

**CRC/C/COD/CO/2 January 2009**

**COMMITTEE ON THE RIGHTS OF THE CHILD**

**Fiftieth session**

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

**Concluding Observations of the Committee on the Rights of the Child: Democratic Republic of the  
Congo**

1. The Committee considered the second periodic report of the Democratic Republic of the Congo (CRC/C/COD/2) at its 1384th and 1385th meetings (see CRC/C/SR.1384 and 1385), held on 21 January 2009, and adopted, at the 1398th meeting, held on 30 January 2009, the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the second periodic report as well as the written replies to its list of issues (CRC/C/COD/Q/2/Add.1) and commends the frank and self-critical nature of the report. The Committee appreciates the presence of a high level delegation and the open and constructive dialogue it conducted, which allowed a better understanding of the situation of children in the State party.

**B. Follow-up measures and progress achieved by the State party**

3. The Committee notes with appreciation the adoption by the State party of legislation providing protection for the rights of the child, inter alia:
  - (a) The Child Protection Code in January 2009
  - (b) The Law on Sexual Violence in July 2006
  - (c) The new Constitution in February 2006;
  - (d) The Labour Code in October 2002; and
  - (e) Decree-Law No. 66 of June 2000.
4. The Committee welcomes the ratification by the State party of the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, on 11 November 2001;
5. The Committee also welcomes the ratification by the State Party of the following:
  - (a) The African Charter on the Rights and Welfare of the Child (ACRWC) in March 2001;
  - (b) ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in March 2001;
  - (c) ILO Convention No. 138 concerning Minimum Age for Admission to Employment in March 2001; and

(d) The Rome Statute of the International Criminal Court in March 2002.

### **C. Factors or difficulties impeding the implementation of the Convention**

6. The Committee is deeply concerned that armed conflict has and continues to negatively impact the effective implementation of the rights of the child enshrined in the Convention.
7. The Committee is concerned at the high level of poverty in the State party, which hampers the full enjoyment by children of their rights and leads to several forms of exploitation, such as economic exploitation, sexual exploitation and trafficking, and also increases vulnerability of certain groups of children *inter alia* street children, refugee and displaced children.

### **D. Main areas of concern and recommendations**

#### **1. General measures of implementation (arts. 4, 42 and 44, paragraph 6 of the Convention)**

##### **The Committee's previous recommendations**

8. The Committee welcomes efforts by the State party to implement the Committee's concluding observations on the State party's initial report. Nevertheless, the Committee notes with regret that many of these concluding observations, including on such issues as data collection, best interests of the child, respect for the views of the child, child abuse and neglect, children with disabilities, the right to health, child soldiers and juvenile justice have not been significantly addressed.
9. **The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the initial report (CRC/C/15/Add.153) that have not yet been implemented or sufficiently implemented and to ensure adequate follow-up to the recommendations contained in the present concluding observations on the second periodic report.**

##### **Legislation**

10. The Committee welcomes the adoption on 10 January 2009 of the Child Protection Code. The Committee also notes with appreciation the adoption of other legislative texts that enhance the protection of the rights of the child. Nevertheless, the Committee is concerned that the enacted laws are not always followed by the issuance of appropriate decrees for implementation, that law enforcement mechanisms are weak and that no activities have been carried out to raise awareness of these laws which are, consequently, not applied or implemented. The Committee also expresses concern at the existence of conflicting laws since older laws are often not repealed when new laws are adopted.
11. **The Committee urges the State party to take, as a matter of priority, all appropriate measures, including awareness raising activities to expedite the effective implementation of the Child Protection Code and other legislative texts that provide protection for the rights of the child and to ensure adequate human and financial resources for their full implementation, and that it strengthen law enforcement mechanisms and training.**

##### **Coordination**

12. While the Committee notes information provided by the State party about plans to strengthen the National Council for Children (*Conseil National de l'Enfant*, CNEN), which was created as the

coordinating body for activities to implement the Convention, it expresses concern that this body lacks the mandate as well as the human and financial resources necessary to carry out its work.

13. **The Committee recommends that the State party put in place measures to ensure the provision of an adequate mandate, as well as human and financial resources to the CNEN in order to allow it to efficiently carry out its work.**

#### **National Plan of Action**

14. While the Committee notes with appreciation that national action plans have been elaborated on specific topics such as birth registration and violence against children, it notes with regret that there is no comprehensive national plan of action on the promotion and protection of the rights of the child.
15. **The Committee encourages the State party to adopt a National Plan of Action on Children that addresses fully all of the rights of the child enshrined in the Convention, and takes into account the outcome document "A World Fit for Children" adopted by the United Nations General Assembly at its special session on children held in May 2002 and its mid-term review of 2007. The Committee also recommends that the State party provide a specific budget allocation and adequate follow-up and an evaluation and monitoring mechanism to regularly assess progress achieved and identify possible deficiencies. The Committee encourages the State party to also monitor the implementation of the "Call for Accelerated Action" adopted during the mid-term review of "Africa Fit for Children", held in Cairo in November 2007.**

