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**DRAFT REPORT OF THE WORKING GROUP ON
THE UNIVERSAL PERIODIC REVIEW ***

Congo

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Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its fifth session from 4 to 15 May 2009. The review of Congo was held at the 5th meeting on 6 May 2009. The delegation of Congo was headed by Mr. Jean-Martin MBEMBA, Ministre d'Etat, Ministre de la Fonction Publique et de la Réforme de l'Etat. At its meeting held on 8 May 2009, the Working Group adopted the present report on Congo.
2. On 8 September 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Congo: Bahrain, the Netherlands and Madagascar.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Congo:
 - (a) A national report submitted / written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/5/CGO/1);
 - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/5/CGO/2) and its corrigendum A/HRC/WG.6/5/CGO/2/Corr.1;
 - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/5/CGO/3).
4. A list of questions prepared in advance by the Czech Republic, Sweden, the Netherlands, the United Kingdom of Great Britain and Northern Ireland, Argentina, Denmark and Latvia was transmitted to Congo through the troika. These questions are available on the extranet of the UPR.

I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

A. Presentation by the State under review

5. A sa cinquième séance, le 6 mai 2009, Monsieur Jean-Martin MBEMBA, Ministre d'Etat, Ministre de la Fonction Publique et de la Réforme de l'Etat, Chef de la délégation congolaise, a salué les progrès accomplis par le Conseil des droits de l'homme en trois années d'existence et a indiqué que le Congo se présentait à cet Examen dans un réel esprit d'ouverture. Il a ensuite remercié les membres du Conseil des droits de l'homme pour l'attention qu'ils portent à la situation des droits de l'homme au Congo. Le rapport national a été élaboré dans le respect des directives générales contenues dans la décision 6/102 du Conseil des droits de l'homme. Il est le résultat de consultations et de collecte d'informations ayant impliqué les institutions gouvernementales, les organisations de la société civile et les organisations de défense des droits de l'homme.
6. Depuis son accession à l'indépendance, le Congo est partie à de nombreux instruments internationaux relatifs aux droits de l'homme et plusieurs mesures ont été prises en vue du respect des principes fondamentaux des droits de l'homme et de l'Etat de droit. A cet égard, des mécanismes institutionnels nouveaux ont été mis en place dans la Constitution de janvier 2002 en vue de la protection et de la promotion des droits de l'homme. Les mesures prises par le gouvernement congolais couvrent aussi bien les droits civils et politiques que les droits

économiques, sociaux et culturels. Leur réalisation est une œuvre de longue haleine impliquant la mobilisation d'énormes ressources que le pays ne dispose pas nécessairement. Une assistance multiforme est souhaitée.

7. Le Chef de la délégation a réaffirmé la volonté du gouvernement de poursuivre ses efforts avec le soutien des partenaires bilatéraux et multilatéraux en vue de renforcer l'action des mécanismes existants. La Commission nationale des droits de l'homme, en la dotant d'un siège digne de son rang et en l'aidant à obtenir l'accréditation auprès du Comité international de coordination des institutions nationales des droits de l'homme et auprès de la Commission africaine des droits de l'homme, éléments indispensables à la préparation de la tenue de la session inaugurale, peut assurer la pleine jouissance des droits de l'homme à toutes les couches de la population.

8. S'agissant de la politique à l'égard des minorités, il a indiqué les mesures spéciales prises par le gouvernement en matière d'accès à l'emploi, à l'éducation et aux soins médicaux.

9. La participation de la femme congolaise à la vie nationale est garantie sur tous les plans. Elle bénéficie du soutien financier, logistique et technique de la Maison de la Femme qui est une institution d'appui multiforme aux activités menées par les femmes.

10. Par ailleurs, dans le domaine du droit à la santé, l'Etat a pris des mesures importantes parmi lesquelles la gratuité du dépistage et du traitement du VIH/SIDA ainsi que la gratuité du traitement du paludisme pour les enfants de 0 à 15 ans.

11. Dans les domaines de la liberté d'opinion et de la liberté de la presse, l'intervenant a souligné le fait, qu'aujourd'hui, il n'y a aucun détenu pour délit d'opinion au Congo et que par ailleurs, aucun journaliste n'a été inquiété par le fait du gouvernement dans le cadre de l'exercice de ses fonctions en donnant comme exemple quelques articles récents parus dans la presse locale très critiques à l'égard du gouvernement et du Chef de l'Etat qui auraient pu connaître un autre sort.

12. A ce jour, il y a au Congo plus de 100 partis et associations politiques déclarés qui exercent librement leurs activités et plus de 200 organisations et associations apolitiques à caractère social, économique et culturel qui entreprennent également librement des activités liées à leur raison sociale.

13. Le Chef de la délégation du Congo a informé que le Parlement congolais venait d'adopter une loi sur la protection de l'enfant ainsi que d'autres mesures particulières garantissant l'accès à l'éducation et à la santé à tous les enfants. Même si des insuffisances peuvent être relevées, elles ne contredisent pas pour autant la politique générale de sauvegarde des droits des enfants.

14. S'agissant des dysfonctionnements de la justice, il a indiqué que les magistrats ayant violé la morale professionnelle venaient d'être radiés par le Conseil supérieur de la magistrature.

15. Pour la peine de mort, le Congo ne l'applique plus depuis 1979.

16. A la suite des irrégularités constatées dans l'organisation des législatives et des locales, le gouvernement s'attelle à les corriger et met tout en œuvre pour la réussite de l'élection présidentielle de juillet 2009. Dans ce sens, une concertation citoyenne vient de se tenir du 14 au 17 avril 2009. Elle a connu la participation de tous les acteurs politiques, y compris de l'opposition, de la société civile, des confessions religieuses et des représentations diplomatiques

à l'exception de l'opposition dite « radicale » qui s'est auto exclue de ce dialogue avant même l'ouverture des travaux, alors qu'elle avait pris part aux discussions préalablement portant sur l'ordre du jour et le règlement intérieur. Cette concertation a permis de faire un diagnostic sans complaisance des errements du passé et a prescrit des orientations pour une organisation plus efficiente des élections dans un climat totalement apaisé.

