



ngo group for the crc

## STATE PARTY EXAMINATION OF REPUBLIC OF CONGO'S INITIAL REPORT

### 43<sup>RD</sup> SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

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*The Republic of the Congo ratified the Convention on the Rights of the Child (CRC) in 1993. On 19 September 2006, the Committee on the Rights of the Child (the Committee) examined Congo's Initial Periodic Report on the CRC.*

#### Opening Comments

Chairman Doek mentioned that although the report was 11 years late, the Committee was pleased with the elaborate written replies and looked forward to a constructive and informative dialogue. Her Excellency Madame Emiliene Raoul, Minister of Social Affairs and Solidarity of Humanitarian Action and the Family, assured the Committee of the full determination of Congo to fulfil its obligations under the CRC, despite the fratricidal wars and instability of the late 1990s and early 2000s which prevented the government from addressing children's issues. However, she assured that in 2002, with the adoption of a new constitution, it returned to ambitious expectations in development, especially in human rights. Raoul admitted that many things remained to be done, but emphasised the commitment to promote and protect children's rights. It worked closely with international financial institutions to reduce poverty, increase public financing and develop programs to improve social services and social welfare. She noted the many improvements achieved since the establishment of the CRC, the ratification of the Optional Protocols (OPs) and the African Charter.

She expressed regret that the delegation consisted of three people, but other members of the delegation were not granted a visa.

Country Rapporteur, Mr. Krappmann, welcomed the delegation, noting that despite the tardiness of the report, its submission was a positive indication of the development of the State Party. He welcomed the development of legislation and ministries, hoping that they would help improve the widespread negative living conditions of children. Since there was no doubt that many children lived in unfavourable conditions — which the report did not hide — he suggested that more widespread and intensive action be taken.

## **General Measures of Implementation**

The Committee asked if there was a special department to deal with the complaints of children. It was concerned that there was no monitoring structure to study the implementation of the CRC. It noted that although the Ministry of Social Affairs was the main responsible actor, there needed to be a department of legal protection and planning. The delegation responded that traditionally the family was the responsible unit for the child. However, in 2002, due to cooperation with the United Nations, these responsibilities were relegated to the Ministry of Social Affairs, gradually to be taken over by international legal instruments.

The Committee enquired about data collection. It noted the lack of up-to-date data on children since 1984 and wondered which ministry was responsible for statistics. It was concerned with reports that budgetary allocations on children's issues were limited and not used to their optimal potential. The delegation assured that a large part of the budget was dedicated to education, but admitted that statistics were incomplete. It stressed that there was a manifest will to improve data collection methods, but that it needed support to undertake changes. It also hoped for a poverty reduction strategy with a special emphasis on child protection.

Concerning poverty, the Committee asked for an explanation on the relationship between the high GNP per capita and the high poverty rate, noting that 50-70% of Congolese lived with under \$1 a day and that infant mortality was very high: it wondered if multinational companies funnelled funds. The delegation did not directly respond to these questions. The Committee was also worried about the framework plan of 2004-2008, which sought to address socio-economic problems such as poverty alleviation, women and children's rights, and HIV/AIDS prevention and treatment. While it highly appreciated these efforts, it wondered if there was a monitoring mechanism to ensure the further implementation of these plans. The delegation did not respond. The Committee also asked if there were enough resources to implement the ambitious plans, as the Congo was a poor country trying to get rid of the burden of the high national debt, and especially given its position in the Human Development Index had dropped and extreme poverty was widespread. It stressed that although it was rich due to its oil production, high economic growth rate of 8% and low inflation rate of 2%, this was not enough, and called for more regional cooperation and community development. It was also worried that the government was not very transparent, with corruption impeding all intended positive developments. It wondered how this related to the low budget funds. The delegation agreed that transparency was a characteristic of good governance and mentioned that there was an anti-corruption committee to reduce corruption.

The Committee expressed concern that it was difficult to discern the status of the CRC. Despite the approval of three laws on the rights of the child in February 2006, it wondered when those laws would be adopted. It was also worried that none of the Hague Conventions were ratified, specifically on adoption, nutrition, child kidnapping, and women and children, while it lauded the delegation for the removal of the word "pygmy" from all legislation. The delegation responded that it was unclear on the contents of the Hague Conventions, but that a survey was being conducted on adoption. It requested more information and suggestions from the Committee on these issues.