#### **Independent monitoring**

16. The Committee notes as positive the establishment of the National Human Rights Monitoring Centre by the Transitional Constitution, however is concerned that it was not integrated into the new Constitution of 18 February 2006. The Committee further notes that the State party is committed to supporting the creation of a new independent national institution for human rights.
17. **The Committee recommends that the State support the effective operation of an independent national human rights institution (NHRI) mandated to monitor the implementation of human rights in accordance with the Paris Principles (General Assembly resolution 48/134), while also taking into account the Committee's general comment No. 2 on national human rights institutions. The NHRI should be able to receive and investigate complaints from, or on behalf of, children on violations of their rights and should be provided with the necessary human and financial resources. In this regard, the Committee recommends that the State party seek technical assistance from, inter alia, UNICEF and OHCHR.**

#### **Allocation of resources**

18. The Committee, while noting that an increase in budget allocations has been agreed to in the health and education sectors, remains concerned that allocations to these sectors, and other sectors having an impact on children's rights, remain insufficient. The Committee is also concerned that there is no comprehensive information on allocations to the social sector.
19. **The Committee urges the State party to prioritize and systematically increase budgetary allocations for children at national and local levels. The Committee recommends that the State party take into account the Committee's recommendations issued after the day of general discussion of 21 September 2007 devoted to "Resources for the rights of the child - responsibility of States." The Committee further recommends that the State party introduce budget tracking**

from a child rights' perspective with a view to monitoring budget allocations for children, seeking technical assistance for this purpose from, inter alia, UNICEF.

#### Data collection

20. The Committee expresses concern over the absence of an efficient data collection system, that the National Statistical Research Centre lacks the capacity to carry out its work and that data that is gathered on child rights is disparate and does not receive enough attention from the appropriate authorities.
21. The Committee encourages the State party to strengthen and improve its data collection system, as well as the National Statistical Research Centre, and to use this data as a basis for assessing progress achieved in the realization of child rights and to help design policies to implement the Convention. The State party should ensure that information collected can be disaggregated inter alia by age, sex and geographic location and contains up to date data on a wide-range of vulnerable groups including former child soldiers, children living in poverty, street children and working children. The Committee also recommends that the State party seek technical assistance from, inter alia, UNICEF.

#### Dissemination, training and awareness-raising

22. The Committee notes with interest efforts of the State party to carry out dissemination, training and awareness-raising activities, including through the publication of a teaching manual on the National Programme for Civic and Moral Education Integrating Human Rights, the organization by government ministries of training programmes, the translation of the Convention into national languages, and sensitization meetings for the media. The Committee is concerned, however, that the above-mentioned national programme is not yet implemented and that an insufficient number of copies of the manual have been published.
23. The Committee recommends that the State party take measures to ensure the swift implementation of the National Programme for Civic and Moral Education Integrating Human Rights and make every effort to publish in sufficient quantity the training manual for this programme. It also recommends the reinforcement by the State party of adequate and systematic training of all professional groups working with children, including law enforcement officials, teachers, health personnel, social workers and personnel of childcare institutions.

#### Cooperation with civil society

24. The Committee notes that the State party is engaged in cooperation with a limited number of NGOs working in the field of the rights of the child. However, the Committee remains concerned at the insufficient financial assistance provided to these NGOs and the lack of an official policy for systematic cooperation with civil society.
25. The Committee recommends that the State party strengthen its collaboration with civil society and widen the scope of cooperation so as to ensure cooperation on a broad level in all areas related to the promotion and protection of the rights of the child. The Committee also recommends that the State party encourage the active and systematic involvement of civil society, including NGOs, by providing financial assistance, seeking their assistance in policy formulation, planning and implementation, and in the promotion of children's rights, including, inter alia, their contribution to the implementation of the Convention and follow-up to the concluding observations of the Committee.

## 2. Definition of the Child (art. 1 of the Convention)

26. The Committee is concerned that the legal minimum age for marriage is 15 years for girls.
27. **The Committee urges the State party to raise the minimum legal age of marriage for girls to that of boys.**

## 3. General principles (arts. 2, 3, 6 and 12 of the Convention)

### Non-discrimination

28. The Committee notes with interest the measures taken to eliminate the disparity between education of girls and of boys, in particular through the acceleration strategy for education of girls (2003-2007). The Committee is nevertheless deeply concerned that certain groups of children face discrimination and marginalization, including children with disabilities, children accused of witchcraft, Batwa children, hidden children, demobilized child soldiers and internally displaced children, and that measures to implement legislation against discrimination, including administrative measures, have been insufficient. The Committee also expresses its concern at the persisting societal discrimination against girls.
29. **The Committee urges the State party to take all measures, including administrative measures, to ensure the implementation of legislation protecting children against discrimination. The Committee also encourages the State party to adopt a comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups. The Committee further encourages the State party to carry out studies to identify and act on causes of discrimination and carry out awareness-raising activities in order to combat this phenomenon and to train professionals working with and for children.**
30. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account its general comment No.1 (CRC/GC/2001/1) on the aims of education.**