B. Interactive dialogue and responses by the State under review

17. During the interactive dialogue, statements were made by 44 delegations, a number of which praised Congo for its presentation and commitment to the UPR process as well as for the involvement of various stakeholders in the preparation of the national report. Statements were also made congratulating Congo for its record on the ratification of international human rights instruments.

18. Brazil asked about the measures being taken to prevent stereotypical attitudes concerning the role and responsibilities of women to avoid discrimination against them and about the measures to prevent sexual exploitation of children and child labour. Brazil recommended Congo (a) to reinforce women's rights within the labour market; (b) to accomplish progressively human right goals as set up by HRC resolution 9/12. Brazil noted Congo's expectations in receiving technical assistance of the Human Rights Council and invited delegations to positively consider assisting Congo in these endeavours.

19. Algeria noted that political commitment in relation to human rights is clear and that support of the international community remains, however, necessary. Algeria recommended that Congo: (a) should consider the appropriateness for taking the measures to have the National Commission for Human Rights accredited by the International Coordination Committee of the National Institutions for the Promotion and Protection of Human Rights; (b) request support of the United Nations Programmes and Agencies to establish programmes and strategies for literacy, training in employment for women in order to improve their conditions and their participation in the development of the country; (c) to continue efforts undertaken in the area of the protection and realization of the rights of the child, particularly regarding access to education.

20. France asked about the implementation of recommendations of the Special Rapporteur on contemporary forms of racism, to prevent and punish violence against members of the pygmy community. Also, it asked if Congo intended to respond favourably to the proposal of UNHCR to establish a joint expert commission to review and amend the draft law on refugees. France recommended (a) to take all appropriate measure to eliminate all forms of discrimination against women, in particular in respect to property, sharing and inheritance of land, access to education, the labour market and political life. France also recommended that Congo (b) adopt laws prohibiting such practices as female genital mutilation and that it focused measures to ensure these practices are dropped as a result of broad awareness raising campaigns; (c) adopt measures immediate and in line with human rights international standards with respect to the rights of children to prohibit in particular child labour and prevent, criminalize and punish sexual exploitation and child trafficking; and (d) sign and ratify the Optional Protocol to the Convention of the Rights of the Child concerning the involvement of children in armed conflicts (OP-CRC-AC).

21. Sudan noted that despite the fact that the implementation of international human rights instruments is the primary responsibility of the concerned country, it can also be realised through

international cooperation and provision of technical assistance, particularly in developing countries. Sudan commended the ambitious programme of Congo concerning the right to health and particularly the efforts to put an end to HIV pandemic. It called for support to this programme in the national and international level. It also commended Congo for the efforts made in the framework of improving, protecting and enhancing human rights in the African continent and recommended supporting these efforts particularly through the African Committee for Human and Peoples Rights.

22. Egypt requested more information on the specific measures aimed at alleviating poverty and providing basic services. It recommended Congo (a) to continue its efforts aimed at protecting and promoting human rights and fundamental freedoms; (b) to specifically determine its needs in order to be able to seek international assistance in its endeavours and (c) to continue to resist attempts to enforce any values or standards beyond the universally agreed base, through the exercise of its sovereign rights to implement its laws and legislation in conformity with these values and standards.

23. The Netherlands recommended that Congo (a) guarantees that each detainee has effectively the right to contest the legality of his or her arrest, and (b) ends immediately the detention of those that are not held in detention centers as foreseen by article 241 of the Code Penal; (c) introduces legislation that eliminates discrimination in ownership, co-sharing and inheritance of land, (d) protects victims of sexual violence and criminalize marital rape, (e) gives women equal rights in marriage and pre-marriage, and (f) prohibits female genital mutilation. The Netherlands finally recommended (g) that in line with ICCPR, Congo repeals article 331 of the Code Penal that criminalizes same sex practices between consenting adults, also with a view to more effective HIV/AIDS prevention and treatment of vulnerable sectors of the Congolese population.

24. Morocco requested further information on legislation and institutional measures for children with specific needs and for those who require alternative care. Morocco recommended that the Government take additional measures to strengthen the fight against discrimination against women. Morocco noted that both countries have signed a cooperation agreement in the area of education with a view to modernise and promote education and vocational training. In this spirit, Morocco asked about the nature of the difficulties confronting that sector and the type of assistance Congo would like to receive from specialized agencies of the United Nations.

25. Djibouti noted with satisfaction the electoral law of 2007 complementing the law of 2007 setting minimum quotas for female candidatures in elections. Djibouti encouraged Congo to continue its efforts in promoting and protecting human rights, in particular these related to women and children and recommended Congo to continue efforts in combating all forms of discrimination which may victimise vulnerable groups, such as indigenous communities and disabled. It also recommended to pay a special attention to the condition of persons in prisons and continuing its capacity building policy in the field of health care services.

26. The United States of America recommended that Congo (a) allow for greater freedom of expression for members of the press in advance of the election including political reporting and granting equal media access to and coverage of opposition candidates; (b) encourage civic participation, including of civil society in the electoral process; (c) finalize and enact the draft law prohibiting all forms of trafficking; (d) develop formal procedures for identifying trafficking victims among vulnerable populations such as females in prostitution, street children and pygmies; (e) train police and social workers to implement these procedures; (f) increase efforts

to provide care to trafficking victims, end the practice of jailing children found in prostitution and increase efforts to raise awareness among vulnerable population of the danger of trafficking.

27. United Kingdom recommended Congo (a) to take steps to ensure prison conditions are independently monitored, perpetrators of acts of torture are duly prosecuted and that detainees have the right to a fair trial; (b) to take all necessary measures to ensure the forthcoming elections are peaceful, free and fair, and occur in a climate free of intimidation and where the right of assembly is fully respected; (c) to take further steps to address discrimination against women and vulnerable groups including children, persons belonging to minorities and indigenous people; and (d) to remove the provisions that criminalise homosexuality.

28. The Russian Federation asked for more information about the duties of the National Ombudsman and the recently created Commission on Human Rights; how authorities are divided between those bodies and how they can influence the decision-making process for the decisions relating to improving the national system for the protection of human rights. It also asked if Congo is planning to adopt additional measures to ensure access to medical services for the population in rural areas including the extension of the system of medical institutions and clinics in remote areas. Noting the large numbers of indigenous peoples and that Congo is planning to adopt an appropriate programme of action and to introduce certain legislative initiatives, it asked for more information in this regard.