The Committee asked about the relationship with NGOs in preparing the report and creating rights-based programming. The delegation did not respond. It also enquired why there was no independent

human rights institution or national child council and who was responsible for coordination. Again, the delegation did not respond. It did say, however, that there was no plan of action being developed. In response to the questions on the ability of children to lodge complaints, the delegation said that children approached the Ministry of Social Affairs, albeit not frequently. It mentioned that although there was an experiment with a children's helpline a few years back, its results had not been evaluated, and thus, was no longer in existence.

## **Definition of the Child**

The Committee was concerned that a child was defined as an adult at the age of 16. Specifically, it noted that there was no excuse for being a minor in certain juvenile justice cases. It also enquired about the minimum age for employment, compulsory education, sexual relations and marriage. The delegation assured that based on the new constitution, the child was recognised equally with other human beings, clearly stipulating that any child of either gender who had not yet reached 18 years of age was considered a child. Traditional society also held certain perceptions of a child — any person who had not yet reached an age where s/he could be self-responsible or married was considered a child — leading to cohabitation between societal tradition and the law. The Committee asserted that despite these traditional definitions, children under 18 should not be deprived of their rights. For example, a married person under 18 should still be considered a juvenile in the criminal courts. The delegation assured that in reality, this was the case.

## **Views of the Child and Child Participation**

The Committee noted that in Congolese society, children were considered “miniature” human beings, highly valued for bringing “security and honour to parents, family, and clan,” but that they were also regarded as immature, and thus, not encouraged to contribute their views in decision-making. It stressed that a child's views should not only be respected, but also encouraged, so that their participation might be more fully realised. The State party could create a structure by which the local community would organise meetings where children could share their ideas. The delegation replied that a child's social life was driven by a balance between tradition and the regulations of the CRC. It indicated the Second National Meeting of Parliament regarding children as well as the Day of the African Child in 2006, as seeking to encourage child participation.

## **Birth Registration**

The Committee asked about potential measures to ensure that new births were registered and recorded, and more specifically, to what extent children of indigenous people were taken into account in the registry of birth programmes. It noted that in 1996-2000, a large number of them were not registered, leading to penalties and sanctioning against them. The delegation admitted that there was a large problem with regards to birth registration, but that it had made efforts to raise awareness to fix the problem.

## **Access to Information**

The Committee congratulated the delegation that freedom of press and information were guaranteed under law and that censorship was prohibited, but it wondered if the upper council took into account the rights of the child—it wanted to know if there were provisions to protect children from information that might be harmful, and what follow-up enforcement was in place. It also regretted that there was not very much dissemination of the CRC or promotion of the rights of the child through the media. It was concerned by the few numbers of libraries in, and asked about any measures to re-develop them. The delegation did not respond.

## **Corporal Punishment**

The Committee addressed the issue of corporal punishment, noting that although it was banned in schools, there was an absence of legislation regarding it in the home. It wanted to know what

measures were being taken to discourage corporal punishment from being used and to promote new means of discipline. The delegation did not respond on this issue.

## **Non-Discrimination**

The Committee noted that the constitution stated that all citizens were equal before the law, but that this equality did not cover those with disabilities. Thus, it worried that this would lead to some problems for children. It asked if there were any public awareness campaigns or provisions to ensure that vulnerable groups including poor and street children, refugee and HIV infected children, received their due rights. It specifically wanted to know what the strategy was for enforcement of the constitution, and how citizens could protect their rights and denounce violations. The delegation did not answer these questions.

The Committee was worried that there were no plans of action or enforcement of legislation to address the cruel and degrading punishment of indigenous groups such as the pygmies, and specifically, pygmy children. The delegation responded that a UNICEF aid programme highlighted that more attention needed to be paid to the indigenous population's problems, and that it worked closely with NGOs to provide schools and healthcare. It noted that it was pursuing a sectoral approach to change the imbued attitudes of the population that pygmies were second class citizens, hoping for the eventual "dream come true" of intermixing Pygmies and Bantu, beginning in childhood through education, raising awareness and sensitivity campaigns. It stated that it was one step closer to reaching this goal, with increased interactions between Pygmies and Bantu and the occasional intermarriage and intermixing in the school system. The Committee also wondered when the bill for pygmies would become law. The delegation responded that although laws would not change traditional behaviours, there were NGOs dealing with the preservation of pygmies and their way of life, in addition to the more formal institution of the Ministry of Human Rights (2002). It also noted that studies were conducted, but they did not lead to the development of an action plan. With the support of UNICEF, it was able to enact a new study addressing HIV/AIDS prevention in the pygmy population. In addition, as pygmy children were not systematically attending school, different programmes were being developed to target them.