### Best interests of the child

31. The Committee welcomes the reference to the best interests of the child in the Child Protection Code. However, the Committee is concerned that, generally, the principle of the best interests of the child is not translated into legislation, policy documents or capacity building activities.
32. **The Committee recommends that the State party take all appropriate measures to ensure that, in accordance with article 3 of the Convention, the principle of the best interests of the child is a primary consideration in all actions concerning children taken by public or private authorities, and is adequately integrated into all legal provisions, judicial and administrative decisions and into projects, programmes, and services having an impact on children.**

### Right to life, survival and development

33. The Committee is alarmed over the grave violations committed against children by both State party forces and non-State armed groups in the context of the armed conflict. The Committee is gravely concerned that children's right to life, survival and development are violated as a consequence of being the most vulnerable of victims in hostilities. The Committee also expresses grave concern at

the very high rates of infant, under-five and maternal mortality, as well as at deaths caused by preventable diseases or by HIV/AIDS, conditions all of which are aggravated by the armed conflict.

34. **The Committee urges the State party to significantly strengthen its efforts to protect children and guarantee their right to life, survival and development, notably by undertaking all efforts to seek an end of the armed conflict. The Committee further recommends that particular attention be given by the State party to addressing the high infant, child and maternal mortality rates, death caused by preventable diseases and HIV/AIDS.**

#### **4. Civil rights and freedoms (arts. 7, 8, 13-17, 19 and 37(a) of the Convention)**

##### **Birth registration**

35. The Committee notes the efforts made by the State party to improve birth registration, including the adoption in 2004 of a National Plan of Action on the subject, training for birth registration officers, initiatives to move registry offices closer to population centres and the extension to 90 days of the time limit for registration of births. Nevertheless, the Committee notes with grave concern that not only does the percentage of children whose births have been registered remain low overall but the registration rate has in fact decreased.
36. **The Committee recommends that the State party continue and strengthen its efforts to encourage birth registration of all children. The Committee urges the State party to ensure allocation of adequate financial, human and other resources to registration centres and to take measures, including mobile services, to ensure easy access to registration by the population in all areas of the country. The Committee further urges the State party to put in place a mechanism to provide for late registration of births free of charge.**

##### **Torture and Degrading Treatment**

37. The Committee notes that reference is made to the crime of torture in the new Child Protection Code of 2009. However, the Committee is concerned by the limited definition given and that the definition of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by the State party, has not been integrated into legislation.
38. **The Committee recommends that the State party ensure that the crime of torture is explicitly defined in its legislation and that this definition is in conformity with CAT. The Committee further recommends that the State party raise awareness among all segments of society on the definition of torture as a crime and its penalties.**

##### **Corporal punishment**

39. While the Committee welcomes the prohibition of corporal punishment in schools, it remains concerned that it continues to be lawful, and is practiced, in the home as well as in institutions.
40. **The Committee recommends that the State party explicitly prohibit by law corporal punishment in all settings, including in the family, schools, alternative childcare and places of work and places of detention, and implement those laws effectively. It also recommends that the State party intensify its awareness-raising campaigns in order to promote the use of alternative forms of discipline in a manner consistent with the child's human dignity and in accordance with the Convention, especially article 28, paragraph 2, taking into account the Committee's general comment No.8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/C/GC/8, 2006).**

## Follow-up to the UN Study on Violence against Children

41. The Committee welcomes the adoption in 2006 of two laws against sexual violence, particularly law n°06/018, which takes into account provisions of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Committee however is deeply concerned over extremely high rates of sexual violence in the State party and that in some areas up to half of the victims of such violence are children.
42. The Committee encourages the State party to prioritize elimination of all forms of violence against children and its roots causes. With reference to the United Nations Study on Violence against Children, the Committee recommends that the State party:
  - (a) Take all necessary measures to implement recommendations of the United Nations Study on violence against children (A/61/299), taking into account the outcome and recommendations of the Regional Consultations for West and Central Africa (held in Bamako, Mali from 23-25 May 2005). In particular, the Committee recommends that the State party pay particular attention to the following recommendations:
    - (i). Prohibit all forms of violence against children
    - (ii). Strengthen national and local commitment and action
    - (iii). Promote non-violent values and awareness-raising
    - (iv). Enhance the capacity of all who work with and for children
    - (v). Ensure accountability and end impunity
  - (b) Use the recommendations of the Study as a tool for action in partnership with civil society and, in particular, with the involvement of children to ensure that all children are protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and time-bound actions to prevent and respond to such violence and abuse; and
  - (c) Seek technical cooperation in this respect from OHCHR, UNICEF and WHO, and other relevant agencies, inter alia, ILO, UNESCO, UNHCR, UNODC, as well as NGO partners.
5. Family environment and alternative care (arts. 5, 18(paras.1-2), 9-11, 19-21, 25, 27 (para.4) and 39 of the Convention)

### Family environment

43. The Committee notes that few activities are carried out aiming, directly or indirectly, to protect or strengthen the family environment, including the 2002 National Campaign for the Family which was aimed at combating separation of children from their families. However, the Committee expresses concern that the State party does not provide sufficient socio-economic support to families, especially at local level.
44. The Committee recommends that the State party take all measures to provide adequate assistance to ensure that families, particularly families living in poverty, are able to take care of their children, including conflict mediation services at local level and financial assistance. The Committee also recommends that the State party carry out further activities to sensitize parents, communities and traditional leaders about the protection of child rights at family and community level.

