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**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1***

Congo

* The present document was not edited before being sent to the United Nations translation services.

Introduction

1. This report has been submitted in accordance with Human Rights Council resolution 5/1 of 18 June 2007. The Council was established pursuant to General Assembly resolution 60/251 of 15 March 2006, and under the terms of that instrument, it is to undertake a universal periodic review of the fulfilment by the 192 Member States of the United Nations of their human rights obligations and commitments.
2. Through the present document, the Republic of the Congo is fulfilling its obligation to submit its national report under the universal periodic review according to the timetable adopted by the Human Rights Council at its sixth session, on 21 September 2007. To draft this report, a national commission was set up, comprising representatives of the following institutions, organizations and other entities involved in issues relating to human rights: the Office of the President, the Office of the Prime Minister, other ministers, the Mediator (Ombudsman) of the Republic, the National Human Rights Commission, the High Council for Freedom of Expression, the Economic and Social Council, Parliament and human rights bodies. Prior to the drafting of this report, work was done by a compilation committee to collect information, and group discussions and reviews took place. The work was then given to a drafting committee, which submitted the draft report to various individuals during a review workshop.
3. In this report, the Republic of the Congo summarizes the major achievements, difficulties and prospects for the implementation of international, regional and subregional legal instruments for the promotion and protection of human rights.

I. OVERVIEW

4. The Republic of the Congo attained sovereignty on 15 August 1960. It has been a member of the United Nations since 20 September 1960.
5. The Congo is in central Africa and has an area of 342,000 km², with an estimated population of 3,695,579. The country extends 1,200 km from north to south and nearly 400 km from east to west. It borders on the Central African Republic and Cameroon to the north, Angola and the Democratic Republic of the Congo to the south, the Atlantic Ocean to the south-west, the Congo River and its tributary the Oubangui River to the east and Gabon to the west. Sixty per cent of the Congo, which straddles the equator, is covered by dense forest.
6. In 1990, following the La Baule Summit, Congo reverted to a multiparty democratic system. Today it is governed under a presidential system based on the principle of separation of powers. The Republic of the Congo is divided into 12 administrative departments: Kouilou, Niari, Bouenza, Lekoumou, Pool, Plateaux, central Cuvette, west Cuvette, Sangha, Likouala, Brazzaville and Pointe-Noire.
7. The Congolese economy relies primarily on the production of oil and timber, but in addition to those, the Congo abounds in other resources such as potassium, iron, diamonds, gold, limestone, etc. The country's per capita GDP was US\$ 1,262 in 2007. The growth rate is currently 9 per cent.
8. The population growth rate is 7 per cent, according to estimates of the Bank of Central African States. Average life expectancy is 49 years. The infant mortality rate is 75 per 1,000 live births and the maternal mortality rate is 781 per 100,000 live births. The HIV/AIDS prevalence rate is 5.3 per cent for people aged 15 to 43.
9. The gross school enrolment rate is 51.4 per cent.

10. In the aftermath of armed conflicts, it became necessary to return to the rule of law, under which human rights and fundamental freedoms, the dignity of the human person and justice might flourish. This concern was clearly voiced by the President of the Republic of the Congo upon his investiture in 2002, and this political will has been manifested in Congo's adherence to international, regional and subregional instruments.

II. LEGAL FRAMEWORK FOR THE EXERCISE OF HUMAN RIGHTS

11. In order to ensure the promotion and protection of human rights, the Congo has ratified international, regional and subregional instruments and has adopted a veritable arsenal of domestic legal instruments.

A. Ratification of international legal instruments

12. The table below gives an overview of the main international instruments ratified by the Republic of the Congo.

<i>Instruments</i>	<i>Date of ratification or accession</i>
ILO Weekly Rest (Industry) Convention, 1921 (No. 14)	10 November 1960
ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)	10 November 1960
ILO Guarding of Machinery Convention, 1963 (No. 119)	23 November 1964
Convention relating to the Status of Refugees	1967
Geneva Conventions of 1949	4 February 1967
OUA Convention Governing the Specific Aspects of Refugee Problems in Africa	1969
Protocol relating to the Status of Refugees	10 July 1970
ILO Convention concerning Night Work of Women, 1948 (No. 89)	4 June 1971
Biological Weapons Convention	13 October 1978
ILO Occupational Safety and Health Convention (No. 155)	1981
Convention on the Elimination of All Forms of Discrimination against Women	25 August 1982
International Covenant on Economic, Social and Cultural Rights	5 January 1984
International Covenant on Civil and Political Rights	5 January 1984
Optional Protocol to the International Covenant on Civil and Political Rights	5 October 1985
ILO Convention concerning Employment and Conditions of Work and Life of Nursing Personnel (No. 149)	24 June 1986
ILO Convention concerning Occupational Safety and Health in Dock Work (No. 152)	24 June 1986
ILO Older Workers Recommendation (No. 162)	1985
International Convention on the Elimination of All Forms of Racial Discrimination	10 August 1988
Convention on the Rights of the Child	13 November 1993
ILO Convention concerning Labour Inspection in Industry and Commerce (No. 81)	26 November 1999
ILO Right to Organize and Collective Bargaining Convention (No. 98)	26 November 1999
ILO Equal Remuneration Convention (No. 100)	26 November 1999
ILO Abolition of Forced Labour Convention (No. 105)	26 November 1999
ILO Discrimination (Employment and Occupation) Convention (No. 111)	26 November 1999
ILO Minimum Age (for Admission to Employment) Convention (No. 138)	26 November 1999
ILO Tripartite Consultation (International Labour Standards) Convention (No. 144)	26 November 1999
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	29 September 2009
African Charter on the Rights and Welfare of the Child	31 May 2006
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	31 May 2006
Protocol Relating to the Establishment of the Peace and Security Council of the African Union	11 February 2004
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	29 August 2003

