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HUMAN RIGHTS COUNCIL  
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**COMPILATION PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR  
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15(B) OF THE ANNEX  
TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1\***

**Congo**

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

## I. BACKGROUND AND FRAMEWORK

### A. Scope of international obligations<sup>1</sup>

<i>Core universal human rights treaties<sup>2</sup></i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	11 July 1988	None	Individual complaints (article 14): No
ICESCR	5 October 1983	Withdrew (article 13 (3) and (4))	-
ICCPR	5 October 1983	Yes (article 11)	Inter-State complaints (article 41): Yes
ICCPR-OP 1	5 October 1983	None	-
CEDAW	26 July 1982	None	-
CAT	30 July 2003	None	Inter-State complaints (article 21): No Individual complaints (article 22): No Inquiry procedure (article 20): No
CRC	14 October 1993	None	-

*Core treaties to which Congo is not a party:* OP-ICESCR,<sup>3</sup> ICCPR-OP 2, OP-CEDAW (signature only, 2008), OP-CAT (signature only, 2008), OP-CRC-AC, OP-CRC-SC, ICRMW (signature only, 2008), CRPD (signature only, 2007), CRPD-OP (signature only, 2007) and CED (signature only, 2007).

<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	No
Rome Statute of the International Criminal Court	Yes
Palermo Protocol <sup>4</sup>	No
Refugees and stateless persons <sup>5</sup>	Yes, except 1954 and 1961 Conventions
Geneva Conventions of 12 August 1949 and Additional Protocols thereto <sup>6</sup>	Yes, except Additional Protocol III
ILO fundamental conventions <sup>7</sup>	Yes
UNESCO Convention against Discrimination in Education	Yes

1. In 2000, the Human Rights Committee (HR Committee) called on Congo to withdraw its reservation to article 11 of the ICCPR.<sup>8</sup> In 2003, the Committee on the Elimination of Discrimination against Women (CEDAW) urged Congo to accelerate its efforts to ratify the Optional Protocol to the Convention and to accept the amendment to article 20, paragraph 1, of the Convention.<sup>9</sup> In 2006, the Committee on the Rights of the Child (CRC) welcomed the ratification of ILO Conventions Nos. 105, 138 and 182.<sup>10</sup> It recommended that Congo ratify the Palermo Protocol<sup>11</sup> and finalize the ratification process of the OP-CRC-AC and the OP-CRC-SC.<sup>12</sup>

### B. Constitutional and legislative framework

2. In 2006, while commending Congo for having drafted a law on the promotion and protection of the rights of indigenous populations, CRC was concerned that the draft law did not refer explicitly to the rights of indigenous children, and recommended amending the draft so as to ensure that it explicitly covered all areas of the Convention.<sup>13</sup> It also recommended that Congo improve and harmonize its legislation and adopt a comprehensive child protection code.<sup>14</sup>

### C. Institutional and human rights infrastructure

3. L'Equipe du Système des Nations Unies au Congo (le système des Nations Unies) a souligné en 2008 que le cadre institutionnel actuel de la République du Congo est défini par la Constitution du 20 janvier 2002 qui est généralement conforme aux instruments internationaux de protection des droits de l'homme. Amorcée avec l'élection du Président de la République en mars 2002, la mise en place des différentes institutions (Assemblée nationale, Sénat, Cour constitutionnelle, Haute cour de justice, Cour des comptes et de discipline budgétaire, Conseil économique et social, Conseil de la liberté de communication, Commission nationale des droits de l'homme, Médiateur de la République) s'est achevée en mars 2005.<sup>15</sup>

4. In 2006, while noting with appreciation the establishment of the National Human Rights Commission and the Office of the Mediator of the Republic, CRC regretted the limited mandate of these two institutions. It recommended providing them with an adequate mandate and financial resources to enable them to monitor the implementation of the Convention at the national level and to deal with individual complaints, as well as with structural and systemic issues relating to the rights of the child.<sup>16</sup> As of 20 February 2009, Congo does not have a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).<sup>17</sup>

### D. Policy measures

5. In 2006, CRC welcomed the adoption of the Strategic Programme and of the Framework for Operations 2004-2008, which aim at improving the situation of children. However, it recommended that Congo provide a specific budget allocation and adequate follow-up and evaluation mechanisms for the full implementation of the Programme.<sup>18</sup>