## **Child Soldiers**

The Committee asked about measures to rehabilitate child soldiers. The delegation responded that its society was no stranger to armed conflict, and admitted that children were active participants. However, it assured that the situation was under control due to the implementation of programmes for reinsertion and retraining of children both physically and psychologically. It noted that the High Commissioner's Office worked with the ILO and World Bank to develop a number of initiatives to address the problem, especially in poor regions. It mentioned a "Young Persons at Risk Project" involving fieldwork and economic initiatives. However, the Committee was still concerned that abused females were forgotten when it came to armed conflict, and wondered what was done to socially rehabilitate them. The delegation responded that the same applied to females, and assured that they were actively integrated into apprenticeships and work re-training programmes.

## **Juvenile Justice**

The Committee wondered if there were any juvenile courts. The delegation responded that there were two courts, one for those under 16, and one for those 16-18. There were also three sub-levels, depending on the severity of the crime. There was no programme for rehabilitation and reinsertion. The Committee questioned the effectiveness of the number of courts and if the judges specialised in childhood issues. The delegation responded that the proliferation of courts was not a problem and that it should not be altered since it was not harmful to the child. It added that it needed to train child judges, although it was unclear how to pursue this issue. The Rapporteur suggested contacting experienced judges on the Committee such as Mr. Kotrane to learn more about appropriate judge training. It continued to ask questions since it was also worried that detention before court

appearances could be very long (up to a year). The delegation asserted that it would try to repair the situation, especially due to the fact that there was no room in prisons and no specific section for minors. This lack of space led to low numbers of convictions (under 40). Finally, the Committee wondered what the situation was mothers imprisoned with their children. The delegation assured that its last visit of a prison showed that all children were living in town and not in the prison.

## **Education**

The Committee was concerned that although education was compulsory and free, there were not enough teachers; children were more vulnerable to abuse to and from school due to long walks; education was not guaranteed for orphans, refugees, and pygmies; and there was no emphasis in the curriculum on human rights, tolerance and peace. The delegation did not address these questions, but mentioned that during the war, children could not go to school, became illiterate and saw schools being destroyed. The Ministry of Social Affairs and Solidarity of Humanitarian Action helped villages by providing notebooks and materials to support education, and slowly, the reopening of schools. With the prevalence of democratic aid in 1990-1991, schools shifted from parochial to national. Before 1965 and after 1991, private schools were also available, although most children were educated in public schools. By 2008, the delegation was hoping for 80% - 100% to complete primary education. It also hoped that it would be able to recruit more skilled and less voluntary teachers, but did not know how to pursue this process.

The Committee was worried that only a minority of children went above grade 10, leading many adolescents to enter the labour market at a very early age. The delegation stated that before the war, the Congo had one of the highest rates of children in school in Africa—close to 100%. However, once children reached age 9 (grade 4), attendance began to drop. It had no explanation why this was the case. However, it mentioned that the Ministry for Redeployment of Work aided those who dropped out of school, either recovering them and reintegrating them into society by teaching them a trade so that they could apprentice, or providing incentive programmes to aid them in going back to school (for those under 16).

The Committee was unsatisfied with the State party's responses regarding education and vocational training, and asked for a clearer response to the questions. The delegation admitted that there was no properly structured programme to address the transition between school and work. It noted that although street children were brought into apprenticeship centres, there were still invisible children who could not be helped. The State party tried to work with NGOs and created the High Commissioner's Office for Civic and Moral Education, supported by UNESCO and UNICEF. It produced a guidebook to be taught in schools on an experimental basis. However, its application in the field had not been evaluated.