<i>Instruments</i>	<i>Date of ratification or accession</i>
Rome Statute of the International Criminal Court	3 May 2004
Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	4 May 2001
Ottawa Treaty on Anti-Personnel Mines	4 May 2001
ILO Merchant Shipping (Minimum Standards) Convention and Protocol (No. 147)	2001
ILO Worst Forms of Child Labour Convention, 1999 (No. 182)	23 August 2002
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	29 September 2008
Protocol Relating to the Establishment of the Peace and Security Council of the African Union	11 February 2004
Rome Statute of the International Criminal Court	3 May 2004
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	6 May 2006
African Charter on the Rights and Welfare of the Child	31 May 2006
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	31 May 2006
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	29 September 2008

B. Domestic legislation

1. The Constitution

13. In its preamble, the Constitution of 20 January 2002 states:

“[We] declare as an integral part of the present Constitution the principles proclaimed and guaranteed by:

the 1945 Charter of the United Nations;

the 1948 Universal Declaration of Human Rights;

the 1981 African Charter of the Rights of Man and Peoples;

and all duly ratified pertinent international texts, relative to the Right of Man;

the Charter of National Unity, and the Charter of Rights and Freedoms adopted by the Sovereign National Conference on 29 May 1991.”

2. Legislation and regulations

14. Legislative and regulatory measures transpose into the domestic legal regime the various international human rights accords and treaties to which the Congo is a party. In this context, we may cite the following legislative measures:

Act No. 60-18 of 16 January 1960 on moral protection for Congolese youth;

Act No. 35-61 of 20 June 1961 (Congolese Nationality Code);

Order No. 62-6 of 28 July 1962 prohibiting any action that might identify an individual on the basis of ethnic origin;

Act No. 1-63 of 13 January 1963 (Code of Criminal Procedure);

- Act No. 18/64 of 13 July 1964 on prevention of the unlawful removal from the Congo of a child born to a Congolese mother and a foreign father;
- Act No. 15/66 of 22 June 1966, amending Act No. 19/64 of 13 July 1964 on protection of minor schoolchildren;
- Act No. 45-75 of 15 March 1975 (Labour Code of the People's Republic of the Congo);
- Act No. 51-83 of 21 April 1981 (Code of Civil, Commercial, Administrative and Financial Procedure);
- Act No. 73/84 of 17 October 1984 (Family Code);
- Act No. 1/84 of 20 January 1984 on reorganization of legal aid;
- Act No. 4/86 of 25 February 1986 (Social Security Code of the People's Republic of the Congo);
- Act No. 9/88 of 23 March 1998 (Code of Professional Conduct for Health and Social Workers);
- Act No. 21/89 of 14 November 1989 amending the General Civil Service Statute;
- Act No. 3/91 of 23 April 1991 on environmental protection;
- Act No. 9/92 of 22 April 1992 on the status, protection and advancement of disabled persons;
- Act No. 2-93 of 30 September 1993, amending article 30 of Act No. 35-61 of 20 June 1961 (Congolese Nationality Code);
- Act No. 25-95 of 17 November 1995, amending Act No. 8/90 of 6 September 1990 and reorganizing the educational system in the Republic of the Congo;
- Act No. 6-96 of 6 March 1996, amending and supplementing certain provisions of Act No. 45/75 of 15 March 1975 (Labour Code of the People's Republic of the Congo);
- Act No. 8-98 of 31 October 1998, defining and punishing genocide and crimes against humanity;
- Act No. 9-1998 of 31 October 1998 on the establishment, responsibilities and functioning of the Mediator (Ombudsman);
- Act No. 1-1999 of 8 January 1999 on the responsibilities, organization and functioning of the High Court of Justice;
- Act No. 12-2000 of 31 July 2000 on the establishment of a national fund for the promotion and development of physical activities and sports;
- Act No. 10-2000 of 31 July 2000 on the establishment of a youth support fund;
- Act No. 9-2000 of 31 July 2000 on youth orientation;
- Act No. 8-2001 of 12 November 2001 on freedom of information and communication;

Act No. 4-2003 of 18 January 2003 on the missions, organization, composition and functioning of the High Council on Freedom of Communication;

Act No. 1-2003 of 17 January 2003 on the organization and functioning of the Constitutional Court;

Act No. 2-2003 of 17 January 2003 on the organization, composition and functioning of the Economic and Social Council;

Act No. 5-2003 of 18 January 2003 on the responsibilities, organization and functioning of the National Human Rights Commission;

Act No. 13-2005 of 14 September 2005 authorizing the ratification of the United Nations Convention against Corruption;

Act No. 14-2005 of 14 September 2005 authorizing the ratification of the African Union Convention on Preventing and Combating Corruption;

Act No. 21-2006 of 21 August 2006 on political parties;

Act No. 22-2006 of 12 September 2006 authorizing the ratification of the Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal;

Act No. 23-2006 of 12 September 2006 authorizing the ratification of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;

Act No. 24-2006 of 12 September 2006 authorizing the ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Change;

Act No. 25-2006 of 14 September 2006 authorizing approval of the amendment to the Basel Convention;

Act No. 30-2006 of 5 October 2006 authorizing the ratification of the Stockholm Convention on Persistent Organic Pollutants;

Act No. 16-2007 of 19 September 2007 on the establishment of an anti-corruption observatory;

Decree No. 60-93 prohibiting children under 16 years of age from frequenting or visiting public places between 8 p.m. and 5 a.m.;

Decree No. 60-94 of 3 March 1994 regulating the admission of minors under 16 years of age to cinemas and theatres;