6. Le système des Nations Unies a mentionné en 2008 que l'admission du Congo à l'initiative des Pays Pauvres Très Endettés (I-PPTE) lui a permis de s'inscrire dans la perspective d'une réduction de sa dette et de procéder à l'élaboration du Document de Stratégie de Réduction de la Pauvreté (DSRP). Ce document constitue pour le Congo le cadre de référence en matière de développement. Le DSRP a été validé le 31 mars 2008 et s'appuie sur les cinq axes suivants : amélioration de la gouvernance et consolidation de la paix et de la sécurité; promotion de la croissance économique et stabilité macroéconomique; amélioration de l'accès des populations aux services sociaux de base; environnement social et intégration des groupes vulnérables; renforcement de la lutte contre le VIH/SIDA.<sup>19</sup>

## II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

### A. Cooperation with human rights mechanisms

#### 1. Cooperation with treaty bodies

<i>Treaty body<sup>20</sup></i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	-	-	-	Initial to ninth report tentatively scheduled for consideration in March 2009
CESCR	-	May 2000	-	Initial report overdue since 1990
HR Committee	1996	March 2000	-	Third report overdue since 2003

<i>Treaty body<sup>20</sup></i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CEDAW	2000	March 2003	-	Sixth and seventh reports overdue since 2007
CAT	-	-	-	Initial report overdue since 2004
CRC	2006	September 2006	-	Combined second, third and fourth reports due in 2010

## 2. Cooperation with special procedures

<i>Standing invitation issued</i>	No
<i>Latest visits or mission reports</i>	None
<i>Visits agreed upon in principle</i>	None
<i>Visits requested and not yet agreed upon</i>	Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, requested in 2008.
<i>Facilitation/cooperation during missions</i>	-
<i>Follow-up to visits</i>	-
<i>Responses to letters of allegations and urgent appeals</i>	A total of 6 communications were sent during the period under review. In addition to communications sent for particular groups, 8 individuals, none of them women, were covered by these communications. During the period under review, the Government replied to 1 communication (17 per cent of communications sent).
<i>Responses to questionnaires on thematic issues<sup>21</sup></i>	Out of the 13 questionnaires sent by special procedures mandate holders during the period under review, <sup>22</sup> Congo replied to none within the deadlines.

## 3. Cooperation with the Office of the High Commissioner for Human Rights

7. In 2006 and 2007, OHCHR supported several initiatives that assisted indigenous peoples, minorities and the organizations which represent them.<sup>23</sup> In 2007, OHCHR also supported the training of indigenous and minority fellows from Congo.<sup>24</sup> Following an expert meeting on indigenous peoples organized in 2007 by the Sub-regional Centre for Human Rights and Democracy in Central Africa in Yaoundé, OHCHR was asked to work with the Government of Congo on the draft law on the rights of indigenous peoples.<sup>25</sup>

8. In 2008, the Sub-regional Centre carried out several missions to Congo, with the purpose of, inter alia, supporting the national human rights plan and the reporting to the Committee on the Rights of the Child; training trainers on gender and human rights; and training human rights for Congolese parliamentarians.<sup>26</sup> The Centre also organized various regional activities outside of Congo, to which Congolese participants were invited.<sup>27</sup>

### B. Implementation of international human rights obligations

#### 1. Equality and non-discrimination

9. In 2003, CEDAW noted with concern the continued persistence of stereotypical attitudes concerning the role and responsibilities of women. It urged Congo to increase its efforts, including by educational measures at all levels and beginning at an early age, to address such attitudes as they perpetuate direct and indirect discrimination against women and girls.<sup>28</sup> CEDAW also recommended that a definition of discrimination against women be incorporated into domestic legislation<sup>29</sup> and that Congo eliminate all forms of discrimination with respect to

ownership, co-sharing and inheritance of land.<sup>30</sup> It further recommended bringing marriage laws into compliance with the Constitution and the Convention, phasing out discriminatory family laws in a clear time frame,<sup>31</sup> and amending the Act of 31 July 1920, which prohibits the advertising of contraceptives.<sup>32</sup>

10. En 2008, le système des Nations Unies a relevé que malgré l'adoption de plusieurs textes consacrant l'égalité juridique de l'homme et de la femme et la ratification de la plupart des instruments internationaux, les discriminations persistent en raison de pesanteurs socioculturelles défavorables à la femme, tant en matière d'éducation que d'emploi. L'analphabétisme touche 64 pour cent des femmes et l'illettrisme est en train de prendre de l'ampleur dans la population féminine selon le système des Nations Unies.<sup>33</sup>

11. In 2000, the Committee on Economic, Social and Cultural Rights (CESCR) noted that Pygmies were usually considered socially inferior and were severely marginalized in the areas of employment, health and education.<sup>34</sup> In 2006, while noting with appreciation that the Constitution prohibits discrimination, CRC was concerned at the widespread ethnic-based discrimination against indigenous people,<sup>35</sup> as well as against children living with HIV/AIDS, street children, disabled and refugee children.<sup>36</sup>