Finally, the Committee was worried by the low attendance of girls in school, and especially about their subjection to physical and sexual violence. The delegation admitted that there were problems in girls' attendance rate despite education being compulsory for both sexes. More girls went to school 20-30 years earlier than in 2006, although the delegation was unsure why this was the case. The Committee also had received reports that girls prostituted themselves to pay for schools and exams, and wanted to know what was done to prevent this from occurring. The delegation had no response.

## **Health**

The Committee found the health system very concerning. Although national healthcare development plans were in order, there were major problems as health centres and hospitals were of unsatisfying quality, nurses and doctors were untrained, appropriate medications were not readily available. There was also a lack of clean drinking water, widespread infectious disease, increasing mortality rates and malnutrition. Despite the fact that breastfeeding was widespread, it was not exclusive, leading to widespread Vitamin A and iron deficiencies.

The Committee was concerned that the number one cause of death was malaria. The delegation admitted that malaria was a serious problem, and that despite a broad national programme, the control and distribution of insecticide impregnated mosquito nets and the essential funds from the Global Malaria Fund, more work needed to be done in prevention and cleaning the environment. Similarly, the Committee was concerned that despite an anti-AIDS programme and National AIDS Council, very few diagnosed mothers and children received the appropriate treatments and drugs. The delegation did not respond.

The Committee was also worried about the preponderance of Female Genital Mutilation (FGM). However, the delegation responded that it was a problem that did not exist, and if it did, it was not recorded by the authorities. The Committee insisted that there were reported cases of FGM, particularly among the immigrant populations. It wanted to ensure that the government was open to accepting the possibility that FGM did exist. The delegation was concerned by this new information but did not further address the issue.

The Committee was concerned by the low rates of vaccination and the fees enforced upon recipient patients. The delegation assured that vaccination was free and that the numbers increased from 29% to 90% in 1999-2004. It did not have more recent statistics. Finally, the Committee wondered what was being done to protect children from traffic accidents and abuse, and to reintegrate them socially and vocationally. The delegation did not reply.

## **Family Life and Alternative Care**

The Committee wondered about the breakdown of parental authority and the strength of the family. The delegation described the situation, stating that there was a break in the traditional order since the 1960s with the Socialist Revolution, at which time the child had another role conferred upon him/her as a guardian of the revolution—the child's parents could no longer play the role of raising, educating and protecting. Following the economic collapse and adjustment, parents slowly saw their authority wearing away.

The Committee noticed that the State report underscored that the family was the best place for children to grow up and develop but also noted an incredibly large number of children being violated in the family sphere (20% of rapes were committed by family members; 80% suffered from violence within their families). It was worried that the alternatives to families were also unsafe options. It asked how the state planned to deal with the issue and whether it was a long-lasting result of the civil war. It also enquired about structures for children to be free to lodge complaints. The delegation did not respond. The Committee wondered why a plan of action for the family did not exist. The delegation responded that once the results of a survey were concluded in December, it would take into account recommendations and put forth a plan. It added that education programmes for family life and responsible parenting were an idea that the State party was pursuing and developing, but whose details were not entirely clear.

The Committee was worried that not all children in orphanages were orphans, and asked how they were reunited with their families. It stated that the rights of the child in orphanages needed to be respected and monitored and that minimum standards needed to be set. Regarding adoptions, the Committee was concerned that there was no governing body which oversaw them. The delegation responded that there was a study underway, since adoptions did not always go through official structures. It added that it needed help in writing rules to be imposed for the monitoring of adoption and orphanages, stating that those who opened orphanages were volunteers (nuns and mothers) who did so out of the kindness and did not have the means to sustain them. The Committee elaborated that structures and trained authorities were needed to take care of children without families and that the state could not be absent from regulation and control. The delegation responded that it did not have sufficient trained staff members, but that it hoped for improvements in this area.

Finally, the Committee asked about children heads of households, who usually came into that position because of the loss of a parent to AIDS. The delegation did not answer the question, but

responded that the World Bank project took orphans, especially those afflicted with AIDS (68.000), under its charge, trying to provide them with education, medical care and vocational training. However, this was a trial programme, and thus, only 20 were selected to be aided. The Committee wondered how the state planned to expand on that pilot project. The delegation responded that it would not move past those afflicted with HIV/AIDS, and that it would need to look for partners if it were to continue, as it could not fill the gap financially.