Decree No. 60-95 of 3 March 1995 regulating admission of minors under 16 years of age to dance halls and places selling alcoholic beverages;

Decree No. 61-178 of 29 July 1961 establishing the modalities for application of the nationality code;

Decree No. 96-221 of 13 May 1996 regulating private education;

Decree No. 99-281 of 31 December 1999 correcting Decree No. 96-221 of 13 May 1996 regulating private education;

Decree No. 2001-529 of 31 October 2001 on the issuance free of charge of civil status certificates;

Decree No. 2004-323 of 8 July 2004 on the establishment, responsibilities and composition of the National Commission to Combat Corruption, Extortion and Fraud;

Decree No. 2007-155 of 13 February 2007 reorganizing the National Commission to Combat Corruption, Extortion and Fraud;

Decree No. 2008-127 of 23 June 2008 on the establishment, responsibilities, organization and functioning of commissions for the accreditation of private educational facilities;

Decree No. 2008-128 of 23 June 2008 instituting treatment free of charge for persons suffering from malaria or tuberculosis and persons living with HIV/AIDS;

Decree No. 2004-8 of 2 February 2004 on the responsibilities and organization of the Department of Human Rights and Fundamental Freedoms;

Order No. 5907/MSPAS/DAS of 30 December 1972 authorizing the opening of a centre for deaf and speech-impaired persons as part of the charitable activities of the Catholic Relief Services;

Order No. 8281/MATD-CAB of 13 December 2007 setting minimum quotas for women candidates in local elections.

III. MECHANISMS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. Judicial institutions

15. The effective promotion of human rights is one of the continuing concerns of the Government of the Republic of the Congo.

16. Oversight machinery has been put in place in the form of judicial institutions comprising tribunals and courts on the one hand and the Constitutional Court on the other.

17. With a view to promoting fundamental freedoms, the judicial institutions accord all citizens equal access to justice. Article 2 of Act No. 19-99 of 15 August 1999 amending and supplementing certain provisions of Act No. 22-92 of 20 August 1992 on the organization of the judiciary states that: "All Congolese citizens are equal before the law and the courts. They may act and defend themselves orally or in writing before all the courts of law, with the exception of the Supreme Court." The most impoverished citizens receive legal aid from the State.

18. In the main town of each administrative department, a regional court is to be found; nationwide, there are four appeals courts and one Supreme Court.

19. Since 25 June 2008, more regional courts and appeals courts have been established, in order to bring the judicial system closer to the public. Regional courts were set up in Kindamba, Oyo and

Mossaka by Acts Nos. 13, 14 and 15-2008, for example. Other examples are Act No. 12-2008 establishing a court of appeals in Ouessou and Acts Nos. 20 and 21-2008 modifying the courts of appeals in Brazzaville and Owando. These courts will undoubtedly begin functioning soon.

20. Title VIII, article 136, of the Constitution of 20 January 2002, on the judiciary, states that the Judiciary is independent of the Executive and Legislature. Judges, in exercising their functions, are to be guided solely by the authority of the law.

21. The Constitutional Court is the highest State court in respect of constitutional matters. It rules on the constitutionality of legislation and protects fundamental human rights and civil liberties.

22. The High Court of Justice has jurisdiction to try members of Parliament and of the Government for acts characterized as crimes or offences committed in the performance of their duties and also to try their accomplices in cases of treasonable conspiracy. It likewise has jurisdiction to try the President in the event of high treason.

B. National institutions

23. A number of State institutions work to ensure respect for human rights in the Republic of the Congo. They are the following:

The Mediator (Ombudsman) of the Republic;

The National Human Rights Commission;

The Ministry of Justice and Human Rights;

The Ministry for the Advancement of Women and the Integration of Women into Development;

The High Council on Freedom of Communication;

The Ministry of Social Affairs and the Family;

The Economic and Social Council.

24. In the Republic of the Congo, non-governmental organizations active in the field of human rights ensure respect for civil and political rights as well as economic, social and cultural rights.

25. Trade unions also play an important role in the Congo in terms of respect for economic, social and cultural rights. They are proof of respect for the right to trade union freedom and the right to freedom of association.

IV. PROMOTION AND PROTECTION OF HUMAN RIGHTS: OBSERVANCE OF INTERNATIONAL COMMITMENTS

26. The Republic of the Congo's political will for the promotion and protection of human rights is manifested in its application of the principles set out in the major international human rights instruments.

A. Implementation of civil and political rights

1. The principle of non-discrimination

27. Article 8 of the Constitution of 20 January 2002 states: “All citizens are equal before the law. Any discrimination based on origin, social or material situation, racial, ethnic or departmental origin, gender, education, language, religion, philosophy or place of residence is prohibited”, subject to the provisions of articles 58 and 96. “Women have the same rights as men. The law guarantees and ensures their advancement and their representation in all political, elective and administrative functions.”

28. Article 25, paragraph 1, of the Charter of Rights and Freedoms adopted by the Sovereign National Conference on 29 July 1991 governs the particular situation of a Congolese child: “Every child, without discrimination with regard to race, colour, gender, religion, national or social origin, wealth or birth, has the right to be protected by his family, society and the State in accordance with his needs as a child.”

2. The right to equality

29. On this subject, article 8, paragraph 1, of the Constitution of 20 January 2002 states: “All citizens are equal before the law.”

30. The right to equality is also mentioned in article 1 of the Charter of National Unity: “All human beings are born free and have equal rights. They have the right to the same dignity and equal protection before the law, without distinction.”