## **2. Right to life, liberty and security of the person**

12. In 2000, the HR Committee was concerned at the information provided on summary and extrajudicial executions, disappearances and arbitrary arrests and detentions carried out by the armed forces, the militias and other paramilitary groups, as well as by foreign soldiers. It recommended conducting all appropriate inquiries and investigations and taking the necessary measures for bringing the perpetrators to justice.<sup>37</sup>

13. In 2006, the Working Group on Enforced and Involuntarily Disappearances informed that it had transmitted 114 cases to the Government, and that these cases remained outstanding. These cases reportedly occurred during events that took place following the conclusion of a tripartite agreement to permit a refugee return operation in 1999. The source stated that between 5 and 14 May 1999, a large number of persons returning to Brazzaville were arrested and subsequently disappeared at the hands of Government forces. The Government acknowledged receipt of the cases transmitted by the Working Group, noting that they had already responded to the United Nations on 34 cases; that information on the disappeared persons was incomplete and would make it difficult to find them; and that the same allegations were currently under consideration in a domestic court case.<sup>38</sup>

14. In 2000, the HR Committee was concerned at the use of torture and cruel, inhuman or degrading treatment and recommended criminalizing such acts, punishing perpetrators, and not treating cases of torture as simple cases of voluntary infliction of blows and wounds.<sup>39</sup> In 2006, CRC was concerned at allegations of torture and cruel, inhuman or degrading treatment, including rape, of children in detention by the military and the police. It recommended that all victims, including indigenous children, are provided with access to physical and psychological recovery and social reintegration as well as compensation.<sup>40</sup>

15. En 2007, le Rapporteur spécial sur la torture<sup>41</sup> ainsi que le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et d'intolérance, le Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones et l'Experte indépendante sur les questions relatives aux minorités,<sup>42</sup> ont

été informés que des membres de la communauté pygmée auraient été battus par des « Eco gardes » employés par le gouvernement pour surveiller les forêts. Un autre groupe de pygmées Mbendjele, accompagnés d'observateurs de l'Observatoire Congolais des Droits de l'Homme, auraient été sans raison fouillés sans ménagement par des Eco gardes. Les informations faisaient aussi état de nombreux autres cas de violence et de discrimination à l'encontre des pygmées Mbendjele, ainsi que d'une atmosphère générale de violence répétée voire systématique des Eco gardes contre les pygmées.

16. In 2006, CRC was concerned that female genital mutilation (FGM) was still practised in some West African communities living in Congo. It recommended the adoption of legislation prohibiting such practices and targeted measures to ensure the eradication of FGM, including through widespread awareness-raising campaigns. It also recommended that children be encouraged to report these practices to health professionals and competent authorities.<sup>43</sup>

17. En 2008, le système des Nations Unies a noté une prévalence des violences sexuelles commises par des civils, souvent connus des victimes (entre 50 et 80 pour cent des cas) et qui, dans environ 20 pour cent des cas, ont même un lien de parenté avec elles. Les victimes sont en majorité de jeunes filles (environ une victime sur deux est mineure et une sur quatre a moins de 13 ans).<sup>44</sup>

18. In 2000, the HR Committee noted the precarious conditions of prisoners in the central prison of Brazzaville and recommended that Congo guarantee minimum conditions for all prisoners and provide them, inter alia, with the necessary medical care.<sup>45</sup>

19. In 2006, while noting that Congo had ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others in 1977, CRC was concerned at the absence of legislation prohibiting trafficking in persons, particularly children, the fact that sexual exploitation of children was a widespread practice, and the fact that the *Portella Law*, prohibiting the presence of children in bars and night clubs, was not enforced.<sup>46</sup> It recommended that these practices be criminalized by enacting legislation in conformity with the international standards<sup>47</sup> and also recommended conducting educational campaigns to prevent and eliminate sexual exploitation, and to implement a comprehensive policy, in coordination with NGOs, for the prevention, recovery and social reintegration of child victims.<sup>48</sup>

20. In 2008, the ILO Committee of Experts on the Application of Conventions and Recommendations noted that under article 334 of the Penal Code, the Government prosecutes individuals who encourage prostitution of others, recruit or act as intermediaries or exploit the prostitution of others. The Committee requested information whether domestic legislation includes provisions penalizing the client.<sup>49</sup> The Committee reminded the Government of its obligations to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour including the use, procuring or offering of a child under 18 for the production of pornography or for pornographic performances. The Committee also requested that the Government adopt penalties for this purpose. It finally requested that the Government indicate the measures taken or envisaged to prohibit the use, procuring or offering of a child for illicit activities, in accordance with Article 3(c) of ILO Convention No. 182 and to adopt sanctions for this purpose.<sup>50</sup>