29. Turkey hoped that the priority attached to the gender issues will result in the improvement of the equality between men and women and that the recommendations by CEDAW should be taken into consideration in preparing the new bill for the protection of the victims of sexual violence. Turkey invited Congo to combat discrimination affecting women and girls in the schools, taking into account the concerns expressed by the CRC. It encouraged Congo to take the best possible advantage of the initiative for the poverty reduction strategy document prepared which should help in improving the access of the poor to the basic social services.

30. Holy See noted that death penalty has not been carried out since 1979 and recommended Congo (a) to fully abolish the death penalty. Despite efforts, one third of Congolese are still deprived of education and that women and children are the most affected and recommended that Congo (b) continue to invest in education, giving special attention to women and girls. While noting the progress regarding maternal health, maternal mortality remains high and recommended the Government (c) to further invest in obstetrics clinics and in the information of skilled birth attendants. It noted that in prisons, however, women and men, children and adults are not always separated. Prisons are often overcrowded and healthcare is inadequate. The Holy See asked how Congo intends to confront this problem and to improve the situation of prisoners, especially of women and children.

31. Sweden recommended that Congo (a) continue its efforts with a view to fully tackle the problem of discrimination against minority groups. Sweden noted that CEDAW expressed concern about domestic violence, rape, including marital rape, and other forms of sexual abuse of women. Sweden welcomed the info that a new law is being prepared and recommended that Congo (b) continue implementing measures to handle the problem of (c) take measures to ensure full compliance with the CAT and other international standards in this regard.

32. Democratic Republic of the Congo (DRC) noted that the judicial system has suffered from on the principle of independence and asked the reason for that and measures to correct it.

DRC encouraged Congo (a) to finalize its plan to elaborate a national law on assistance and protection of internally displaced persons; and (b) urged Congo to define its priorities and determine its needs in order to support its request for technical assistance in the area of human rights.

33. Azerbaijan commended the establishment of National Human Rights Commission and the Office of Mediator, but at the same time, it joined the recommendation by CRC to provide mentioned institutions with an adequate mandate and financial resources for more efficient curb. Azerbaijan recommended that Congo increase its efforts, especially educational measures, public awareness for the improvement of the realization of the rights of women. It urged Congo to (a) reinforce efforts to combat discrimination against women; (b) incorporate instruction on human rights in school curricula; and (c) abolish the capital punishment.

34. Argentina recommended that Congo (a) adopt all necessary measures to ensure the right to life and protection of the individual, in particular the effective incorporation in domestic legislation of the prohibition of the practice of torture in accordance with the Convention Against Torture; as well as the abolition of the death penalty from its Penal Code; (b) adopt legislation to prohibit practices of sexual violence affecting Congolese women in line with CEDAW which Congo has also ratified. It also suggested the eradication of the practice of female genital mutilation. Argentina asked about the concrete measures to ensure women's right to health and if Congo addresses criminalization of the trafficking in children and sexual exploitation of children and if not, it recommended (c) that such acts be made criminal in line with international standards. It recommended that Congo (d) ratify the International Convention for the Protection of All Persons from Enforced disappearances, and (e) ratify the OP-CEDAW, the Convention on the Prevention and Punishment of Crime of Genocide, the Palermo Protocol and the Optional Protocols to the Convention of the Rights of the Child.

35. Mexico asked about the strategies being prepared to submit reports to the treaty bodies. Mexico recommended (a) Congo's accession to the ILO Convention No.169 which concerns indigenous and tribal peoples in independent countries as well as the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the International Convention for the Protection of All Persons from Enforced Disappearance. It also recommended (b) that measures be adopted to combat attitudes and persistent stereotypes of the role and responsibilities of women in the society. Lastly, Mexico associated itself with the appeal of Congo to the Human Rights Council for the provision of material, technical and financial assistance and called on the international community to respond to this appeal.

36. Burkina Faso noted that progress has been made in terms of normative measures on human rights or in terms of creation of mechanisms in this area. It recommended that Congo makes further efforts to combat violence and sexual abuse against children for the effective realization of their rights. It asked for more information about the Bill for the promotion and protection of human rights of indigenous communities and the present status of the adoption of this law. In conclusion, Burkina Faso encouraged Congo to pursue efforts to continue to improve the rights of Congolese people.

37. Chad welcomed the legislative and regulatory measures to incorporate the various international agreements and treaties in the area of human rights. Chad recommended that Congo continue its efforts to improve the human rights situation in its country. It also recommended the

international community to provide assistance to Congo to take up the various challenges confronting it.

38. China noted that Congo is progressing in the improvement of living environment, the minimum wages and the payment of domestic debts and delayed wage payments. China asked about the implementation and results of the law of 2008 which stipulates to eliminate the payments for the people with tuberculosis, malaria and AIDS. China noted that Congo faces great difficulties in the realization of MDGs and asked if Congo has a specific national plan of action to promote their achievement.

39. South Africa noted that Congo faces significant challenges particularly in the areas related to combating HIV/AIDS, high infant and maternal mortality rates, absence of legislation prohibiting the trafficking of persons, street children, access to education and health facilities, and child labour. It sought clarification on what measures has Congo implemented to provide adequate schooling facilities; to increase school enrolment rates; to provide access to clean water and basic health services and how it intend to facilitate access to affordable judicial services. It recommended that Congo should consider reviewing strategies aimed at a comprehensive protection of children with a view to developing a plan and further enhancing it and to align it with the provisions of the CRC and all applicable international human rights instruments that Congo is party to.

40. Gabon noted that the status of Congolese women has improved over the years thanks to the creation of the Ministry of Promotion of the Women and the Integration of Women in Development. These trends merit the support of the international community, including technical assistance from OHCHR. Gabon recommended in line with the recommendations of the Committee on the Rights of the Child, to sign and ratify OP-CRC-AC. Gabon encouraged Congo to further cooperate with the mechanisms for the promotion and protection of human rights, including special procedures.