3. The right to respect for life and protection of the human person

31. Article 7 of the Constitution of 20 January 2002 states: “The human person is sacred and has the right to life. The State has an absolute obligation to respect and protect the human person”

32. Article 2 of the Charter of Rights and Freedoms says on this subject: “Every individual has the right to life, liberty and physical and moral integrity”. The following is stated in article 3: “The human person is sacred. The State and individuals have the obligation to protect and preserve the human person. Abortion, other than therapeutic, is prohibited and punishable by law.” The death penalty has not been carried out since 1979.

4. The principle of the right to liberty

33. The Constitution of 20 January 2002 is very firm on this principle; it states, inter alia:

Article 9: “The liberty of the human person is inviolable.”

Article 16: “Every citizen has the right to circulate freely in the national territory. He has the right to leave the national territory freely, providing he is not the subject of judicial proceedings, and to return thereto.”

Article 18: “Freedom of belief and conscience are inviolable.”

Article 19: “Freedom of the press and freedom of information shall be guaranteed.”

Article 21: “The State shall recognize, under conditions fixed by law, freedom of movement, of association, of assembly, of procession and of demonstration.”

34. Article 11 of the Charter of Rights and Freedoms states: “The freedom of the human person is inviolable. Every individual has the right to freedom of thought, conscience and irreligion.”

35. The Congo is indisputably making efforts to ensure respect for these freedoms.

(a) Freedom of thought, conscience and religion

36. The case of freedom of religion is quite instructive. In the past 10 years there has been a flowering of Evangelical churches in the Republic of the Congo. These churches carry out their activities entirely undisturbed.

(b) Freedom of the press

37. Similarly, freedom of the press is guaranteed by the Constitution, article 9 of which states:

“Every citizen shall have the right to freely express and diffuse his opinion by speech, by writing, by image and by all other means of communication. Freedom of the press and freedom of information shall be guaranteed. Censure shall be prohibited. Access to sources of information shall be free. Every citizen shall have the right to information and communication. Activities relative to these domains shall be exercised in total independence in respect of the law.”

38. Act No. 15-2001 of 31 December 2001 guarantees pluralism in the public audio-visual media.

39. Following the forum on information and communication held in Brazzaville from 10 April to 19 May 1992, a charter for information and communication professionals was drawn up.

40. In order to facilitate the development of the press, a High Council for Freedom of Expression was established by Institutional Act No. 4-2003 of 18 January 2003.

41. Today, to the Congo’s credit, there are no journalists being held in prison for thought-crimes.

(c) Freedom of association

42. Since the rise of a multiparty system in the Republic of the Congo, numerous political parties, various types of associations and organizations with a variety of goals have come into being. They carry out their activities freely.

43. In this context, article 21 of the Constitution of 20 January 2002 states: “The State shall recognize and guarantee, under conditions fixed by law, freedom of movement, of association, of assembly, of procession and of demonstration.”

(d) Freedom of assembly

44. This right is guaranteed by article 21 of the Constitution and article 15 of the Charter of Rights and Freedoms.

45. Such openness nevertheless requires certain restrictions, particularly when the assembly might be the cause of riots or social unrest.

5. The right to a fair trial

46. In the Congo, this right is guaranteed by article 9 of the Constitution of 20 January 2002: “No one shall be arbitrarily accused, detained or imprisoned. All accused persons are presumed innocent until proven guilty following proceedings in which their right to a defence is guaranteed.”

47. Article 9 (b) of the Charter of Rights and Freedoms proclaims “The right to be presumed innocent, until proven guilty”; subparagraph (c): “The right to a defence, including the right to be assisted by counsel of one’s choice”; subparagraph (d): “The right to be judged by an impartial tribunal, in accordance with the law, within a reasonable time period, as far as possible specified in the legislation in force.”

6. The right to participate in the management of public affairs

48. In the Republic of the Congo, since the holding of the Sovereign National Conference, all citizens who meet the requirements established by the texts in force may vote, stand for election and participate in the management of public affairs.

49. This right is guaranteed in article 22 of the Charter of Rights and Freedoms:

“Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. Every citizen has the right of equal access to public service in his country. The will of the people shall be the basis of the authority of government. This will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”

50. This right has also been granted to political exiles who left the country after the war of 1997. Some of them, having returned to the country after being amnestied, were elected to office during the legislative elections of 2007.

51. On 10 December 2001, the National Transition Council, which was serving as the Parliament of the Republic of the Congo in the aftermath of the war, adopted Act No. 9-2001 (Electoral Law). It sets the conditions for the exercise of the right to vote and for the organization of referendums and elections. In addition, it specifies the various types of voting procedures.

52. The electoral law covers only the following elections:

Referendums;

Election of the President of the Republic;

Election of deputies to the National Assembly;

Election of members of administrative department and communal councils;

Election of senators.

53. The organization of elections is the responsibility of the National Electoral Organization Commission. Article 18 of the Electoral Law states: “The National Electoral Organization Commission shall be made up of representatives of the State, political parties and civil society.”

54. Similarly, article 23 states: “In each administrative district, a local electoral organization commission shall be established. The local commissions shall be made up of representatives of the State, political parties and civil society.”

55. In conformity with article 19 of the Constitution of 20 January 2002, on freedom of expression, the Electoral Law has provided as follows: “During electoral campaigns, publicity spots for candidates on State radio and television stations shall be authorized.”

56. Magistrates, law enforcement officers, administrators and mayors, prefects and sub-prefects, general secretaries of local administrative bodies and members of the National Electoral Organization Commission may not be candidates in any electoral district during their terms of office.

57. Disputes relating to local electoral campaigns and elections are adjudicated by the regional courts, while disputes relating to presidential and legislative elections are adjudicated by the Constitutional Court.

B. Implementation of economic, social and cultural rights

1. The right to work and security

58. Article 24 of the Constitution guarantees the right to work as follows: “The State recognizes the right of all citizens to work and must create the conditions that make the enjoyment of this right effective.”