21. En 2008, le système des Nations Unies a souligné la visibilité du phénomène des enfants de la rue, en rupture d'attache familiale - environ 1900, dont 1100 à Brazzaville et 800 à Pointe

Noire - notant que la traite de près de 1800 enfants avait pu en outre être identifiée dans ces deux principales villes.<sup>51</sup>

### **3. Administration of justice, including impunity and the rule of law**

22. In 2000, the HR Committee observed that the political will for an amnesty for crimes committed during the periods of civil war could lead to a form of impunity incompatible with the ICCPR. The Committee recommended that the most serious human rights violations are investigated, that those responsible are brought to justice and that adequate compensation is provided to victims or their families.<sup>52</sup>

23. In 2006, CRC was concerned that most officials dealing with juvenile justice were not aware of the rights of the child. It also expressed concern at the lack of juvenile judges, and at the fact that children are often detained with adults. It recommended that Congo implement the recommendations of the study on juvenile justice undertaken by Congo with the technical assistance of UNICEF; ensure that persons below 18 are only deprived of liberty as a last resort and, when in custody, are in any case separated from adults; provide them with a full programme of educational activities; and establish an independent monitoring system with access to juvenile detention facilities.<sup>53</sup>

### **4. Right to privacy, marriage and family life**

24. In 2003, CEDAW was particularly concerned at the practice of pre-marriage as domestic law does not stipulate a minimum age for pre-marriage. While noting the willingness to abolish this practice, CEDAW recommended, as an interim measure, that the minimum age for pre-marriage be brought in line with the legal age for marriage and that all measures be taken to ensure that women in both pre-marriage and marriage enjoy equal rights within and upon dissolution of the union.<sup>54</sup>

25. In 2006, CRC noted that the traditional perception of the child in Congolese society may be in conflict with the definition of the child enshrined in the Convention, in particular with regard to the age of majority, since in traditional views the transition from a play and learning stage of development to work and marriage occurs sooner.<sup>55</sup> CRC was also concerned at the limited human and financial resources available at the community level to provide assistance to families. It recommended strengthening the services of the Ministry of Social Welfare at the local level, by increasing the number of trained professionals working with families, and by ensuring that sufficient financial resources are allocated to these services.<sup>56</sup>

### **5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

26. In 2003, while noting a slight increase in the number of women elected to Parliament, CEDAW expressed concern at the low number of women in decision-making positions, in politics, the judiciary and the civil service, in particular in the Foreign Service.<sup>57</sup> According to the United Nations Statistics Division in 2008, the proportion of seats held by women in the national Parliament decreased from 8.5 per cent in 2004 to 7.3 per cent in 2008.<sup>58</sup> CEDAW recommended temporary special measures to strengthen and accelerate efforts to promote and elect women to positions of power, supported by special training programmes and awareness-raising campaigns.<sup>59</sup>

27. In 2007, the Special Representative of the Secretary-General on the situation of human rights defenders thanked the Government for its response to the communication she had sent jointly with the Special Rapporteur on freedom of expression concerning the situation of two human rights activists.<sup>60</sup> Dans le cas de ces deux personnes, des craintes avaient été exprimées que leur arrestation et inculpation ne représentaient qu'une forme de représailles contre leurs activités de promotion et de défense des droits de l'homme.<sup>61</sup>

## **6. Right to work and to just and favourable conditions of work**

28. In 2003, CEDAW was concerned at the unequal access to the labour market and at the fact that women were confined to work in agriculture and the informal sectors. It also expressed concern at the lack of social benefits and of a regulatory framework to protect women's rights within these sectors.<sup>62</sup> It urged Congo to ensure that women have access to the labour market on an equal basis with men and recommended to provide a regulatory framework for the informal sector.<sup>63</sup>

29. In 2008, the ILO Committee of Experts noted the Government's report delivered to the Sub-regional Training Seminar on the Rights of Women and National Legislation in Central Africa in March 2004. In this report, the Government indicated that with the support of the United Nations Population Fund a review of the country's legislative texts was undertaken to identify discriminatory provisions with respect to the status of women and to formulate draft legislation on a wide range of topics relevant to equality in employment and occupation. The Committee requested the Government to provide any reports stemming from this project, in particular with respect to discrimination against women in employment and occupation.<sup>64</sup>

