appropriate measures to combat domestic violence and support gender empowerment.

26. The Committee is concerned that trafficking of women and children for sexual and commercial exploitation is widespread and on the increase. The Committee is also concerned

that men, women and children continue to be regularly abducted by armed groups, including FARDC, and detained in the State party or forcibly transported to neighbouring countries for the purpose of forced labour or sexual slavery. The Committee is further concerned that existing laws do not prohibit all forms of trafficking and that the State party has still not adopted any measures aimed at combating trafficking. (article 10.3)

The Committee urges the State party to criminalize all forms of trafficking in human beings, convict perpetrators, adopt effective measures against trafficking and the sexual and commercial exploitation of women and children, and provide them with physical and psychological recovery and social reintegration measures, including provision of shelter, counselling and medical care.

27. The Committee expresses grave concern that all parties to the conflict, including FARDC, are still recruiting children into their ranks and that thousands of children currently remain involved in armed conflict and are subjected to atrocities by military groups. The Committee further notes with concern that insufficient efforts have been made to bring to justice those identified as recruiting and using child soldiers and to provide children, and especially girls, with protection and community reintegration programmes. (article 10.3)

The Committee urges the State party to immediately release all children serving in FARDC and detained in military facilities and to bring to justice all members of FARDC who have been recruiting, using and detaining child soldiers. The Committee also calls upon the State party to fulfil its obligations to provide demobilized boys and girls with appropriate assistance for their physical and psychological recovery and their social reintegration.

28. The Committee expresses grave concern at the high levels of violence, including sexual violence, suffered by children in the State party, and especially girls, street children, children accused of witchcraft, albinos, orphans, children with disabilities, indigenous children and children in detention. The Committee also expresses deep concern that children are sexually and economically exploited throughout the country on a massive scale. (article 10.3)

The Committee urges the State party not to tolerate any longer violence against children and to fully implement the Child Protection Code adopted in January 2009. The Committee recommends the adoption of concrete measures to identify and protect the most disadvantaged and marginalized children. The Committee further recommends the State party to continue to seek the assistance of the United Nations Children's Fund (UNICEF) and ILO in this respect.

29. The Committee notes with grave concern that although the State party has adopted a Poverty Reduction Strategy, 75 per cent of the population continues to live in extreme poverty. The Committee is also concerned about the continuous decline in the standard of living and life expectancy. The Committee expresses its concern that 83 per cent of the population have no access to safe drinking water, while 70 per cent have no access to hygienic sanitation facilities and only 1 per cent of the population have access to electricity, owing mainly to the mismanagement of the Inga Hydroelectric facilities (article 11).

The Committee recommends that the State party allocate sufficient funds for the implementation of its Poverty Reduction Strategy, and ensure the full integration of economic, social and cultural rights in the strategy, as recommended by the Committee in its Statement on poverty and the International Covenant on Economic, Social and Cultural Rights(E/C.12/2001/10). The Committee also urges the State party to reallocate international development aid and other resources from non-priority sectors to priority sectors and to ensure that international development aid is utilized for the progressive realization of the rights of the Congolese to an adequate standard of living.

30. The Committee expresses concern at the high level of acute and chronic malnutrition and the vulnerability of the population to food shortages in spite of the impressive agricultural potential of the State party. The Committee notes with concern that out of 6.7 million hectares of arable land in the country, only some 1.1 million are currently under permanent cultivation (article 11), that fisheries and livestock rearing potential remains under-exploited and that although recognized as a top priority by the State party, the agriculture sector only received 3.5 per cent of the State budget in 2008.

The Committee urges the State party to strengthen its efforts to revive the country's rural economy and achieve food and nutrition security, notably by adopting an agricultural code and a programme on food security. The State party should accord effective priority to the agricultural sector by allocating the necessary resources to rehabilitate the transport and agricultural infrastructure, strengthen the capacity of communities through training, improve access to agricultural inputs and microcredit to boost agricultural, fishing, livestock rearing, and handicrafts activities, and to improve agricultural techniques.

31. The Committee is concerned that in spite of the poor and unhealthy housing conditions throughout the State party and the demographic explosion in the cities, no budget allocations have been made over the last thirty years to improve the housing conditions of the population and the State party has still not adopted any comprehensive housing policy. The Committee is also concerned about the precarious situation of more than 300 families who were forcibly expelled from their homes in the locality of Kasa Vubu in Kinshasa in March 2009 by order of the Land Ministry without having received any adequate compensation or being offered any alternative housing. (article 11.1)

The Committee urges the State party to adopt as a matter of priority, a national housing policy that would upgrade poor urban settlements and ensure security of tenure, with clear institutional responsibilities at the national, provincial and local levels, and adequate financial resources for its effective implementation. The Committee also urges the State party to ensure that persons forcibly evicted from their properties be provided with adequate compensation and/or offered relocation that complies with the guidelines adopted by the Committee in its general comment No. 7 (1997) on the right to adequate housing (art. 11 (1) of the Covenant): forced evictions. The Committee also urges the State party to guarantee that relocation sites are provided with basic services including drinking water, electricity, washing and sanitation, as well as adequate facilities including schools, health-care centres

and transportation at the time the resettlement takes place. In this regard, the Committee also draws the attention of the State party to the guidelines on development-based evictions and displacements prepared by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (A/HRC/4/18).