### **Children without parental care**

45. The Committee regrets that there is little information in the State party report on the situation of children without parental care and is concerned that there are no minimum standards or regulations for institutions, orphanages and other bodies that care for such children. While noting that the State party is collaborating with UNICEF in order to register residents of orphanages and monitor their situation, the Committee remains concerned that monitoring of children in care is currently inadequate.
46. The Committee recommends that the State party develop an alternative care strategy for children deprived of their families or no longer able to live with their families that would include an action plan, adequate regulations, training for staff and directors of child care institutions, control measures, the participation of children and parents in the establishment and evaluation of care regulations, criteria for the admittance of a child into residential care, alternative measures such as foster care families or other family-based care for small groups of children. The Committee draws the attention of the State party to the recommendations adopted on the Committee's day of general discussion on children without parental care in September 2005 (CRC/C/153). The Committee recommends that the State party continue to seek technical assistance from UNICEF to address the situation of children without parental care.

### **Adoption**

47. While the Committee notes with appreciation that the Child Protection Code complements the Family Code regarding the matter of adoption, it nevertheless regrets that the State party did not take into account the Committee's previous recommendation (CRC/C/15/Add.153, paragraph 45) to ratify the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption and that legal and administrative regulations are still not sufficient to provide protection for children undergoing adoption.
48. The Committee recommends that the State party:
- (a) Establish a central authority for adoption to regulate, train and monitor all actors involved and coordinate with the relevant legal authorities;
  - (b) Pending the creation of new legislation on adoption, establish an administrative procedure that would facilitate adoption, while ensuring respect for the rights of the child at all stages.
  - (c) Ensure, in particular, that consent to adoption is a free and informed act on the part of the biological parents and the children being adopted and that prior efforts have been made to maintain family ties;
  - (d) Promote domestic adoption through awareness-raising campaigns and regulations that facilitate access to adoption, such as free or inexpensive costs for documents needed for the adoption process;
  - (e) Provide information and training in child rights, legal regulations and administrative procedures for adoption to relevant government employees, including judges, lawyers, doctors, nurses, civil registry employees, as well as to managers and staff of orphanages, convents and other institutions that care for children;
  - (f) Take appropriate measures to prevent illegal adoptions at both national and international level and, in this regard, consider ratifying the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993;

- (g) Redirect traditional adoptions towards measures of protection of the children like the legal adoption or other types of guardianship; and
- (h) Seek technical cooperation in respect of the above from UNICEF or the Hague Conference.

#### **Abuse and neglect**

- 49. The Committee is concerned at the lack of data on child abuse and neglect and the perception of the child as an object rather than a subject of law and a rights holder.
- 50. The Committee encourages the State party to continue and strengthen its awareness-raising and training activities, especially at the local level, to combat abuse, including sexual abuse and violence against children. The Committee recommends that appropriate measures be taken collect data on reported cases of abuse and to introduce mandatory reporting of abuse of children.

#### **6. Basic health and welfare (arts. 6, 18 (para.3), 23, 24, 26, 27 (paras.1-3) of the Convention)**

#### **Children with disabilities**

- 51. While noting that the State party's Constitution states that persons with disabilities have the right to specific protection measures and that the State has the duty to protect, rehabilitate and reintegrate children with disabilities in society at local, provincial and national levels, the Committee expresses concern, nevertheless, that in practice there is no data on children with disabilities or on policies or programs to ensure the implementation of their rights.
- 52. In light of the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's general comment No. 9 on the rights of children with disabilities (CRC/C/GC/9, 2006), the Committee recommends that the State party:
  - (a) Take all necessary measures to ensure the implementation of legislation providing protection for children with disabilities and consider adopting specific legislation on the issue;
  - (b) Make every effort to provide programmes and services for all children with disabilities and ensure that such services receive adequate human and financial resources;
  - (c) Carry out awareness campaigns to sensitise the public about the rights and special needs of children with disabilities and encourage their inclusion in society;
  - (d) Provide assistance to NGOs working on behalf of children with disabilities;
  - (e) Provide training for professional staff working with children with disabilities, such as medical, paramedical and related personnel, teachers and social workers; and
  - (f) Consider signing and ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

#### **Health and access to health services**

- 53. The Committee notes with appreciation that the State party has ratified the WHO Framework Convention on Tobacco Control. The Committee also welcomes the improvements in the vaccination rates for childhood illnesses and in the nutritional levels of women and children under the age of five, as well as the campaigns carried out against measles, malaria and intestinal parasites. Nevertheless, it is concerned that the State party has not implemented the Committee's previous recommendations on this issue (CRC/C/15/Add.153, paragraphs 48 and

49) in their entirety. The Committee expresses grave concern at the current situation in the health services sector, including the following:

- (a) Lack of adequately functioning health centres, particularly in rural areas, and the deplorable conditions and lack of human, medical and financial resources in hospitals;
- (b) High infant, under-five and maternal mortality rates;
- (c) High chronic and acute malnutrition rates, inadequate vaccination rates for childhood illnesses;
- (d) Difficulty for children to access health services due to costs;
- (e) Lack of qualified health practitioners particularly in the east of the country, due mainly to armed conflict in that region; and
- (f) Declining quality of medical and paramedical training in the country.