30. Also in 2008, the ILO Committee of Experts requested that the Government indicate the manner in which children under 18 benefit from the protection provided for in Article 3(d) of the Convention No. 182, i.e. that they are not employed to carry out work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals.<sup>65</sup> The Committee also reminded the Government to identify, after consultation with the organizations of employers and workers concerned, where the types of hazardous work determined exist, and to take the necessary measures in this regard.<sup>66</sup>

## **7. Right to social security and to an adequate standard of living**

31. In 2003, CEDAW noted with concern the existence of very high maternal and infant mortality rates, low prevalence of contraceptives among women and men, and the lack of access of women to adequate pre-natal and post-natal care and family planning information, particularly in rural areas. It recommended raising awareness of and increasing access to health-care facilities and medical assistance.<sup>67</sup>

32. En 2008, le système des Nations Unies a noté que la protection sociale des plus vulnérables demeure très faible. Elle est confrontée à un manque de financement (0,34 per cent du budget consacré à l'action sociale), à un manque de stratégie claire mais aussi à l'implication d'une multiplicité d'acteurs dont les interventions ne sont pas coordonnées ou ne sont pas soumises à un contrôle de qualité.<sup>68</sup>

33. In 2006, while welcoming the launch of the National Anti-Aids Programme (2005-2008) and the adoption of the Decree establishing the National Anti-AIDS Council, CRC remained concerned that only few HIV-positive children had access to antiretroviral drugs. It was also

concerned at the lack of comprehensive data and policy on paediatric HIV/AIDS, at the high level of mother-to-child transmission of HIV/AIDS, as well as at the fact that prevention was not sufficiently enforced among children and adolescents.<sup>69</sup> It recommended the conduct of awareness campaigns and programmes; an adequate implementation of the National Anti-Aids Programme, including by providing it with the necessary funding; and to seek further technical assistance.<sup>70</sup> Le système des Nations Unies a quant à lui indiqué en 2008 que des efforts restent à fournir en terme de prise en charge et de sensibilisation, particulièrement auprès des enfants et adolescents, afin de les sensibiliser et qu'ils adoptent des comportements à moindre risque.<sup>71</sup>

34. A 2008 UNFPA country programme document noted that despite an economic growth rate of 7 to 9 per cent, 50.7 per cent of the population lived below the poverty line in 2006.<sup>72</sup>

### **8. Right to education and to participate in the cultural life of the community**

35. In 2000, CESCR noted that the education system was seriously deteriorated as a result of economic mismanagement, shortage of resources and political unrest.<sup>73</sup> In 2006, CRC was concerned at the visible gender-based discrimination in education, clearly reflected in the ratio boys/girls in schools.<sup>74</sup> It was also concerned at the limited opportunities of children to engage in cultural and recreational activities and programmes.<sup>75</sup> En 2008, le système des Nations Unies a souligné qu'en dépit des efforts accomplis ces dernières années, l'enquête congolaise auprès des ménages (ECOM-2005) indiquait que 37 pour cent de Congolais étaient privés d'éducation, dont 52 pour cent d'enfants, 36 pour cent de femmes adultes et 21 pour cent d'hommes adultes. Les enfants et les femmes constituent les deux segments de la population les plus privés d'éducation.<sup>76</sup>

36. In 2008, the ILO Committee of Experts noted that according to ILO statistics for 2000, a high number of children between 10 and 14 (namely 960,000 children) are economically active in one way or another. Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee requested the Government to provide information on measures taken or envisaged to increase school attendance and reduce school drop-out rates.<sup>77</sup>

### **9. Minorities and indigenous peoples**

37. In 2000, the HR Committee regretted the lack of specific information on the different ethnic groups in Congo, particularly the Pygmies, and on measures taken to guarantee, simultaneously, the full and equal enjoyment of their civil and political rights and respect for their rights to enjoy their own cultural traditions. It requested Congo to provide this information in its next periodic report due in 2003.<sup>78</sup>

38. In 2006, CRC welcomed the establishment of the Inter-Ministerial Committee to coordinate actions on issues related to indigenous people and the programme designed for them. However, it was particularly concerned at the alarming situation of indigenous children, victims of economic exploitation, systematic violence, including rape, and systematic discrimination, in particular with respect to access to health services, education and birth registration. It recommended to adopt a plan of action for indigenous people which would address discrimination at all levels and take affirmative measures to ensure that indigenous children gain de facto enjoyment of their rights, in particular in the area of health and education.<sup>79</sup>