41. Italy noted that according to figure provided by UNICEF, about one quarter of children are not registered at birth and recommended that Congo (a) improve procedures aimed at raising the percentage of children registered at birth. Italy commended the *de facto moratorium* on executions and recommended that Congo (b) consider the complete abolition of capital punishment in its internal legislation. Regarding rights of minorities in Congo, Italy acknowledged the ongoing efforts by the authorities to draft specific norms in this field and recommended that Congo (c) approve in the shortest period of time and the implement the new law regarding indigenous peoples with the aim of safeguarding minority rights in the country, specifically pygmies' ones. It also recommend that Congo (d) guarantee the right to receive, seek and impart information and ideas, in compliance to article 19 of ICCPR.

42. La délégation congolaise a donné les réponses ci-après aux questions qui lui ont été posées.

43. Les droits des enfants sont garantis. L'enseignement est obligatoire jusqu'à l'âge de 16 ans. Les jeunes filles jouissent de l'égal accès à l'école. La préoccupation du Congo demeure le maintien de la jeune fille à l'école. Les frais scolaires ont été supprimés et des mesures relatives à la gratuité des manuels scolaires à l'enseignement primaire ont été prises. En ce qui concerne la santé des enfants, le traitement contre le paludisme est gratuit pour les enfants de zéro à quinze ans.

44. A propos du droit à la santé, le Congo a reconnu que la question de la mortalité maternelle et infantile est préoccupante. Face à cette situation, des efforts sont déployés en vue de la construction, de la réhabilitation, de l'équipement des centres hospitaliers et autres centres de santé maternelle et infantile dans tous les départements du Congo. De même des efforts importants sont déployés pour la formation et le recrutement des agents de santé. Par ailleurs, les soins de santé sont administrés indistinctement à tous les patients. Le dépistage et le traitement du VIH/SIDA sont gratuits pour tous les patients quelles que soient leurs orientations sexuelles.

45. Les violences sexuelles à l'égard des enfants et des femmes sont réprimées par la loi. Les cas de pratiques de mutilations génitales relevées ne sont pas des pratiques relevant de la culture congolaise. Toutefois, le gouvernement a pris note des remarques faites à ce sujet.

46. En ce qui concerne l'élection présidentielle de juillet 2009, la concertation citoyenne tenue du 14 au 17 avril 2009 à Brazzaville a donné l'occasion aux acteurs politiques, à la société civile et aux confessions religieuses du Congo d'aboutir à des conclusions garantissant une élection présidentielle transparente et crédible.

47. En ce qui concerne les violations des droits des personnes vulnérables, le Congo a déclaré que les droits de la personne humaine sont garantis et protégés. Les femmes ont les mêmes droits que les hommes dans tous les domaines de la vie sociale et politique. Il y a égalité d'accès à l'emploi, à la fonction et à la formation. L'égalité de rémunération est aussi garantie.

48. Les populations autochtones bénéficient d'une attention particulière du gouvernement qui a élaboré un projet de loi en cours d'examen.

49. S'agissant de la peine de mort, le Congo a indiqué qu'elle n'est plus appliquée depuis 1979.

50. La constitution congolaise garantit l'indépendance de la magistrature. La situation salariale des magistrats a été améliorée en vue de garantir cette indépendance. Le Conseil supérieur de la magistrature, qui garantit cette indépendance, s'est réuni le 4 mai 2009 sous la Haute Autorité du Chef de l'Etat, Président dudit Conseil, et a prononcé des sanctions allant jusqu'à la radiation des magistrats ayant violé la morale professionnelle.

51. Quant à la Commission Nationale des droits de l'homme, le Congo a affirmé l'indépendance de cet organe constitutionnel. Le gouvernement œuvre en vue de son accréditation auprès du Comité International de Coordination des Institutions Nationales pour la Promotion et la Protection des Droits de l'Homme.

52. En vue d'honorer ses obligations en matière de présentation des rapports aux organes des traités, le Congo a indiqué qu'un comité technique interministériel de rédaction des rapports a été mis en place.

53. En vue de l'amélioration des conditions des détenus, le Congo a inscrit au budget d'investissement 2009 des ressources financières y afférentes. Les hommes, les femmes et les enfants ne partagent pas les mêmes cellules dans les prisons. Par ailleurs, les investissements en cours permettront d'assurer la séparation du point de vue géographique des lieux de détention des prisonniers. L'accès des prisons congolaises est autorisé aux organisations des droits de l'homme qui en font la demande. Un accord existe à ce sujet entre le Congo et la Croix-Rouge internationale.

54. Slovenia noted as challenges for Congo the death penalty and the ratification of some conventions. It recommended Congo (a) to consider to legally abolish death penalty as soon as possible and to consider acceleration of ratification of all human rights treaties to which it is not yet a party, particularly OP-CESCR, ICCPR-OP2, OP-CEDAW, OP-CAT and both OP to CRC (OP-CRC-AC and OP-CRC-SC). Slovenia noted the creation of the Ministry for the Advancement of Women and the Integration of Women into Development. However, according to CEDAW, the discrimination of women persists and Slovenia is particularly concerned by female genital mutilation and reported high number of rapes, including among the members of Pygmy community. Slovenia asked what additional measures Congo has undertaken to decrease the number of victims of violence against women, including female genital mutilation. Slovenia recommended that Congo (b) implement the CEDAW recommendation with regard to Act of 1920 which in current form prohibits the advertising of contraceptives and consider establishing and providing adequate resources for sufficient number of “safe houses” for sheltering victims of the domestic violence.

55. Germany asked how the Congolese government ensures enjoyment of the right of peaceful assembly guaranteed by Congolese legislation. It noted that according to CRC, there is widespread ethnic-based discrimination against indigenous people finding manifestation in systematic violence even though the Constitution prohibits that discrimination. Germany asked what measures have been undertaken to guarantee the full and equal enjoyment of civil, political, social and economical rights of different ethnic groups and to combat discrimination that might occur. Germany recommended that Congo (a) enhance the mandate as well as the capacity of the National Human Rights Commission and to bring it in line with the Paris Principles; (b) cooperate closely with United Nations bodies and to address the issue of overdue reports inter alia to CESCR, the HR Committee, CEDAW and CAT; (c) ensure the compliance of the provisions against torture as laid down in the Penal Code and the prosecution of all perpetrators of torture and (d) establish a monitoring mechanism in order to verify this compliance.