**54. The Committee urges the State party to allocate adequate resources in order to ensure that primary health care is both accessible and affordable and that health centres and hospitals have adequate human, medical and financial resources. The Committee furthermore recommends that the State party conduct trainings for health workers and that it address the problems of high infant, under-five and maternal mortality and malnutrition, particularly in rural areas, including through preventive measures such as awareness-raising campaigns and poverty alleviation. The Committee also urges the State party to strengthen its efforts to improve immunization rates, particularly through increased and better information dissemination on vaccination campaigns. The Committee encourages the State party to consider seeking technical assistance from UNICEF and WHO, among others.**

#### **Breastfeeding**

55. The Committee notes with regret that despite efforts to sensitize mothers about the importance of exclusive breastfeeding of infants up to the age of six months, the rate of exclusive breastfeeding remains low.
- 56. The Committee urges the State party to encourage exclusive breastfeeding of children under the age of six months. The State party is also urged to adopt legislation on the International Code of Marketing of Breast-milk Substitutes (1981).**

#### **Adolescent health**

57. The Committee welcomes the 2003 national programme of adolescent health, focusing on reproductive health issues of adolescents, which included awareness-raising and other activities. The Committee is concerned, however, that adolescent health is deteriorating because of a lack of adequate services coupled with population growth and HIV/AIDS, among other things. The Committee is also concerned at the high level of early pregnancy among adolescents.
- 58. The Committee recommends that the State party, taking into account the Committee's general comment No.4 (CRC/GC/2003/4) on adolescent health and development in the context of the Convention on the Rights of the Child, continue and strengthen activities and services under the framework of its national adolescent health programme and services, and that it prioritize gathering coherent, systematic and valid data on adolescent health concerns through, inter alia, studies on this issue and a more effective monitoring mechanism. The Committee also recommends that the State party elaborate clear policies and, when applicable, legislation,**

addressing the prevention of adolescent health-related issues, in particular early pregnancies and drug and alcohol abuse.

#### **Harmful traditional practices**

59. While the Committee notes as positive the low prevalence of female genital mutilation in the State party, it nevertheless regrets the lack of explicit legislation prohibiting the practice. The Committee is concerned that the law sets the marriage of girls at the age of 15 and is even more concerned that some girls get married at an even lower age. The Committee is concerned that, while the law prohibits forced marriages, in practice such marriages still occur. The Committee regrets that, while the 2006 law on sexual violence is considered to prohibit marriage under the age of 18, this prohibition is not explicit and, furthermore the law is not sufficiently disseminated.
60. The Committee urges the State party to:
- (a) Implement and apply legislative and other measures to prohibit traditional practices that are harmful to children, including female genital mutilation, as well as forced and early marriages;
  - (b) Ensure that legislation prohibiting forced and early marriages provides for appropriate sanctions, and that perpetrators of such acts are brought to justice; and
  - (c) Continue and strengthen awareness-raising and sensitization activities on the harmful impact of forced and early marriages for families, in cooperation with traditional or religious leaders and the general public in order to encourage change conducive to the elimination of harmful practices.

#### **HIV/AIDS**

61. The Committee notes with appreciation awareness-raising and other activities carried out on HIV/AIDS. The Committee also welcomes the elaboration of national strategic framework for the prevention of HIV/AIDS among youth. Nevertheless, the Committee remains concerned over the high number of orphans due to HIV/AIDS.
62. The Committee recommends the State party, while taking into account the Committee's general comment No.3 (CRC/GC/2003/3) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights, to take measures to reduce HIV infection, particularly with regard to the young people through, inter alia:
- (a) Developing, strengthening and continuing policies and programmes to provide care and support for children infected or affected by HIV/AIDS, including programmes and policies to strengthen the capacity of families and the community to care for such children;
  - (b) Carry out activities to reduce stigma and discrimination related to HIV/AIDS and providing awareness-raising on human rights within the context of HIV/AIDS; and
  - (c) Continuing and strengthening efforts to disseminate information and materials to the public, particularly adolescents, on prevention and protection methods, including safe sex practices.

#### **Right to an adequate standard of living**

63. While noting the State party's Poverty Reduction Strategy, the Committee nevertheless is concerned that a large number of children live in poverty, that access to potable water decreased between 1990 and 2004 and that less than half of the population has access to hygienic sanitation facilities. The Committee also notes with deep concern that the majority of the

population in the cities live in an unhealthy environment and that there is a lack of food security in the country.