39. In 2007, the Special Rapporteur on the situation of human rights of indigenous people reported that a statistical analysis of the social impact of protected forests in the Congo basin and

in East Africa concluded that tens of thousands of people, mostly belonging to hunter-gatherer communities, were displaced by the creation of these areas and that the subsistence of many more has been adversely affected. The documented consequences of these processes include landlessness, unemployment, loss of income, lack of housing, food insecurity, growing morbidity and mortality, and the social breakdown of the indigenous people's communal life.<sup>80</sup>

40. En ce qui concerne les droits des minorités au Congo, le système des Nations Unies a noté en 2008 la mise en place par l'UNICEF depuis 2001, en partenariat avec le gouvernement et d'autres organisations, d'un processus stratégique de promotion basé notamment sur l'octroi de services essentiels, le renforcement des capacités des organisations autochtones, l'élaboration d'un cadre législatif, et l'organisation d'une consultation nationale qui a débouché sur la formulation et la mise en œuvre depuis juillet 2008 d'une stratégie nationale sur la question autochtone. L'opérationnalisation de cette stratégie nationale se fait à travers un processus de planification décentralisée impliquant les communautés autochtones, les autorités et les acteurs locaux.<sup>81</sup>

### **10. Migrants, refugees and asylum-seekers**

41. En 2008, le système des Nations Unies a souligné que le Congo n'était pas encore doté d'une loi nationale spécifique aux réfugiés. En vue d'accélérer le processus d'adoption d'une telle loi, le Haut Commissariat des Nations Unies pour les Réfugiés (HCR) a proposé au gouvernement la mise en place d'une commission mixte d'experts (Affaires étrangères et HCR) pour réviser et amender le projet de loi en préparation en la matière, avant sa présentation au Parlement.<sup>82</sup>

42. Le système des Nations Unies a aussi informé qu'en général, on observe le respect des droits des personnes relevant de la compétence du HCR et une cohabitation pacifique entre ces personnes et la population locale. Le système des Nations Unies a ajouté que l'installation des réfugiés et demandeurs d'asile est un modèle au Congo dans la mesure où il n'existe que peu de camps de réfugiés à savoir quatre dans le Kouilou, un dans la Cuvette Centrale et un dans la Likouala. Contrairement aux années précédentes (2005 et 2006), aucune situation tendant vers la discrimination ou attitude pouvant être interprétée comme xénophobe, n'a été signalée. Toutefois, quelques cas isolés d'accès à la terre cultivable ont été signalés dans le département du Pool Nord et le HCR en a informé le Comité National d'Assistance aux Réfugiés (CNAR) qui est intervenu auprès des autorités locales par la voie de la médiation et en encourageant les réfugiés à la négociation.<sup>83</sup>

### **III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS**

43. Le système des Nations Unies a noté en 2008 que des efforts considérables continuaient d'être déployés par le Gouvernement congolais dans le processus de consolidation de la paix. Le programme DDR (Désarmement, Démobilisation et Réinsertion), initié en février 2006 grâce au financement de la Banque Mondiale, est régi par l'accord de paix de mars 2003 et vise spécifiquement près de 15.000 ex-combattants dans le département du Pool. L'administration en charge de ce programme a mis en place en 2007 des projets de réinsertion dans les domaines de l'élevage, de l'agriculture, de la pisciculture, etc) en faveur des anciens combattants, mais les résultats de ces projets sont toujours attendus.<sup>84</sup>

44. Le système des Nations Unies a aussi décrit le problème de l'enregistrement des naissances comme une urgence à dimension nationale, en ce sens que près d'un quart des enfants

de moins de 18 ans ne sont enregistrés à la naissance. Un partenariat s'est structuré entre l'UNICEF, le gouvernement et les ONG locales depuis 2003 en vue d'une « Campagne d'appui à l'enregistrement des enfants non déclarés à l'Etat civil ». Pour poursuivre la lutte contre ce phénomène, l'UNICEF a lancé une étude en septembre 2008 sur l'analyse du processus d'enregistrement des naissances.<sup>85</sup>

#### IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

N/A.