56. Tunisia noted that Congo is a State profoundly devoted to the respect and promotion of human rights and noted that Congolese law grants a particular place to human rights by enshrining them in the Constitution and in the various codes. Tunisia referred to the achievements of the Congo in the area of human rights, in particular to the Congolese policy in the area of the promotion of the rights of women, the national action plan and necessary mechanisms participating in the successful projects for the emancipation of women involving them in public affairs. In conclusion, Tunisia recommended that Congo continue its efforts in the area of the promotion and the equality of gender and the promotion of maternal health and the girl-child.

57. Nigeria commended inter alia the reforms by Congo with regard to vulnerable groups, the establishment of the Department for Legal Protection of Children, the Centre for research, information, and documentation on women and the special schools for the disabled testifies to the concerns of the Government to these vulnerable groups. Nigeria also noted the challenges that Congo is facing and which impede the full realization of promoting and protecting human rights of its population. These challenges include weak political and socio-economic structures, lack of vital infrastructure, corruption and misappropriation of public funds. Nigeria thereby called on the international community to provide Congo the much needed technical and financial assistance as well as capacity building for the promotion and protection of human rights for its people.

58. Canada urged Congo to ensure that democracy and rule of law, the two pillars of good governance, are respected. Canada recommended that Congo (a) step up its efforts to make the community aware of the risks of HIV and recommended the establishment of a campaign to increase awareness among young people. It also recommended that Congo (b) open an inquiry as soon as possible into all allegations of torture and of deaths in detention, and prosecute and convict those who have committed acts of torture in prisons or other places of detention. Canada recommended (c) the establishment of a program to monitor places of detention as well as the establishment of a training programme with respect to human rights for staff working in places of detention. It further recommended that Congo (d) adopt measures, together with NGOs and anti-corruption groups, in order to combat corruption, in particular in the judicial system, to promote the respect for human rights. Canada requested more information on the arrests of two anti-corruption activists, Christian Mounzeo and Brice Mackosso.

59. The Czech Republic recommended that Congo (a) ensure the independence of judiciary, improve access to justice and (b) provide specific training aimed at the protection of human rights in particular of women, children and persons of minority ethnicity, sexual orientation or gender identity to all law enforcement and judicial officials. Regarding the protection from torture, it commended Congo for signing the OP-CAT in 2008 and recommended (c) early ratification of OP-CAT and the establishment of a national preventive mechanism. Further in this area, it recommended the following: (d) to review conditions in all prisons and detention facilities with a view of ensuring their compliance with the Minimum Standards of Treatment of Prisoners, in particular to establish separate juvenile detention facilities; (e) to ensure effective investigation of and accountability for all cases of torture and death in detention. As to the protection of human rights of asylum seekers, it recommended that Congo (f) prepare and adopt a national legislation establishing an effective asylum procedure and ensuring protection of all human rights of these persons and (g) decriminalize same-sex sexual activity between consenting adults and adopt measures to promote tolerance in this regard, which would also facilitate more effective educational programmes for the prevention of HIV/AIDS.

60. Senegal noted in the report the challenges Congo faces with regard the promotion and protection of human rights in various areas such as education, health care, judiciary, human rights legislation, and assistance to vulnerable persons. It commended the spirit of openness and the genuine desire of the authorities of Congo to improve its human rights situation, not without the support of the international community. Senegal asked for more information of measures taken or envisaged to better combat violence against them. It also asked if Congo is planning to accede to other international human rights instruments.

61. Cuba noted the establishment as of June 2008 of arrangements for free treatment for those living with HIV/AIDS but also malaria and tuberculosis. In the field of education, Cuba noted the efforts of the Congolese Government despite the limited resources. The strengthening of international cooperation to relief its external debt and fulfilment of ODA commitments could significantly contribute to providing the country with resources to confront several of the identified challenges. Cuba recommended Congo to continue in the protection of the rights of people affected by HIV/AIDS, including through the approval of the bill approved by the Government for the protection of persons living with HIV/AIDS, which is now under consideration by the Council of Ministers.

62. Japan asked about the efforts to ensure fair and transparent function and guarantee the political rights of citizens at the July elections. Japan noted that issues such as the prevalence of infectious diseases like HIV/AIDS, inadequate medical care for mothers and children, and lack

of access to safe drinking water, pose a large problem for Congo but applauded the efforts made with the cooperation of international organizations and donors to improve health care. It noted that concerns remain over whether these measures have been effectively implemented. Japan recommended Congo (a) to make further improvement efforts on this front. Japan noted further efforts are needed for working towards equal-opportunity education. In addition, concern was raised regarding sexual exploitation of children, including child pornography, and child labour. Japan asked what concrete measures, including provisions in the legal system being taken to address these specific concerns regarding the rights of the child. Japan commended the creation of a Ministry for the Advancement of Women and the Integration of Women into Development and a quota system for women candidates running for elected office but noted that unequal access to the labour market and educational opportunities continue to be raised. In this regard, Japan recommended that Congo (b) strengthen its efforts (regarding equal access of women to the labor market and educational opportunities).

63. Spain noted the programme of disarmament, mobilization, reintegration initiated in 2006 which is still being applied. It also noted the problem of birth registration which is a matter of national emergency. Nearly a quarter of those under 18 have not been registered at birth. Cooperation between the Government and UNICEF is exemplary in this respect. Spain noted the establishment of the Human Rights Commission and of the Office of the Mediator. Nevertheless, the mandate of these institutions is still very limited. Spain recommended (a) that these institutions be given appropriate mandates and the financial resources they need. A restructured Commission could be accredited as a national human rights institution. Congo should increase its efforts, including through educational measures to end discriminatory attitudes against women. Spain also recommended (b) the inclusion in domestic legislation of a definition of discrimination against women, together with the elimination of all discrimination related to possession, shared, ownership or inheritance of land; (c) matrimonial legislation be made compatible with international instruments with a clear schedule so that family legislation can be replaced together with the abolition of the ban on advertising for contraceptives; (d) adopt legislation to prohibit such practices as well as a message to assure the eradication of female genital mutilation, including campaigns to increase awareness on this issue.