59. Article 26 in its entirety: “No one may be subjected to forced labour, except under a prison sentence handed down by a legally established court. No one may be subjected to slavery.”

60. Some implementing legislation on the Constitution, such as Act No. 6/96 of 6 March 1996 amending and supplementing some provisions of Act No. 45/75 of 15 March 1975 on the Labour Code in the People’s Republic of the Congo, covers certain work-related aspects. For example, new article 4 provides that “forced or compulsory labour is absolutely prohibited ...”.

2. The right to enjoy good physical and mental health

61. Article 30 of the Constitution of 20 January 2002 provides: “The State shall be responsible for public health. Elderly and disabled persons have the right to protective measures in line with their physical, mental and other needs, with a view to their full personal development. The right to establish private socio-medical centres, governed by the law, is guaranteed.”

62. Although the Constitution referred specifically to vulnerable social sectors, the Charter of Rights and Freedoms of 21 June 1991 was much broader in its coverage, as in article 32: “Everyone has the right to enjoy the highest attainable standard of physical and mental health. The State shall take the necessary steps to ensure:

- (a) The reduction of maternal and infant mortality and the healthy development of the child;
- (b) The improvement of all aspects of environmental and industrial hygiene;
- (c) The prevention, treatment and control of epidemic, communicable, endemic, occupational and other diseases;

(d) The creation of conditions under which all may have access to medical services and medical care in the event of sickness;

(e) The improvement of the quality of life and of the natural environment.”

63. In the Republic of the Congo, special emphasis is placed on combating the HIV/AIDS pandemic.

64. Units for combating AIDS, local branches of the National Programme for AIDS Control, have been set up in all ministerial departments. Their priority is to disseminate within public institutions information about means of prevention and protection.

65. The target for HIV/AIDS prevention is the adoption by 80 per cent of boys and girls aged 10 to 24 years of a safe approach to sexual relations.

66. The expected outcomes of the project for prevention of mother-to-child transmission of HIV/AIDS are a 20 per cent reduction in the figures for seropositive newborns and better access to counselling - voluntary screening of all women who undergo prenatal medical checks and medical, nutritional and psychosocial care for seropositive children. The Government has elaborated draft legislation, now awaiting adoption by the Council of Ministers, on protection of persons living with HIV/AIDS.

67. Decree No. 2008-128 of 23 June 2008 instituted treatment free of charge for persons suffering from malaria or tuberculosis and persons living with HIV/AIDS. This free treatment has prolonged the life expectancy of seropositive people.

68. As to the situation of children, young people aged 10 to 14 and women of childbearing age, a programme consisting of two projects supported by the United Nations Children's Fund (UNICEF) has been set up, concerning the prevention of HIV/AIDS in young people and of mother-to-child HIV/AIDS transmission.

69. In support of the constitutional provisions, texts have been elaborated to promote better management in the health field. This is the situation with Decree No. 96-525 of 31 December 1996 on the definition, classification and management of health-care training in the Republic of the Congo.

70. The right to establish private socio-medical institutions is guaranteed by article 30 of the Constitution. Decree No. 3092/MSP/MEFB of 9 July 2003 sets the terms for the construction and opening of private medical centres.

71. In general terms, these are clinics, socio-medical centres, medical practices and treatment centres, 8.8 per cent being located in various administrative departments, while 64.9 per cent and 20.3 per cent of the total are in Brazzaville and Pointe-Noire, respectively.

72. Actions to combat diarrhoeal diseases, reproductive problems and the principal endemic diseases are the subject of specific programmes with technical support from bilateral and multilateral cooperation agencies (the International Development Institute, the World Health Organization (WHO), UNICEF and the German Agency for Technical Cooperation (GTZ)).

73. In the Congo there are also so-called support structures for the training of health-care personnel (the Faculty of Health Sciences at Marien Ngouabi University and the paramedical schools in Brazzaville, Pointe-Noire, Dolisie and Owando).

3. The right to education and culture

74. The right to education is guaranteed by article 23 of the Constitution.

75. The educational system is regulated by Act No. 25-95 of 17 November 1995 modifying Education Act No. 8/90 of 6 September 1990 and reorganizing the educational system in the Congo. Education is provided free of charge in public schools.

76. In order to improve the quality of education, particularly basic skills acquisition, a Ministry of Technical and Vocational Education was established in the Republic of the Congo by Decree No. 2003-154 of 4 August 2003.

77. Private education in the Congo is governed by Decrees Nos. 99-281 of 31 December 1999 and 2004-327 of 16 July 2004 regulating the dispensation of private education. In addition, there is Decree No. 2008-127 of 23 June 2008 on the establishment, responsibilities, organization and functioning of commissions for the accreditation of private educational facilities.

78. With a view to promoting basic education, the Congo has resumed the programme for furnishing public primary schools with teaching materials.

79. The right to culture is guaranteed by article 22 of the Constitution, which states that: “The right to culture and to respect for the cultural identity of every citizen is guaranteed.” However, “this right shall be exercised without detriment to public order, other people or national unity”.

4. The right to protection of the family

80. This principle is set out in the following articles of the Constitution of 20 January 2002:

Article 31: “It shall be obligatory for the State to assist the family in its mission as the guardian of the morals and values compatible with the republican system. The rights of the mother and child shall be guaranteed.”

Article 32: “Marriage and the family shall be under the protection of the State. All children, whether born in or outside wedlock, shall have the same rights and duties vis-à-vis their parents. They shall enjoy protection under the law. Parents shall have obligations and rights vis-à-vis their children, whether born in or outside wedlock. The law shall establish the legal conditions relating to marriage and the family.”