64. The Committee recommends that the State party allocate appropriate resources to eradicate child poverty, as defined by the General Assembly in 2007, ensuring access of children to clean, potable water, adequate sanitation facilities, a healthy environment and food security. The Committee urges the State party to ensure a strong focus on child rights in its Poverty Reduction Strategies and the incorporation of development goals and objectives which are relevant to children. The Poverty Reduction Strategies should take into account the root causes of poverty, including the inequitable distribution of available resources.

#### 7. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

##### Education, including vocational training and guidance

65. The Committee recognizes the Constitutional provision for free public primary education but notes with concern that, in reality, schooling costs remain relatively high. The Committee welcomes the “Initiative 25 pour 2005”, which aims to ensure gender parity in schools. However, the Committee notes with concern that, despite governmental efforts, school enrollment rates in primary and secondary schools are low, particularly for girls, children living in rural areas and children from vulnerable groups. The Committee expresses further concern that the educational infrastructure is poor, that schools are poorly equipped, that only a small percentage of teachers are qualified and that salaries are not regularly paid. The Committee is equally concerned that the slightly increased budget allocations for education are not sufficient to cover the costs of a functioning, quality educational system.
66. The Committee recommends that the State party, taking into account its general comment No. 1 (CRC/GC/2001/1) on the aims of education:
- (a) Ensure access to primary education, free of charge, including any additional (non-tuition) costs to all children without discrimination;
  - (b) Take all measures to ensure that children complete their compulsory schooling, taking concrete action to address the reasons behind non-completion of schooling, including, inter alia, persisting zones of insecurity, displacement of families, lack of transport, destruction of school infrastructures and poverty;
  - (c) Continue its efforts to reduce gender disparities in access to and full enjoyment of the right to education;
  - (d) Increase expenditure on the education sector in order to ensure that the educational system is able to function properly;
  - (e) Improve the quality of teaching by, inter alia, ensuring that teachers receive appropriate training and are further qualified by in-service training, and that they receive adequate salaries that are paid in a timely manner;
  - (f) Take steps to ensure that educational facilities are in suitable physical condition, including adequate sanitation facilities, and that they receive adequate material resources;
  - (g) Promote early childhood education and take steps to provide access to such education for children in all regions;
  - (h) Create vocational education and training for children, including children who have dropped out of primary or secondary schools;

- (i) Take legislative measures to eliminate the gap between the compulsory education age and the minimum age for labour; and
- (j) Include human rights and child rights in the curricula of schools.

#### **8. Special protection measures (arts. 22, 38, 39, 40, 37(b) and (d), 30, 32-36 of the Convention)**

##### **Children affected by armed conflict**

- 67. The Committee is gravely concerned that the State party, through its armed forces, bears direct responsibility for violations and that the State party has failed to protect children and prevent violations of children's rights by non-State groups. The Committee, while noting the Goma peace agreement of 2008, is concerned that it is not being implemented and that the armed conflict continues to have a horrific impact on civilians, particularly children, and is further restricting already weak services for children, including in the areas of education, health care and social care. The Committee is particularly concerned over the very high number of children who have been abducted by armed groups for use in hostilities and are victims of violence, rape, sexual and commercial exploitation.
- 68. The Committee urges the State party to take all necessary steps to collaborate and ensure that the Goma peace agreement is fully respected by all parties. The State party should take all available measures to ensure the protection of children by enabling that human and financial resources are available, including through international assistance, for their demobilization.
- 69. The Committee recommends the State party fully implement the recommendations contained in the report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo (S/2008/693)
- 70. The State party is encouraged to collaborate with the International Criminal Court (ICC) in order to seek accountability and prevent impunity for those who have committed grave violations against children.
- 71. Furthermore, the Committee urges the State Party to significantly increase its efforts to put an end to the suffering of children caused by the armed conflict by *inter alia* extending full support to;
  - (a) The United Nations Mission in the Democratic Republic of Congo (MONUC);
  - (b) The country Task Force on Monitoring and Reporting established following the Security Council resolution 1612;
  - (c) The Special Representative of the Secretary General for Children and Armed Conflict on Children and Armed Conflict and Special Procedures of the Human Rights Council, notably the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons.

##### **Recovery and reintegration**

- 72. The Committee notes that the Commission Nationale de Désarmement, Démobilisation et Réinsertion (CONADER) was established in December 2003, however is concerned that lack of resources has severely hampered its work. The Committee is concerned that several thousands of child victims, who have been recruited or used in hostilities, have not been provided with measures for recovery and integration. The Committee is further concerned over reports indicating that children have been re-recruited by armed groups in the absence of alternatives and available assistance to demobilize. The Committee is furthermore disturbed that children, contrary to being

treated primarily as victims, have been arrested, detained and tried in military courts for military offences and other crimes allegedly committed while they were in armed forces or groups.

73. The Committee recommends that the State Party reactivate its Disarmament, Demobilization and Reintegration Program and allocate adequate human and financial resources for it to perform its mandate. The Committee further recommends that the State party ensure that all children awaiting official demobilization and reintegration are always treated primarily as victims and can exercise their right to education, health care and protection. The Committee underlines the importance that gender considerations are taken in account in all demobilization and reintegration measures and programmes.