## **Disabled Children**

The Committee asked about the new plan of action of 2005 regarding disabled children since disabilities were not addressed in the new constitution. The delegation responded that there was a census scheduled for 2007 to gather statistics about disabled children. It was working on an action plan whose priorities included the schooling of handicapped and disabled children. It assured that it was doing all it could to enable these children to join normal schools once they had been identified and treated. It was also pursuing a programme to teach parents how to identify anomalies so that they could alert teachers and better deal with the problem.

## **Refugees**

The Committee enquired as to the rights of immigrants and migrants. The delegation did not respond. The Committee noted that the policy on refugees was a fairly sound one; although it suggested that the government do more to support and provide for unaccompanied children. The delegation admitted that there were no health units within refugee camps and that refugees were not educated. There was a problem placing Rwandan children in schools because they wanted to stay together and form their own schools system. It mentioned that facilities were in place to return refugees to their homeland. Those who wanted to return could fly home.

## **Street Children**

The Committee asked why children left their families for the street, stressing that it was necessary to tackle the root cause to allow children to move away from unfavourable situations. It suggested that a field study be conducted to address the problem. The delegation responded that the causes of moving to the streets were war and poverty. The parents had trouble meeting family needs and children believed they had no prospects, thus, the street became their home. In fact, an NGO survey found that 1.600 children were living in the streets in 2002. The Committee was also concerned that the laws in place did not adequately protect children from drugs, but the delegation did not address this issue.

## **Trafficking and Sale of Children**

The Committee addressed the issue of trafficking and the sale of children, stating that it was related to the disappearances of many children, and wondering how the State Party planned to tackle the problem. The delegation admitted that it did not know the magnitude of the problem, but thanks to the financial aid of UNICEF, surveys and studies were underway to determine the scope of the issue. It also said it had not ratified legislative text on this issue, but that it would begin a process with the aim of ratification. It also mentioned that children from Togo and Benin were the most likely to be found on the streets, and thus, it needed greater cooperation with the consulates of those countries. The delegation stressed that developing effective infrastructure was a gradual process. The national revenue was being reinvested in institutions such as schools and hospitals which would benefit the population in the long run. It also admitted that more needed to be done for the final goals to be achieved. The Committee agreed, noting that heavy investments in health and education reduced poverty and were in the best interest of the child. The delegation mentioned its plans to re-launch agricultural activities and refurbish hospitals, but did not expect to see results for another 4-6 years.

## **Sexual Abuse and Rape**

The Committee was concerned that incest was increasingly widespread and that most women never admitted to being raped. Although it recognised some awareness-raising campaigns, there was a worry that there was no particular reporting mechanism in place where women could report. The delegation replied that rape used to be a taboo subject and that despite trying to change these attitudes; it was not one that citizens wanted to discuss. It admitted that it needed to pursue more education and sensitising programmes post-war, in addition to building shelters to receive victims. The Committee continued, asking what was going on with the Yokohama Declaration to prevent and address sexual abuse and rape. The delegation did not reply. The Committee also wondered whether there was a structure to receive women victim of abuse or exploitation. The delegation did not answer, saying instead that there was a paradox inherent in the high GDP and extreme poverty, and those vulnerable groups such as women and children were the most negatively affected.

## **Concluding Remarks**

The Committee deeply regretted that the State party was hindered in coming to Geneva. Its overwhelming observation from the meeting was the statement that “it is not easy to be a child in the Republic of Congo.” It realised that some goals were accomplished, but it stressed that more action and plans needed to be implemented. It noted that priorities should include family support, so that they could regain their capacity to protect children and stimulate their development; healthcare programmes were imperative to reverse negative trends; reforms in education should not rest until all children were in school; children should not be regarded as “miniature,” but full members of the community; and criminal actions against children should be prevented at all costs. Chairman Doek invited the State Party of the Congo to contact the Committee to ask for follow-up and more aid in developing appropriate programmes.

Raoul thanked the Committee for studying the report and providing indications of projects to pursue. The delegation realised that it needed to introduce plans to better address issues, stating that it was full of enthusiasm and good will despite lacking the financial means. It realised that its problem was coordination, but noted that it was studying the structures of other countries to build and strengthen it in the Congo—for example it planned to set up a National Children’s Council.