Article 33: “Every child shall have, without any discrimination whatsoever, the right to such measures of protection on the part of his family, society and the State as are required by his status.”

5. The situation of vulnerable population groups and minorities

(a) Children

81. Congolese legislation accords special attention to vulnerable population groups, particularly children. Over the years, changes have been made with regard to perceptions of the protection of children. From 1960 to 1977, protection of children was based on medical, social and psychological elements. This explains why the relevant institution was within the Ministry for Health and Social Affairs.

82. The creation, by Decree No. 77/571 of 11 November 1977, of the Department of Supervised Education conferred legal and judicial status on the system for the protection of children during the period 1977 to 1998. This institution concerned itself exclusively with juvenile delinquents and children in moral danger.

83. The current Department for Legal Protection of Children was set up under the Ministry of Justice and Human Rights by Decree No. 99/85 of 19 May 1999. Its scope of activities is much broader than that of the previous departments. It is now in charge of juvenile delinquents, children in moral danger and children in physical danger.

84. The system of justice for minors is marked by two basic legal texts: The Family Code (for children in moral danger) and the Code of Criminal Procedure (for juvenile delinquents).

85. Title X, chapter 1, of the Family Code governs the relations between parents and their offspring. When the functioning of the rights and duties attributed to the parents is jeopardized, the system of justice for minors comes into play through educational assistance. This approach is used only if social action fails or by referral or order of the juvenile judge.

Juvenile courts

(a) The juvenile judge

86. He has jurisdiction to order educational assistance measures. Section II, title X, article 328 of the Family Code states: “When the health, safety, morality or education of a minor are jeopardized or insufficiently protected owing to the immoral behaviour or disability of the father and mother or of the person accorded the right of guardianship, or when, owing to misconduct or unruly behaviour, a minor gives these individuals cause for very serious dissatisfaction or renders them incapable of exercising guidance, the juvenile judge may on his own initiative, at the behest of the public prosecutor or at the behest of the father, mother or guardian, rule that the minor shall, for a period not to extend beyond the date of his coming of age, be visited regularly by a social worker or placed on probation.”

87. The juvenile judge is also competent to adjudicate only the least serious cases by ordering, for example, educational assistance measures on behalf of juveniles accused of committing minor offences. These measures may consist of social investigation, warning, return to parents or guardian, probation or placement in an institution.

(b) The juvenile court

88. This court adjudicates cases of a certain gravity. It is composed of the juvenile court judge, the president and two other judges. They are chosen for their competence and for their interest in issues affecting children.

89. The court may take decisions on the minor’s return to parents, warning, probation, placement in an institution or incarceration.

(c) The juvenile criminal court

90. It is competent to adjudicate cases involving minors of at least 16 years of age who are charged with a crime. It is made up of the president of the appeals court or a judge appointed by him or her, two other judges, one of whom is a juvenile court judge, and a six-member jury.

(d) The Department for Legal Protection of Children

91. It is responsible for applying legislation on the protection of children and for carrying out studies to facilitate the elaboration of legislation on the prevention of juvenile delinquency and protection of children. It also takes responsibility for the rehabilitation of juvenile delinquents and minors whose morality is endangered with a view to their integration into society and for administering the public institutions that specialize in the protection of children. In addition, it supervises the functioning of auxiliary services for children.

92. The Department for Legal Protection of Children has two decentralized branches:

The Section for Non-Formal Educational and Probationary Activities, with facilities in Brazzaville, Pointe-Noire and Dolisie;

The Brazzaville Observation Section, on which renovation work is almost finished.

(b) Women

93. The situation of Congolese women has improved over the years thanks to the creation of the Ministry for the Advancement of Women and the Integration of Women into Development. A centre for research, information and documentation on women was established by Decree No. 99-289 of 31 December 1999. This public institution, under the Ministry for the Advancement of Women and the Integration of Women into Development, serves as a place for meetings, information exchange, education, training and communication on all issues concerning Congolese women and women residing in the Congo. The Congo has a national policy for the advancement of women together with a plan of action, updated through December 2009.

94. Many international organizations and NGOs assist the Government of the Congo in carrying out projects for women's emancipation, social welfare and involvement in the management of public affairs. The table below gives an idea of the positions held by Congolese women.

<i>Institutions/Courts</i>	<i>Posts occupied</i>
Ministerial departments	Minister for Small and Medium-Sized Enterprises
	Minister of Trade, Consumer Affairs and Supplies
	Minister of Health, Social Affairs and the Family
	Minister for Primary and Secondary Education, responsible for Literacy
	Minister for the Advancement of Women and the Integration of Women into Development
Parliament	First Secretary of the Senate
	Second Secretary of the National Assembly
Supreme Court	Judge
	Judge and President of the OHADA (Organization for the Harmonization of Business Law in Africa) Commission
	Judge
Accounts Court	Vice-President
	Judge
Appeals Court	President of the Appeals Court (Pointe-Noire)
	President of the second criminal division
	President of the second civil division
	President of the first criminal division
	President of the indictments division
	Investigating judge

<i>Institutions/Courts</i>	<i>Posts occupied</i>
Other courts	President of the labour court
	President of the juvenile court
	President of the Tchinouka-Loandjili court (Pointe-Noire)
	President of the trade court (Pointe-Noire)
	Senior judge
Department of Human Rights and Fundamental Freedoms	Director, Protection of National Minorities and Vulnerable Social Groups
Other departments	Director, Congolese National Television Department
	Director, National Solidarity and Humanitarian Action Department
	Director, Tax Department
	Director, Agriculture Department
	Director, Advancement of Women Department
	Director, Integration of Women into Development Department
	Director, Basic Education Department
	Director, Primary and Secondary Education Department
	Director, Vocational Education Department
Inspector, Technical Education Department	

95. The issue of gender is a priority for the Government of the Republic of the Congo. Women are better and better represented in public institutions and are playing an active part in them. For example, Electoral Act No. 5/2007 of 25 May 2007, amending and supplementing Act No. 9/2001 of 10 December 2001, establishes quotas of 15 per cent for women candidates in legislative and senatorial elections and of at least 20 per cent for local elections.