32. The Committee expresses grave concern at the increasing and alarming number of prisoners, most of them awaiting trial, who continue to die in the overcrowded prisons of the State party due to lack of food and health care, inhuman sanitary conditions and torture. The Committee is seriously concerned that while regularly and unanimously denounced, this situation has so far not received the attention it requires from the State party which currently provides funds to only one prison in the entire country. The Committee further notes with deep concern that in spite of the decision of the President in 2006 to close illegal jails, security services continue to operate numerous illegal detention facilities to which families, international and non-governmental organizations are denied access. (article 11.1)

The Committee urges the State party to urgently undertake a census of the prison population and allocate the necessary funds to provide food for the detainees. The Committee also calls upon the State party to provide every prison with a reasonable budget and reduce prison overpopulation, notably by using alternatives to preventive detention and releasing all prisoners still detained in violation of the international standards. The State party should also close all illegal detention facilities without further delay, and ensure access for international and non-governmental organizations to all places of detention.

33. The Committee expresses concern at the precarious situation of the 1.7 million internally displaced persons (IDPs) in the State party who rely exclusively on assistance provided by international humanitarian organizations. The Committee notes with concern that due to continuous insecurity in the eastern provinces of the State party, IDPs have no other choice but to hide in the forest where they are deprived of any assistance. The Committee also notes with deep concern that IDPs are regularly victims of gross human rights and humanitarian law violations committed by all factions engaged in the fighting, including FARDC.

The Committee urges the State party through its Ministry for Solidarity and Humanitarian Affairs to assume its obligations to protect and respond to the needs of internally displaced persons.

34. The Committee is deeply concerned that 4 million people have died since the conflict began and that most deaths were caused by preventable and treatable illnesses. The Committee expresses grave concern that most of the health districts are no longer functioning, leaving 37 per cent of the population totally deprived of any form of health care. The Committee is also concerned that when structures do exist, due to user fees health care is not readily accessible resulting in alarming levels of infant, under-five and maternal mortality and low vaccination coverage. (article 12)

The Committee urges the State party to fulfil its commitment to allocate 15 per cent of its budget to building a sustainable health system as announced in its report to

the Committee. The Committee also urges the State party to provide detailed information in its next periodic report on the concrete results achieved through the programmes that the State party is currently implementing.

35. The Committee notes with concern that in spite of the significant increase in budgetary allocations to the education sector, access to primary schools remains fee-paying and therefore unaffordable for many. The Committee also notes with concern that school enrolment of children, especially girls, remains at an extremely low level and that the low level of birth registration in the State party continues to be a major obstacle to the enjoyment of the right to education. The Committee is further concerned that only a small part of the State budget allocated to education is actually being spent on education, especially in priority areas such as educational infrastructure and decent salaries for teachers.

In light of its general comment No. 11 (1999) on plans of action for primary education (art. 14), the Committee reminds the State party that article 14 of the Covenant requires each State party which has not been able to secure compulsory primary education, free of charge, to undertake, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory primary education free of charge for all. The Committee also urges the State party to take all appropriate measures to ensure that births are registered throughout its territory and that the funds allocated to education are actually spent on priority areas such as educational infrastructure and teachers. The Committee requests the State party to provide precise information in its next periodic report on the measures adopted to achieve free and compulsory primary education for all children.

36. The Committee is deeply concerned that the systematic and abusive exploitation of forest resources in the State party has negatively affected the lands and the way of life of numerous indigenous peoples, especially the pygmies living in the Province of Equateur, impeding the enjoyment of their rights as well as their material and spiritual relationship with nature and, ultimately, their own cultural identity.

The Committee recommends that the State party adopt legislation and measures to recognize the status of pygmies and other indigenous peoples living in the State party, in order to protect their ancestral lands as well as their own cultural identity.

37. The Committee invites the State party to update its core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, recently approved by the international human rights treaty bodies.

38. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

39. The Committee invites the State party to consider extending an invitation to the Special Rapporteur on adequate housing, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the independent

expert on the issue of human rights obligations related to access to safe drinking water and sanitation in order to benefit from their expertise in developing policies which would address the concerns of the Committee.

40. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, including among State officials, the armed forces, the judiciary and civil society organizations, and to inform the Committee of the steps taken to implement them in its next periodic report.

41. The Committee recommends that the State party seek the assistance of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo (UNJHRO) regarding the implementation of these concluding observations, as well as in the preparation of its next periodic report. It also encourages the State party to continue engaging non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

42. The Committee requests the State party to submit its fifth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2013.