#### Refugee and internally displaced children

74. While noting with appreciation that some assistance is provided to refugees and displaced persons, the Committee nevertheless expresses grave concern that half of displaced persons on the State's territory are children. The Committee is deeply concerned that violence against child refugees or IDPs continues in the eastern part of the country. The Committee is also concerned that data on refugee and displaced children is lacking, that the provision of assistance is sporadic and that refugees and displaced persons, many of whom are children, are not legally protected.
75. The Committee urges the State party, taking into account the Committee's general comment No. 6 (2005) on the treatment of unaccompanied children and separated children outside their country of origin, to continue and strengthen its efforts in order to ensure that all refugees and displaced persons, particularly children, are provided with adequate and appropriate assistance, including food, medical and psychological care and access to education. The Committee recommends that the State party establish a coherent database and national programmes for refugee and internally displaced children with a view to ensuring full protection of their rights. The Committee also reiterates its previous recommendation (CRC/C/15/Add.153, paragraph 63) that every effort be made to prevent all forms of violence against refugee and internally displaced children. Finally, the State party is encouraged to implement the recommendations of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, following his mission to the State party in January 2009.

#### Street children

76. The Committee notes with interest the State party's efforts to address the issue of children living or working on the streets, including through the establishment in 2004 of a support commission for such children, the elaboration of programmes to assist street children in reintegration into their families and communities. Nevertheless, the Committee expresses concern at the very large number of children still living and/or working in the streets. The Committee is furthermore gravely concerned over reports that the military and police regularly harass, threaten, beat or arrest street children. The Committee is concerned that street children lack adequate access to shelter, food, health care, educational or rehabilitation services and are frequently victims of sexual assaults and abuse.
77. The Committee encourages the State party to strengthen its programmes aimed at supporting poor and fragile families, at preventing children from separating from their parents and at reintegrating street children into their families and communities. It also strongly urges the State party to ensure that the rights of street children are fully respected by State agents, such as the military and police. Furthermore, the Committee recommends the State party to take additional measures to protect street children from violence and sexual abuse and provide them with adequate food, shelter, education and healthcare services. The Committee recommends that the

**State party involve street children in the planning, implementation and evaluation of programmes for them.**

#### **Children accused of witchcraft**

78. While the Committee notes that awareness-raising and rehabilitation activities for children accused of witchcraft have been developed, however remains concerned that a large number of children are labeled as witches and consequently suffer serious stigmatization. The Committee is also concerned that violence against children accused of witchcraft is increasing, and that children are being kept as prisoners in religious buildings where they are exposed to torture and ill-treatment or even killed under the pretext of exorcism.
79. **The Committee urges the State party to take effective measures to prevent children from being accused of witchcraft, including through continuing and strengthening public awareness-raising activities, particularly directed at parents and religious leaders and by addressing the root causes *inter alia* poverty. The Committee further urges the State party to implement legislative and other measures to criminalize making accusations against children of witchcraft and bring to justice persons responsible for violence and ill-treatment of children accused of witchcraft. Finally, the Committee recommends the State party to provide measures recovery and reintegration measures for children who have been victims of such practices.**

#### **Economic exploitation, including child labour**

80. The Committee notes with appreciation that the 2002 Labour Code raises the minimum age for employment to 16, addresses the worst forms of child labour and calls for the creation of a National Committee to combat the worst forms of child labour. Nevertheless, the Committee is concerned that child labour persists, noting with particular concern the presence of child workers as young as five years old, working in dangerous conditions in the mining industry, particularly in the Katanga region.
81. **The Committee urges the State party to take all appropriate steps to eliminate exploitative child labour, particularly in its worst forms, including through the implementation of legislation regulating child labour and the application of appropriate sanctions against persons violating such legislation. The Committee recommends that the State party prioritize the improvement of primary school enrollment and the prevention of dropouts with a view to eliminating the worst forms of child labour. The Committee encourages the State party to seek technical assistance from ILO/IPEC in this regard.**

#### **Trafficking and sale**

82. The Committee notes that legislation explicitly prohibits trafficking of children for sexual exploitation but regrets that it does not address the issue of children trafficked and sold for economic exploitation. The Committee is concerned that children continue to be trafficked and sold for sexual exploitation, as well economic exploitation. The Committee is also concerned at the lack of data on the actual situation of trafficking and sale of children in its various forms.
83. **The Committee urges the State party to take all measures to ensure the protection of children from trafficking and sale. The Committee urges the State party to ensure that a legal framework is in place clearly defining the crime of trafficking for sexual exploitation, economic exploitation or other purposes, criminalizing such acts and ensuring the prosecution of perpetrators and the rehabilitation of child victims. The Committee further encourages the State party to address the root causes of trafficking, including poverty, to establish a system for collecting and disaggregating**

data on trafficking and sale of children and to carry out awareness-raising activities in order to make both parents and children aware of the dangers of trafficking. The Committee recommends that the State party seek the assistance from UNODC and UNICEF in this regard.