96. Violence against women is the subject of draft legislation now being elaborated: a draft Act on protection of victims of sexual violence.

(c) Physically disabled persons and albinos

97. During the transitional period, the High Council of the Republic promulgated Act No. 9/92 of 22 April 1992 on the status, protection and advancement of disabled persons. In article 4, it states: "Benefits and individual and/or collective assistance are accorded to disabled persons as an expression of national solidarity."

98. There are special schools for individuals living with disabilities: such is the case of the Institute for Young Deaf People, established by Decree No. 5907/MSPAS/DAS of 30 December 1972, where vocational training is provided.

99. The same is true of the Mougali special school, which takes mentally retarded children up to 15 years of age.

100. Albinos are not the subject of discrimination. They enjoy the same rights as all other citizens.

(d) Indigenous peoples

101. They are generally the victims of marginalization. Indigenous peoples live in all the administrative departments of the Republic of the Congo, and under the impetus of President Marien Ngouabi, a policy of recognition of their rights has been put into effect. Despite this important step, the rights of indigenous peoples are nevertheless largely disregarded.

102. Following the convening of the National Sovereign Conference, associations for the defence of the rights of indigenous peoples were formed, and these are supplemented by the work of other non-political bodies for the defence of human rights.

103. At the Congo's initiative, an International Forum for Indigenous People of Central Africa (FIPAC) was held from 10 to 15 April 1997 in the administrative department of Likouala (Impfondo).

104. A national plan of action 2009-2013 for improving the quality of life of indigenous peoples has been drafted.

105. The International Day of the World's Indigenous People is celebrated throughout the country every year on 9 August.

106. Draft legislation on the promotion and protection of the rights of indigenous peoples has been initiated.

107. On 20 and 21 August 2008, in partnership with the Office of the United Nations High Commissioner for Human Rights and UNICEF, the Congolese Government organized parliamentary days to benefit indigenous peoples. The objective was to induce parliamentarians, as the people's elected representatives, to participate effectively in the national movement to promote and protect the rights of indigenous populations.

(e) Refugees and other migrants

108. The Government of the Republic of the Congo is committed to dealing with both refugees and internally displaced persons with a view to preserving and guaranteeing their rights.

109. The Congo has set up a National Committee for Assistance to Refugees (CNAR) under the Ministry of Foreign Affairs and Francophone Culture. It is made up of two subcommittees:

On refugee status eligibility;

On aid to refugees.

110. An institutional framework has gradually been set up to resolve the problem of internal displacement by the various Congolese wars.

111. To date, a Ministry of Cooperation, Humanitarian Action and Solidarity has been created.

112. A number of programmes for the resettlement of refugees have been carried out, although they do not entirely meet expectations.

113. In the spirit of the draft African Union convention for the protection and assistance of internally displaced persons in Africa and the protocol on the same subject elaborated by the International Conference on the Great Lakes Region, Congo has started work that will soon result in the adoption of national legislation on protection and assistance of displaced persons in the Republic of the Congo.

(f) Detainees

114. The former Department of Prison Administration has been elevated to the status of general directorate by Decree No. 99-86 of 19 May 1999, on the responsibilities and organization of the General Directorate of Prison Administration.

115. There are 13 detention facilities in the Republic of the Congo, but in fact, only 6 are operating, under extremely difficult conditions:

Brazzaville, the most representative of all;

Pointe-Noire;

Owando;

Djambala;

Madingou;

Ouessou.

116. As part of the policy of accelerated municipal development, the Government plans to rebuild detention facilities and construct new ones. One example is the Impfondo detention facility, which is nearly finished. It is a penitentiary institution whose architecture conforms to international standards.

117. The Brazzaville detention facility is open to visitors from international institutions and non-governmental organizations. The International Committee of the Red Cross carries out periodic checks there.

118. The Congo has also opted for the humanization of detention facilities. In addition to increasing the staff and training the agents of the General Directorate of Prison Administration, the Brazzaville detention facility has been given a medical and social centre. Detainees receive medical check-ups and appropriate treatment. HIV/AIDS testing is carried out for all detainees, and antiretroviral treatment is administered free of charge to all persons who are found to be seropositive.

**V. DIFFICULTIES IN EFFECTING THE PROMOTION
AND PROTECTION OF HUMAN RIGHTS**

119. The implementation of a policy of promotion and protection of human rights is meeting with a number of difficulties in the Congo. Examples will be given here in four areas: institutions, health, education and the economy.

A. Institutions and health

120. From an institutional and legal standpoint, the difficulties encountered with the judiciary and with prisons must be highlighted.

121. From the standpoint of international requirements in the field of human rights, it would not be incorrect to say that the Congolese legal system suffers from a failure to apply the principle of independence of the judiciary, a precondition for impartial justice.