64. Ghana noted that the National Action Plan 2009 - 2013 for improving the quality of life of indigenous peoples has been drafted and asked Congo to elaborate on the essential elements of this action plan. It noted overcrowd in prisons is a major problem, while most prisons lack social integration measures, and recommended that Congo consider more non-custodial measures for offenders, particularly for women, as a means of reducing the overcrowd and the pressure on reintegration efforts. It also noted several other challenges are posing obstacles for Congo but Ghana is encouraged by the pledge from Congo to seek the technical assistance from the Human Rights Council to address them and Ghana supported this call.

65. Benin encouraged Congo to persevere in its commitment to the promotion and protection of human rights and invited the other States to support Congo which is emerging from the period of civil war. Benin also invited the brother countries to invite all the Congolese in the rapid reconstruction of the country. Benin recommended that Congo ratify OP-CAT and establish a national preventive mechanism.

66. Côte d'Ivoire noted the efforts made by Congolese authorities for their community despite an uncertain economic environment and the progress made to restore the rule of law. It commended the efforts of Congo to peace consolidation process. Côte d'Ivoire congratulated and encouraged the Government to continue in the path of democracy and rule of law. In conclusion,

it urged the Government to continue strengthening its institutional reform in the field of human rights and in particular, encourage concluding the consideration of the bill for the promotion and protection of the rights of indigenous populations.

67. Latvia welcomed the fact that Congo has ratified most international human rights instruments and the Rome status of the ICC. Latvia would like to touch upon the issue of standing invitation to special procedures, an issue that Latvia also addressed as a written question before the UPR session. Considering the recent request by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to visit the country, Latvia recommended that Congo consider extending a standing invitation to all special procedures of the Human Rights Council.

68. The Republic of Guinea has noted that Congo has ratified a large number of human rights instruments, most which have been backed by domestic law. However, the promotion of human rights is a complex and ongoing process which requires resources. The Republic of Guinea requested the Council, OHCHR and the international community to provide all necessary assistance to strengthen Congo's institutional capacities and the efforts to promote and protect human rights.

69. Equatorial Guinea commended, inter alia, the establishment of the Mediator of the Republic, and the Ministry for the Promotion of Women and the Integration of Women in Development. It welcomed the adoption of decree 2008 providing for free medical care for those suffering from malaria, tuberculosis and HIV/AIDS. It supported the effort made to guarantee and protect the rights of indigenous peoples and efforts for the promotion and protection of the rights of internal expatriates, as well as the initiative to create a national commission to assist refugees sponsored by the Ministry of Foreign Affairs and the Francophone community. Equatorial Guinea urged the Republic of Congo to remain committed to promotion of human rights and to engage in a continuous and constructive dialogue with the leading human rights bodies and international community.

70. Central African Republic noted that conditions of vulnerable communities and their education need to be addressed. It also noted that the development of a national human rights policy for the translation of various human rights instruments increasing awareness to communities concerned into the national languages, requires technical, material and financial support and called for the assistance of the international community and the technical aid of the Human Rights Council. The Central African Republic recommended Congo to continue with its efforts to assist the indigenous communities, including the pygmies which are sharing the same culture as those who are living in the Central African Republic.

71. Cameroon has noted with satisfaction inter alia the provisions and the diversity of the programmes adopted on questions such as HIV/AIDS, and the fights against discrimination against women. Cameroon encouraged Congo to intensify its measures to promote and protect the rights of the child, the rights of the handicapped, and to strengthen the rule of law and good Governance while continuing its efforts in the policy regarding displaced persons and refugees. It urged the international community to provide massive support through multiform aid to Congo to strengthen its technical capacity in the area of human rights.

72. Angola noted that gender inequality in access to education remains a challenge particularly in rural areas and asked on policies to improve this situation. Angola recommended that Congo (a) continue its efforts to promote and facilitate school attendance, in particular

among children from economically disadvantaged families and ensure non-discrimination within the school environment. It noted that Congo ratified the Convention for the Suppression of the Traffic and the Exploitation of the Prostitution of Others. Angola recommended Congo (b) to reinforce national legislation prohibiting trafficking in persons, in particular children. As the rights of indigenous peoples continue to be a challenge. Angola recommended that Congo (c) streamline and fine tune policies in order to improve indigenous people's rights.

73. Belgium considered major challenges in the field of human rights remain in respect to justice, prison system and violence against women. It stressed specifically that the current situation of the National Human Rights Institution which is no longer credited to the International Coordinating Committee for National Institutions for the promotion and protection of human rights. In past, CRC had already expressed concerns with respect of mandate and source of financing of this institution. Belgium recommended that Congo (a) does everything to fulfil its obligations in the field of human rights and step up its efforts with respect to the rights of persons from vulnerable groups, including persons in detentions, women and children. Belgium also recommended that Congo (b) ensure that the National Human Rights Institution complies with the Paris principles and that the institution seeks the accreditation from the International Coordination Committee.

74. Répondant à d'autres questions posées, la délégation congolaise a déclaré que les libertés publiques sont protégées par la loi, notamment la liberté d'association, de réunion et de la presse. Au Congo, il n'y a pas de prisonnier d'opinion.

75. Toutefois, le Congo a indiqué que, comme dans toutes les démocraties, la jouissance de la liberté de réunion est assortie de certaines conditions déterminées par la loi.

76. Le Congo a réaffirmé son engagement à coopérer avec les organes des Nations Unies à propos des invitations permanentes aux rapporteurs spéciaux du Conseil des droits de l'homme. Il a révélé qu'une invitation a été adressée au Rapporteur spécial sur les droits des populations autochtones qui, pour des raisons de calendrier, n'a pas pu effectuer sa visite au Congo en 2008. Cette visite aura lieu en 2010.

77. Concernant la dépénalisation de l'infraction de l'homosexualité, le Congo a estimé qu'il s'agit d'un problème culturel dont les pesanteurs sociologiques sont si lourdes que le statu quo est encore observé en la matière.

78. Aux termes des réponses aux questions, le Congo a remercié toutes les délégations qui ont intervenu et a pris l'engagement d'approfondir l'examen des recommandations faites en vue de l'amélioration de la situation des droits de l'homme.

