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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Pre-sessional working group
Geneva, 25 - 29 May 2009

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

List of issues to be taken up in connection with the consideration of the second, third, fourth and fifth periodic reports of the Democratic Republic of the Congo concerning the rights covered by articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/COD/5)

I. GENERAL INFORMATION

1. Please indicate whether the Supreme Court created by law in August 2008 is now fully operational. Please also indicate whether the Plan of Action for Justice Reform has been approved by the Mixed Committee on Justice Reform and whether it contains specific measures to ensure that victims of violations of economic, social and cultural rights have access to effective judicial remedies, and that court orders and judgments are being enforced.
2. Please indicate whether the draft law on the National Commission for Human Rights (CNDH) submitted to the National Assembly in June 2008 has been adopted and to what extent has the State party taken into consideration the observations made by the Office of the High Commissioner for Human Rights on the designation of the Commission's members, the Commission's financing, the protection of its members and the necessity of having offices in the regions' representation.

3. Please provide information on the measures taken to increase awareness among the public at large and in particular among teachers, judges, police officers and other public authorities of the provisions of the Covenant. Is there any information on the Covenant available in the minority languages and dialects?
4. Please indicate to what extent the realization of economic, social and cultural rights were incorporated in peace negotiations and agreements and to what extent they generated a domestic legal framework for their implementation.
5. Please inform the Committee of any measures foreseen to protect human rights defenders advocating for economic, social and cultural rights and comment on reports that they are facing serious risks, in particular when they denounce the damaging effects of the illegal mining and logging activities of private actors or corruption cases.
6. Please indicate whether civil society organizations have been consulted in the preparation of the State party's report.

II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1-5)

Article 1, paragraph 2

7. Please inform the Committee of the measures taken to reduce deforestation and to protect the economic, social and cultural rights of people living in the country's forest.
8. Please provide the Committee with an update on the initiatives taken to address concerns in reports on the illegal exploitation, pillaging and mismanagement of the country's natural resources. Furthermore, please also provide the Committee with information on the implementation of the Mining Code and Mining Plan and on the Kasumbalesa project as well as on the measures adopted to follow up on the work done by the Lutundula Commission and on the Ituri civil society cooperation framework conclusions of March 2008.
9. Please provide information on the achievements of the Land Commission established in Ituri in February 2008 and about the resources allocated to this mechanism. Please provide further information on the consultation process, if any, to revise the current Land Law as stated in paragraph 209 (g) of the State party's report.

Article 2, paragraph 1

10. Please provide precise information on the measures taken to combat corruption, especially in the judiciary and among public employees. Please also provide information on the steps taken to ensure the independence of the Ethics and Anti Corruption Commission,.

Article 2, paragraph 2

11. While taking note of the legal provisions against discrimination enumerated in the State party's report (E/C.12/COD/5, paras. 46 to 53), the Committee would like to receive additional information on the situation in the State party in particular where it concerns indigenous populations. Please provide detailed information regarding Pygmies and indicate the measures taken by the State party to protect them from discrimination, abuse and marginalization.

12. Please indicate the measures the State party intends to take to end discrimination against persons with albinism and prevent killings of albinos which are apparently fuelled by the superstitious belief that the use of body parts of persons with albinism in witchcraft will lead to prosperity.

13. Please explain why the intervention of the State party to protect particularly vulnerable groups, including women and children in difficult situations remains limited (E/C.12/COD/5, paras. 173, 178, 181 and 182). Please also provide specific on programmes, if any, to support persons living with disabilities and their families.

Article 3

14. Please explain why the discriminatory provisions contain in articles 444 (the wife must obey her husband) and 448 (for any legal act women should obtain their husband's authorization) of the family code have not yet been repealed.

15. Please provide information on the outcome of the national programme for the advancement of women of 1999 and the mainstreaming document of 2004. Please also provide information on the resources allocated to the Ministry of Gender, Women and Children's Affairs.

16. Please indicate whether the State party implements or envisages implementing a comprehensive strategy, including goals and timetables, to modify and eliminate negative cultural attitudes and practices and stereotypes that discriminate against women in the State party. The Committee would also like to receive information on any awareness-raising campaigns aimed at the elimination of stereotypes associated with men's and women's traditional roles in the family and in society at large.

III. ISSUES RELATING TO THE SPECIFIC PROVISIONS OF THE COVENANT (arts. 6-15)

Article 6

17. Please indicate what measures have been taken by the State party to abolish the legal provisions (Act N° 76-011 of 21 May 1976 and its implementing order/ sections 18 to 21 of Legislative Ordinance n°71/087 of 14 September 1971 and Ordinance N°15/APAJ of 20 January 1938) as observed by the ILO Committee of Experts on the Application of Conventions and Recommendations .

Article 7

18. Please explain the reasons why the guaranteed minimum wage is not applicable to the public sector (E/C.12/COD/5, paras. 107 and 108). Please also explain why the minimum wage has been fixed under the poverty line in contradiction with article 7, paragraph (a) (ii) of the Covenant.