#### V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

45. The 2009-2013 United Nations Development Assistance Framework (UNDAF) identified expected effects of programming including that the national institutions and actors ensure the promotion of human rights, peace and security.<sup>86</sup> Le système des Nations Unies a noté en 2008 que dans le cadre de la mise en œuvre du Document de Stratégie de Réduction de la Pauvreté et des politiques sectorielles d'amélioration de l'accès et de l'utilisation des services sociaux de base, l'appui de l'UNICEF aux actions du Gouvernement, en collaboration avec d'autres agences (OMS, UNFPA, PAM, UNESCO), comprend le renforcement des capacités pour assurer l'accès aux soins de santé, la nutrition et l'éducation à travers l'octroi de services essentiels au niveau des structures telles que les formations sanitaires et les écoles.<sup>87</sup> A 2004 WFP report noted that the FAO and the WFP had signed a Memorandum of Understanding (MOU) for the Republic of the Congo to develop joint emergency intervention strategies and strengthen the capacity of national structures and NGOs to enhance household food security.<sup>88</sup>

46. Le système des Nations Unies a indiqué que sous la coordination du Ministère en charge des affaires sociales, l'UNICEF appuie une analyse diagnostic des interventions des acteurs publics et privés en vue d'améliorer les capacités nationales de prévention et de réinsertion sociale des enfants de la rue. Les informations collectées dans le cadre de cet exercice permettront de faciliter la mise en réseau des partenaires et d'accroître l'efficacité de la collaboration institutionnelle.<sup>89</sup>

#### Notes

<sup>1</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org>.

<sup>2</sup> The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to Convention on the Rights of Persons with Disabilities
CED	International Convention for the Protection of All Persons from Enforced Disappearance

<sup>3</sup> Adopted by the General Assembly in its resolution 63/117 of 10 December 2008, in which the General Assembly recommended that a signing ceremony be organized in 2009. Article 17, para. 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”.

<sup>4</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>5</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

<sup>6</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).

<sup>7</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

<sup>8</sup> Concluding observations of the Human Rights Committee (CCPR/C/79/Add. 118), para. 16.

<sup>9</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women (A/58/38 (Part I)), para. 186.

<sup>10</sup> Concluding observations of the Committee on the Rights of the Child (CRC/C/COG/CO/1), para. 5(c).

<sup>11</sup> *Ibid.*, para. 84.

<sup>12</sup> *Ibid.*, para. 91.

<sup>13</sup> *Ibid.*, paras. 88 and 89 (a).

<sup>14</sup> *Ibid.*, para. 7.

<sup>15</sup> UNCT submission to the UPR on the Republic of the Congo, paras. 10-12.

<sup>16</sup> CRC/C/COG/CO/1, paras. 12 and 13.

<sup>17</sup> For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/10/55, annex I.

<sup>18</sup> CRC/C/COG/CO/1, para. 11.

<sup>19</sup> UNCT submission, *op. cit.*, para. 5.

<sup>20</sup> The following abbreviations have been used for this document:

CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CRC	Committee on the Rights of the Child

<sup>21</sup> The questionnaires included in this section are those which have been reflected in an official report by a special procedure mandate holder.

<sup>22</sup> See (a) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities sent in 2006; (b) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants sent in 2006; (c) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons sent in 2006; (d) report of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2006/95 and Add.5), questionnaire on the implementation of 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 sent in June 2005; (e) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous people sent in August 2007; (f) report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation sent in July 2005; (g) report of the Special Rapporteur on the right to education (E/CN.4/2006/45), questionnaire on the right to education for girls sent in 2005; (h) report of the Working Group on mercenaries (A/61/341), questionnaire concerning its mandate and activities sent in November 2005; (i) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs sent on July 2006; (j) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2005/78), questionnaire on child pornography on the Internet sent in July 2004; (k) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/7/8), questionnaire on assistance and rehabilitation programmes for child victims of sexual exploitation sent in July 2007; (l) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices; (m) report of the Special Rapporteur on the right to education (A/HRC/8/10), questionnaire on the right to education in emergency situations sent in 2007.

<sup>23</sup> OHCHR Annual Report 2006, p. 130.

<sup>24</sup> 2007 OHCHR Report of Activities and Results, p. 36.

<sup>25</sup> *Ibid.*, p. 71.

<sup>26</sup> A/63/367, paras. 14, 28.

<sup>27</sup> *Ibid.*, paras. 15, 18, 20.

<sup>28</sup> A/58/38 (Part I), paras. 164 and 165.

<sup>29</sup> *Ibid.*, para. 159.

<sup>30</sup> *Ibid.*, para. 179.

<sup>31</sup> *Ibid.*, paras. 181 and 183.

<sup>32</sup> *Ibid.*, para. 175.

<sup>33</sup> UNCT submission, *op. cit.*, para. 21.

<sup>34</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/Add. 45), para. 18.

<sup>35</sup> CRC/C/COG/CO/1, para. 88.

<sup>36</sup> CRC/C/COG/CO/1, para. 26.

<sup>37</sup> CCPR/C/79/Add. 118, para. 8.

<sup>38</sup> E/CN.4/2006/56, paras. 172-177.