II. CONCLUSIONS AND/OR RECOMMENDATIONS

79. The recommendations formulated during the interactive dialogue have been examined by Congo and the recommendations listed below enjoy the support of Congo:

1. Sign and ratify the Optional Protocol to the Convention on the Right of the Child on the involvement of children in Armed Conflict (CRC-OP-AC) (France, Gabon); ratify both Protocols to the Convention on the Rights of the Child (CRC) (CRC-OP-AC and the Optional Protocol on the sale of children, child prostitution and child pornography, CRC-OP-SC) (Argentina, Slovenia);

2. Consider accelerating the ratification of all human rights treaties to which it is not yet party, particularly OP-ICESCR, ICCPR-OP2, OP-CEDAW, OP CAT, OP CRC-AC, and OP-CRC-SC (Slovenia); ratify OP CEDAW, as well as the Convention on the Prevention and Punishment of the Crime of Genocide, the Palermo Protocol and the optional protocols to CRC (Argentina); ratify the Convention on the protection of all persons against enforced and involuntary disappearances (Argentina); ratify the ICRMW, as well as the International Convention for the Protection of All Persons from Enforced Disappearance (Mexico); ratify OP CAT and establish a national preventive mechanism (Czech Republic, Benin);
3. Accede to ILO Convention N° 169 concerning Indigenous and Tribal Peoples in Independent Countries (Mexico);
4. Consider the appropriateness of taking measures to have the National Human Rights Commission accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (Algeria); enhance the mandate and capacity of the National Human Rights Commission and bring it into line with the Paris Principles (Germany); give appropriate mandate and financial resources to the National Human Rights Commission and the Office of the Mediator of the Republic (Spain); ensure that the National Human Rights Commission complies with the Paris Principles and that the institution seeks accreditation from the International Coordinating Committee (Belgium);
5. Support efforts aimed at protecting and enhancing human rights on the African continent, particularly through the African Commission on Human and Peoples' Rights (Sudan); continue efforts aimed at protecting and promoting human rights and fundamental freedoms (Egypt); continue efforts to improve the human rights situation (Chad); continue efforts in promoting the Congolese people's rights (Burkina Faso);
6. Specifically determine its needs in order to be able to seek international assistance in its endeavours (Egypt); define its priorities and determine its needs in order to support its request for technical assistance in the area of human rights (Democratic Republic of the Congo); seek assistance from the international community to take up the various challenges confronting it (Chad);
7. Cooperate closely with United Nations bodies and address the issue of overdue reports to CESC, the Human Rights Committee, CEDAW and CAT, among others (Germany);
8. Remain committed to promoting human rights and engage in a continuous and constructive dialogue with the leading human rights bodies and the international community (Equatorial Guinea);
9. Adopt all necessary measures to ensure the right to life and protect individuals (Argentina); prohibit torture in its domestic legislation in line with CAT and abolish the death penalty (Argentina); fully abolish the death penalty (Holy See);

abolish capital punishment (Azerbaijan); consider legally abolishing the death penalty as soon as possible (Slovenia); consider the complete abolition of capital punishment in its internal legislation (Italy);

10. Guarantee that each detainee effectively has the right to contest the legality of his or her arrest (Netherlands); end immediately the detention of those who are not held in detention centres as foreseen by article 341 of the Penal Code (Netherlands);
11. Ensure compliance with the provisions against torture laid down in the Penal Code and the prosecution of all perpetrators and establish a monitoring mechanism in order to verify this compliance (Germany);
12. Open inquiries, as soon as possible, into all allegations of torture and death in detention and prosecute and convict all those who have committed acts of torture in prisons or other places of detention (Canada); ensure effective investigation of and accountability for all cases of torture and death in detention (Czech Republic);
13. Ensure the independence of the judiciary and improve access to justice (Czech Republic);
14. Review conditions in all prisons and detention facilities with a view to ensuring their compliance with the Standard Minimum Rules for the Treatment of Prisoners, in particular to establish separate juvenile detention facilities (Czech Republic);
15. Take steps to ensure that prison conditions are independently monitored, perpetrators of acts of torture are duly prosecuted and detainees have the right to a fair trial (United Kingdom); take measures to ensure full compliance with the CAT and other international standards regarding the treatment of detainees (Sweden); pay special attention to the condition of persons in prisons and continue its capacity-building policy in the field of health care services (Djibouti); establish a programme to monitor places of detention and a human rights training programme for staff working in places of detention (Canada);
16. Consider non-custodial measures for offenders, particularly for women, as a means of reducing overcrowding in prisons and the pressure on reintegration efforts (Ghana);
17. Reinforce women's rights within the labour market (Brazil);
18. Adopt measures to combat attitudes and persistent stereotypes concerning the role and responsibilities of women in society (Mexico); increase its efforts, especially educational and public awareness measures, to improve the realization of women's rights (Azerbaijan);
19. Request the support of United Nations programmes and agencies to establish programmes and strategies for literacy and employment training in for women in

- order to improve their conditions and their participation in the development of the country (Algeria);
20. Take all appropriate measures to eliminate all forms of discriminations against women, in particular with respect to property, the sharing and inheritance of land and access to education, the labour market and political life (France); introduce legislation that eliminates discrimination in ownership, co-sharing and inheritance of land, protects victims of sexual violence, criminalizes marital rape and gives women equal rights in marriage and pre-marriage (Netherlands);
 21. Include provisions in domestic legislation to define discrimination against women and to eliminate all discrimination related to the possession, sharing, ownership and inheritance of land (Spain);
 22. Take additional measures to strengthen the fight against discrimination against women (Morocco); reinforce efforts to combat discrimination against women (Azerbaijan);
 23. Continue implementing measures to handle the problem of violence against women and combat impunity in this regard (Sweden); take further steps to address discrimination against women and vulnerable groups, including children, persons belonging to minorities and indigenous people (United Kingdom);
 24. Adopt laws prohibiting female genital mutilation and take focused measures to ensure that such practices are dropped as a result of broader awareness-raising campaigns (France); prohibit female genital mutilation (Netherlands); adopt legislation to prohibit female genital mutilation and measures to eradicate this practice, including campaigns to increase awareness of this issue (Spain);
 25. Adopt legislation prohibiting practices of violence affecting Congolese women in line with CEDAW and eradicate female genital mutilation (Argentina);
 26. Continue efforts undertaken for the protection and realization of the rights of the child, particularly regarding access to education (Algeria);
 27. Consider reviewing strategies aimed at the protection of children with a view to developing a comprehensive plan for the care of children and aligning them with the provisions of the CRC and all applicable international human rights instruments to which the Congo is a party (South Africa);
 28. Improve procedures aimed at raising the percentage of children registered at birth (Italy);
 29. Make further efforts to combat violence and sexual abuses against children for the effective realization of their rights (Burkina Faso);
 30. Adopt measures immediately and in line with international human rights standards to protect the rights of children and in particular to prohibit child labour

and prevent, criminalize and punish sexual exploitation and child trafficking (France);