19. Please inform the Committee of the concrete measures taken to eliminate the wage gap between men and women. Please also provide information on the concrete results achieved by the anti-discriminatory measures set up by law No. 015/2002 of 16 October 2002 referred to in paragraph 102 of the State party's report.

20. According to information before the Committee, while scores of artisanal miners die every year in preventable accidents in Katanga's copper and cobalt mines, the State party has still not adopted any strategy of prevention. Please provide further information in this regard.

21. Please provide additional information on the efforts made (E/C.12/COD/5, para. 112) to strengthen the labour inspectorate and to shield the inspectors from improper external influence. In particular, please inform the Committee of the distribution of powers between the central authority and the provincial authorities with regard to the organization and functioning of labour inspection structures, the appointment of labour inspection staff and the budgetary decisions concerning the resources of the labour inspectorate.

Article 8

22. Please indicate the follow-up given to the observations put forward by the ILO Committee of Experts in 2008 on the obstruction of trade union activities in certain administrative branches and enterprises (ban on holding meetings, ban on access to installations) as well as the results of any investigations conducted into the cases of abduction, torture, threats, intimidation and harassment against trade union leaders.

23. Please provide the Committee with information on the current situation of Mr. Nginamau Malaba, president of the Congolese trade union centre and two other trade unionists arrested in January 2009.

Article 9

24. While taking note of the malfunctioning of the social security system as indicated in the State party's report (E/C.12/COD/5, para. 146), please provide information on the concrete measures which the State party intends to adopt to rebuild a sustainable national security system. Please also indicate at what stage the draft Social Security Code is, which, according to the Government's announcement to the ILO in 2008, was due to be examined during the thirtieth session of the National Labour Council.

Article 10

25. Please provide information on the implementation of the Law on sexual violence adopted in 2006, including on the number of cases that have been prosecuted and tried by the courts.

26. Please indicate the priority measures which the State party intends to adopt to render health services affordable and accessible to victims of sexual violence (E/C.12/COD/5, para. 174). Please also supply data on the number of women who have received compensation payments from the State party as the result of sexual violence by State agents.

27. Please provide information on the extent of sale of children and trafficking in persons from, to and within the State party and on the measures taken by the State party to identify victims of trafficking and to provide them with the necessary protection.

28. Please provide updated information on the situation of so called child-witches in the country's towns of Kinshasa, Mbuji-Mayi, Kisangani, Lumumbashi and Bukavu. Please also provide information on measures taken to address the grave abuses, ill treatment and violence suffered by these children, in particular the measure to bring the perpetrators to justice (E/C.12/COD/5, para. 181).

29. Please provide more specific information as to measures taken to protect the most vulnerable children, namely street children, orphans, child soldiers, children trafficked for forced labour and sexual exploitation, children living with a handicap and children victims of sexual violence.

30. Please provide information on the concrete measures taken by the State party to prohibit worst forms of child labour, particularly employment of very young children, sometimes as young as five years old and working in dangerous conditions in mines.

Article 11

31. The Committee requests that the State party clarify whether a strategy has been adopted to ensure adequate housing for the homeless and to improve the housing conditions as described in the State party's report (E/C.12/COD/5, paras. 214 and 234).

32. According to information received from United Nations agencies and programmes, the detention conditions, in particular the overcrowding, the lack of food, basic hygiene and medical care in the prisons are said to transform the country's prisons into real death traps. Please provide information on the measures taken to improve detention conditions, especially in the prisons of Goma, Mbuji-Mayi, Mwene-Ditu, Bunia and Kisangani.

Article 12

33. Please indicate the measures taken to ensure access to health services to the most disadvantaged and marginalized groups and in particular in the regions where there have been no such services at all (E/C.12/COD/5, para. 243).

34. Please describe the measures already adopted to implement the Bill passed on 30 May 2008 on the Protection of the Rights of Persons Living with HIV/AIDS and Affected Persons" (E/C.12/COD/5, para. 272) In particular, please indicate the protection measures adopted for children infected with HIV and for AIDS orphans.

Articles 13 and 14

35. Please provide specific information as to when the budget allocations for education will be increased to at least 10 per cent to ensure free access to education as stated in paragraph 284 of the State party's report.

36. Please indicate the priority measures taken to ensure the right to education of children belonging to the most vulnerable groups and children living in areas affected by armed conflict. Please also inform the Committee of the measures adopted with a view to eliminating traditional stereotypes that hinder girls' education and guaranteeing equal access by girls and young women to all levels of education, retaining girls in schools and improving literacy rates among women and girls.

37. The State party is requested to provide information on the measures taken to improve teachers' professional training and standard of living (E/C.12/COD/5, para. 298 (g)).

Article 15

38. Please provide information on the impact of the armed conflict on the practice and enjoyment of the right to take part in cultural life throughout the State party.

39. Please provide information on the concrete measures adopted by the State party to promote and protect the rights of indigenous and tribal peoples to enjoy their cultural rights under article 15, paragraph 1 (a) of the Covenant.

40. Please provide more specific information on policies adopted and measures taken to protect the cultural heritage of the State party.