- <sup>39</sup> CCPR/C/79/Add. 118, para. 13.
- <sup>40</sup> CRC/C/COG/CO/1, paras. 40 and 41.
- <sup>41</sup> A/HRC/4/33 / Add. 1, para. 51.
- <sup>42</sup> A/HRC/4/19/ Add. 1, para. 32.
- <sup>43</sup> CRC/C/COG/CO/1, paras.64 and 65.
- <sup>44</sup> UNCT submission, op. cit., para. 23.
- <sup>45</sup> CCPR/C/79/Add. 118, para. 15.
- <sup>46</sup> CRC/C/COG/CO/1, paras. 81 and 83.
- <sup>47</sup> Ibid., para. 84.
- <sup>48</sup> Ibid., para. 82.
- <sup>49</sup> ILO Committee of Experts on the Application of Convention and Recommendations, ILOLEX Doc. No. 092008COG182, para. 4.
- <sup>50</sup> Ibid., para. 5.
- <sup>51</sup> UNCT submission, op. cit., para. 24.
- <sup>52</sup> CCPR/C/79/Add. 118, para. 12.
- <sup>53</sup> CRC/C/COG/CO/1, paras. 86 and 87.
- <sup>54</sup> A/58/38 (Part I), paras. 182 and 183.
- <sup>55</sup> CRC/C/COG/CO/1, para. 24.
- <sup>56</sup> Ibid., paras. 42 and 43.
- <sup>57</sup> A/58/38 (Part I), para. 168.
- <sup>58</sup> United Nations Statistics Division coordinated data and analyses, available at: <http://mdgs.un.org/unsd/mdg>.
- <sup>59</sup> A/58/38 (Part I), para. 169.
- <sup>60</sup> A/HRC/4/37/ Add. 1, para. 216.
- <sup>61</sup> Ibid., para. 214.
- <sup>62</sup> A/58/38 (Part I), para. 172.
- <sup>63</sup> Ibid., para. 183.
- <sup>64</sup> ILO Committee of Experts on the Application of Convention and Recommendations, ILOLEX Doc. No. 092008COG111, para. 7.
- <sup>65</sup> ILO Committee of Experts on the Application of Convention and Recommendations, ILOLEX Doc. No. 092008COG182, para. 7.
- <sup>66</sup> Ibid., para. 10.
- <sup>67</sup> A/58/38 (Part I), paras. 174 and 175.
- <sup>68</sup> UNCT submission, op.cit., para. 22.
- <sup>69</sup> CRC/C/COG/CO/1, para. 60.
- <sup>70</sup> Ibid., para. 62.
- <sup>71</sup> UNCT submission, op.cit., para. 20.
- <sup>72</sup> UNFPA, Final country programme document for the Republic of the Congo, DP/FPA/CPD/COG/4, para. 3, available at: [www.unfpa.org/exbrd/2008/secondsession/final\\_republic\\_of\\_congo.doc](http://www.unfpa.org/exbrd/2008/secondsession/final_republic_of_congo.doc).
- <sup>73</sup> E/C.12/Add. 45, para. 23.
- <sup>74</sup> CRC/C/COG/CO/1, para. 26.

<sup>75</sup> Ibid., para. 71.

<sup>76</sup> UNCT submission, op. cit. para. 17.

<sup>77</sup> ILO Committee of Experts on the Application of Convention and Recommendations, ILOLEX Doc. No. 092008COG138, para. 3 .

<sup>78</sup> CCPR/C/79/Add. 118, para. 21.

<sup>79</sup> CRC/C/COG/CO/1, para. 88 and 89.

<sup>80</sup> A/HRC/4/32, para. 29.

<sup>81</sup> UNCT submission, op. cit., para. 37.

<sup>82</sup> Ibid., para. 8.

<sup>83</sup> Ibid., paras. 32-33.

<sup>84</sup> Ibid., para. 13.

<sup>85</sup> Ibid., para. 36.

<sup>86</sup> UNCT Republic of the Congo, United Nations Development Assistance Framework (UNDAF) Congo 2009-2013, 2008, p. 20, available at <http://www.undg.org/docs/9062/UNDAF-2009-2013-République-du-Congo.pdf>.

<sup>87</sup> UNCT submission, op. cit., para. 34.

<sup>88</sup> WFP, *Annual Report 2004*, p. 43, available at:  
[http://www.wfp.org/policies/annual\\_reports/documents/2004\\_wfp\\_annual\\_report.pdf](http://www.wfp.org/policies/annual_reports/documents/2004_wfp_annual_report.pdf).

<sup>89</sup> UNCT submission, op. cit., para. 40.

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