### **Sexual exploitation**

84. The Committee is seriously concerned that marginalized children, such as children involved in armed conflict, refugees and internally displaced persons, are victims of sexual exploitation and abuse. Furthermore, the Committee is concerned that young girls in urban centres are often forced to engage in prostitution, sometimes by their parents, at a very low age.
85. The Committee recommends that the State party:
- (a) Develop and strengthen appropriate legislative measures to address the issues of sexual abuse and sexual exploitation;
  - (b) Take steps to address the root causes of sexual exploitation and abuse, including poverty and separation of children from their families;
  - (c) Take appropriate measures to end impunity for perpetrators of sexual offences against children and ensure their prosecution;
  - (d) Ensure that child victims of sexual exploitation or abuse are not criminalized or penalized; and
  - (e) Develop and implement appropriate policies and programmes for prevention, recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996, 2001 and 2008 World Congresses against Commercial Sexual Exploitation of Children as well as the outcome of other international conferences on this issue.

### **Child helpline**

86. The Committee notes with regret the lack of a child helpline, which is a critical tool for children to seek assistance and lodge complaints and for the competent authorities to monitor the situation of children and protect them from violations of their rights.
87. The Committee recommends that the State party establish a three digit toll-free 24-hour helpline available for all children at national level and promote awareness of how children can access the helpline.

### **Juvenile justice**

#### **Juvenile justice system**

88. The Committee notes with interest that the Child Protection Code envisages the establishment of juvenile courts to become operational in two years. Nevertheless, the Committee is concerned that the current justice system for juveniles is experiencing a number of difficulties in terms of functioning, including a lack of adequate facilities to house children in conflict with the law, the absence of systematic judicial assistance and the slow pace at which cases of juvenile offenders are treated. The Committee is also concerned that professionals working with children in conflict with the law lack awareness regarding the rights of the child and the Convention.
89. The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United

Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular, the Committee recommends that the State party take the necessary steps to :

- (a) Ensure the swift establishment of the juvenile court system, which, once established, must be provided with adequate human and financial resources;
- (b) Ensure that all the professionals working with the children in conflict with the law receive appropriate training on children's rights; and
- (c) Seek technical assistance and other cooperation from the United Nations Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.

#### Age of criminal responsibility

90. The Committee notes with interest that the Child Protection Code sets the minimum age for criminal responsibility at 14. However, as the Code has not been implemented, the Committee is concerned that children below 14 years are being charged and that the children between 16 and 18 often do not benefit from special measures for juveniles provided in the legislation, despite that the age of full criminal responsibility was reduced from 18 to 16 in application of the Ordinance of 4 July 1978.
91. The Committee recommends that the Child Protection Code is speedily and fully implemented and that the State party considers abolishing the 1978 Ordinance so that the age for full criminal responsibility is set in accordance with the international accepted juvenile justice standards. In this regard, the State party is encouraged to take into account the Committee's general comment No. 10 on Children's Rights in Juvenile Justice.

#### Deprivation of liberty

92. The Committee is concerned over reports that children are often held in pre-trial detention for long periods of time (months or years), without trial, and that they are commonly detained together with adults.
93. The Committee recommends that the State party take all necessary measure to:
  - (a) Strengthen the policy of alternative sanctions for juvenile offenders to ensure that children are held in detention only as a measure of last resort and for the shortest period of time;
  - (b) Ensure that when detention is carried out, it is done in compliance with the law and respects the rights of the child as set out under the Convention and that children are held separately from adults both in pre-trial detention and after being sentenced; and
  - (c) Ensure that children are not ill-treated in detention, that conditions in detention facilities are not contrary to the child's development and that their rights, including visitation rights, are not violated, and that cases involving juveniles are brought to trial as quickly as possible.
94. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, sale and trafficking and witnesses of such crimes, are provided with the protection required by the Convention and that it take fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims

and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).

#### 9. Ratification of International Instruments

95. The Committee welcomes the ratification by the State party on 11 November 2003 of the Optional Protocols to the Convention on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict. However, the Committee notes that a number of other international instruments have not been ratified by the State party.
96. The Committee encourages that the State party to ratify the Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention against Torture, the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families, the Convention on Persons with Disabilities and the International Convention for the Protection of all Person from Enforced Disappearances.

#### 10. Follow-up and dissemination

##### Follow-up

97. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia by transmitting them to the members of the Parliament, and to provincial Governments, when applicable, for appropriate consideration and further action.

##### Dissemination

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

#### 11. Next report

99. The Committee invites the State party to submit its combined third, fourth and fifth periodic report by 26 October 2012. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Committee. The Committee also invites the State party to submit its initial reports under the Optional Protocols to the Convention on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict, due 18 January 2004 and 11 January 2004 respectively, as soon as possible.
100. The Committee also invites the State party to submit a core document in accordance with the requirements of the Common Core Document in the Harmonised Guidelines on Reporting, approved by the 5PthP Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).