31. Reinforce national legislation prohibiting trafficking in persons, in particular children (Angola); criminalize trafficking in children and sexual exploitation of children, in line with international standards, (Argentina);
32. Finalize and enact the draft law prohibiting all forms of trafficking and develop formal procedures for identifying trafficking victims among vulnerable populations such as females in prostitution, street children and Pygmies, and train police and social workers to implement these procedures (United States);
33. Continue efforts to combat all forms of discrimination which may victimize vulnerable groups such as indigenous peoples and the disabled (Djibouti);
34. Allow for greater freedom of expression for members of the press in advance of the elections, including political reporting, granting equal media access to and coverage of opposition candidates (United States); take all measures to ensure that the forthcoming elections are peaceful, free and fair and occur in a climate free of intimidation and where the right of assembly is fully respected (United Kingdom);
35. Encourage civic participation, including of civil society in the electoral process (United States);
36. Guarantee the right to receive, seek and impart information and ideas in compliance with article 19 of ICCPR (Italy);
37. Adopt measures, together with non-governmental organizations and anti-corruption groups, with a view to combating corruption, particularly within the judicial system, in order to promote the respect of human rights (Canada);
38. Continue to invest in education, giving special attention to women and girls (Holy See);
39. Continue efforts to promote and facilitate school attendance, in particular among children from economically disadvantaged families, and to ensure non-discrimination within the school environment (Angola);
40. Incorporate instruction on human rights in school curricula (Azerbaijan);
41. Further invest in obstetric clinics and in the formation of skilled birth attendants (Holy See);
42. Continue its efforts in the area of the promotion of gender equality and of the health of the mother and the girl child (Tunisia);
43. Improve efforts aimed at increasing access to safe drinking water and reducing cases of infectious diseases (Japan);

44. Continue efforts for the protection of the rights of people affected by HIV/AIDS, including through the approval of the bill prepared by the Government for the protection of persons living with HIV/AIDS, which is now under consideration by the Council of Ministers (Cuba);
 45. Strengthen its efforts to address unequal access to the labour market and educational opportunities (Japan);
 46. Continue efforts with a view to fully tackling the problem of discrimination against minority groups (Sweden);
 47. Fulfil its obligations in the field of human rights and step up its efforts with respect to the rights of people from vulnerable groups, including persons in detention, women and children (Belgium);
 48. Prepare and adopt national legislation establishing an effective asylum procedure and ensuring protection of all human rights of asylum-seekers (Czech Republic);
 49. Approve in the shortest period of time the new law regarding indigenous peoples with the aim of safeguarding minority rights, specifically those of the Pygmies (Italy); continue strengthening its institutional reform in the field of human rights and, in particular, encourage rapid consideration of the bill for the promotion and protection of the rights of indigenous populations (Côte d'Ivoire); continue its efforts to assist indigenous communities, including the Pygmies, who share the same culture as those living in the Central African Republic (Central African Republic); streamline and fine-tune policies to improve indigenous people's rights (Angola);
 50. Continue to resist attempts to enforce any values or standards beyond the universally agreed base, through the exercise of its sovereign right to implement its laws and legislation in conformity with those values and standards (Egypt);
 51. Accomplish progressively human rights goals as set forth in Human Rights Council resolution 9/12 (Brazil).
80. The following recommendation will be examined by the Congo which will provide responses in due time. The response of the Congo to this recommendation will be included in the outcome report to be adopted by the Human Rights Council at its twelfth session:
- Finalize its plan to elaborate a national law on assistance and protection of IDPs (Democratic Republic of the Congo).
81. The recommendations noted in the present report at paragraphs 23 (g), 26 (f), 27 (d), 54 (b), 58 (a), 59 (b), 59 (g), 63 (c) and 67 above did not enjoy the support of Congo.
82. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and /or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

Annex

COMPOSITION OF THE DELEGATION

The delegation of Congo was headed by Monsieur Jean-Martin MBEMBA, Ministre d'Etat, Ministre de la Fonction Publique et de la Réforme de l'Etat and composed of 19 members:

Monsieur Jean-Martin MBEMBA, Ministre d'Etat, Ministre de la Fonction Publique et de la Réforme de l'Etat ;

M. Paul MBOT, Ministre de l'Ordre Public et de la Sécurité;

Mme Rosalie KAMA NIAMAYOUA, Ministre de l'Enseignement Fondamental et Secondaire, Chargé de l'Alphabétisation ;

M. Luc-Joseph OKIO, Ambassadeur Extraordinaire, Représentant Permanent de la République du Congo auprès de l'Office des Nations Unies à Genève et des autres Organisations Internationales en Suisse ;

M. Michel MVOUO, Premier Avocat Général près la Cour Suprême ;

M. Cyrille LOUYA, Directeur de la Coopération au Ministère de la Justice et des droits humains ;

M. Martin MAFOUMBA, Directeur de la Promotion et de la Protection des libertés fondamentales du Ministère de la Justice ;

M. Jean-Baptiste DIAMOUNZO KIONGA, Attaché Administratif à la Présidence de la République ;

M. Thierry GOMBET, Premier Vice- Président par intérim de la Commission nationale des droits de l'homme ;

M. Maurice MASSENGO TIASSE, Deuxième Vice- Président de la Commission nationale des Droits de l'Homme ;

M. Etienne MOKONDJI-MOBE, Trésorier à la Commission des droits de l'homme ;

M. Jean-Marcellin MEGOT, Premier Conseiller à la Mission Permanente du Congo à Genève ;

M. MASSAMBA, Conseiller à la Mission Permanente du Congo à Genève ;

M. Placide MOUDOUDOU, Conseiller Administratif et juridique du Ministre de l'Ordre Public ;

M. Guillaume BOUKOUTOU, Conseiller à l'Ordre public du Ministère de l'Ordre Public.