122. This fundamental ethical failing is compounded by numerous material, human and financial problems.
123. In general terms, it should be noted that Congolese prisons were built during the colonial era to house a small number of detainees. Overcrowding of prisons is a major problem.
124. In addition to these difficulties, of which the list given here is far from exhaustive, most prisons lack any social reintegration measures, and the penitentiary system is under-equipped.
125. With regard to health, some background information must be given on Congo's endemic disease situation. Numerous diseases and epidemics rage in the country, yet the health system is incapable of providing the solutions looked for by the population.
126. The morbidity situation is typical of sub-Saharan African countries, dominated by reproductive health problems. Mothers and children are particularly vulnerable.
127. The chronic diseases of aging are also increasingly significant.
128. Sexually transmitted diseases (STD) are a real public health problem. The annual rate of infection is 15 per cent for gonorrhoea and 20 per cent for chlamydia trachomatis.
129. Sexual violence against women is a phenomenon that first appeared during the most recent armed conflicts.
130. The responses to these problems have not yet proved sufficient. One difficulty is related to human resources.
131. Statistics for the period 1996 to 2002 show that the number of health-care personnel declined from 7,135 to less than 5,130, a reduction of 31.5 per cent in six years. There is a stark contrast between rural and urban areas.

B. Education and social and economic factors

132. Indicators for education are no more satisfactory than those in other areas.
133. There are major concerns with regard to access to primary school education, its equity and its quality. In 2005, primary school enrolment increased by 4 percentage points compared with the year 2004, with a gross admissions rate of 72.8 per cent as opposed to 69 per cent in 2004, yet despite this small increase, the system is by no means able to accommodate all the children of primary school age. The gross school enrolment rate went from 89 per cent in 2004 to 91.4 per cent in 2005; this includes overage and underage children.
134. These figures conceal glaring disparities among administrative departments and districts and also for children of minorities (indigenous populations), physically disabled children and orphans, whose access to primary school education is deemed negligible.
135. The same problem crops up in respect of gender equality. Girls account for 48 per cent of the school population as opposed to 52 per cent for boys, with the boy-girl parity index being 0.95. The reasons for this gap are the relative underschooling of girls in rural areas and early dropouts.

136. Beyond the macroeconomic factors, studies show that poverty is a very real phenomenon and is solidly entrenched in the Congo: 50.1 per cent of the population is living below the poverty line, namely per capita, in Brazzaville, 30,925 CFA francs a month.

137. The drinking water situation in the Congo is critical; more than half the population lacks access to drinking water. According to the December 2005 report on the social situation in the Congo, 40 per cent of urban dwellers has access to drinking water, the figure dropping to 14 per cent in rural areas.

138. There are also daily power outages, which plunge entire neighbourhoods into darkness for extended periods of time.

139. Efforts are being made, nevertheless, to improve the access of Congolese citizens to electricity, as demonstrated by ongoing projects such as the construction of a dam at Imboulou and the renovation of the hydroelectric power dams at Moukoulou and Djoué.

VI. CHALLENGES AND PROSPECTS

A. Challenges to be met

140. Reinforcing the culture of human rights and democracy in order to enable every citizen to enjoy the rights of the human person is the major challenge for the Republic of the Congo.

141. To this end, the Congo must:

- (a) Improve prison conditions for detainees;
- (b) Reinforce efforts to combat discrimination against women;
- (c) Expand health care and strengthen the capacities and quality of health services;
- (d) Ensure the protection of disabled persons;
- (e) Promote respect for the rights of children;
- (f) Ensure the distribution of school textbooks in all public primary schools;
- (g) Make secondary and technical education free of charge;
- (h) Set up new schools in the hinterland;
- (i) Renovate run-down schools;
- (j) Strengthen the capacities of teachers and inspectors;
- (k) Incorporate instruction in human rights in the school curricula;
- (l) Abolish the death penalty;
- (m) Ratify the conventions that have not yet been ratified;

- (n) Ensure a decent standard of living for all Congolese;
- (o) Strengthen the capacities of magistrates and their assistants;
- (p) Raise awareness of human rights issues among law enforcement officials.

B. Prospects

142. Since the 1990s, the Republic of the Congo has made laudable efforts to ratify and implement the major human rights instruments. Its commitment to the universal periodic review process falls into this context.

143. In order to make this commitment effective, the Congo plans to improve its policy for the implementation of human rights through:

- (a) The finalization of the national policy for promotion and protection of human rights, currently being elaborated;
- (b) The translation into its national languages of the various human rights instruments;
- (c) The posting of these instruments in table form in police stations and other public places;
- (d) The initiation of a grass-roots information and awareness-raising campaign in the major towns;
- (e) The elaboration of teaching materials on human rights;
- (f) The continued execution of the project on support for the rule of law.

VII. CONCLUSION

144. In the light of the foregoing analysis, it must be said that the Republic of the Congo is among the countries that has integrated the question of human rights into the responsibilities of the Ministry of Justice. The concerted action of the Government, associations and non-governmental organizations has facilitated better coordination of efforts and coherence in the handling of issues relating to the promotion and protection of human rights in the Congo.

145. The Congo's track record in the field of human rights is encouraging on the whole. Many situations in the economic, social, cultural, political, material and human spheres have been addressed. This is true of environmental improvements in the context of accelerated municipal development, the guaranteed minimum inter-occupational wage and the payment of the internal debt and of salary arrears. Other situations are awaiting a solution. These are the developmental challenges that Congo is still facing: improving governance; combating corruption, misappropriation of public funds, fraud and influence-peddling; and improving the social situation of workers, particularly young people and other vulnerable groups.

146. Much remains to be done and the road will be long. Many difficulties undermine the efforts and actions carried out, at times paralyzing or purely and simply invalidating them.

147. After years of efforts, it is as unwise as it is premature to make a definitive assessment, given that the problems addressed, by their very nature, and intimately connected as they are with fluctuating social conditions, do not easily lend themselves to definitive and peremptory judgements.

148. The Congolese authorities undertake to encourage the promotion and protection of human rights, the dissemination of the relevant international instruments and the training of public officials, especially law enforcement officers and justice officials who are responsible for the promotion and protection of human rights.

149. The technical assistance of the Human Rights Council is requested in order to enable the Republic of the Congo to better promote and protect human rights.
