



**Convention on the  
Rights of the Child**

Distr.  
GENERAL

CRC/C/COD/2  
24 July 2008

ENGLISH  
Original: FRENCH

---

COMMITTEE ON THE RIGHTS OF THE CHILD

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

**Second periodic reports of States parties due in 1997**

**DEMOCRATIC REPUBLIC OF THE CONGO\***

[23 October 2007]

---

\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

## CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
INTRODUCTION.....	1 – 6	3
<b>PART ONE GENERAL INFORMATION</b>		
I. LAND AND PEOPLE .....	7 – 17	3
A. Land.....	7 – 11	3
B. People .....	12 – 17	4
II. SOCIO-ECONOMIC INDICATORS.....	18 – 24	5
A. The social situation.....	18	5
B. The economic situation.....	19 – 24	6
III. POLITICAL SITUATION.....	25 – 30	7
IV. GENERAL LEGAL FRAMEWORK FOR THE PROTECTION OF THE RIGHTS OF THE CHILD .....	31 – 42	9
<b>PART TWO IMPLEMENTATION OF THE CONVENTION</b>		
I. GENERAL MEASURES OF IMPLEMENTATION.....	43 – 65	11
A. Legislation .....	43	11
B. Coordination of activities related to the implementation of the Convention .....	44 – 48	12
C. Allocation of budgetary resources.....	49 – 55	12
D. Cooperation with non-governmental organizations .....	56 – 59	14
E. Dissemination of the Convention .....	60 – 65	14
II. REVIEW OF SPECIFIC PROVISIONS OF THE CONVENTION .....	66 – 234	16
Article 1: Definition of the child.....	66 – 72	16
Article 2: Non-discrimination .....	73 – 83	17
Articles 7 and 8: Registration of births .....	84 – 94	20
Articles 6 and 24: Right to life, survival and development .....	95 – 128	22
Articles 5, 9 and 18: Family environment and alternative care .....	129 – 141	28
Articles 12, 13, 14, 15: Right to participation.....	142 – 146	31
Articles 19, 28, paragraphs 2, 37 and 39: Protection against torture, violence, abandonment and negligence .....	147 – 169	32
Article 28, paragraph 1: Right to education.....	170 – 184	37
Articles 32, 34 and 38: Work, sexual and social exploitation of children .....	185 – 214	40
Article 33: Protection against drug use and substance abuse.....	215 – 220	46
Articles 37 and 40: Children in trouble with the law .....	221 – 234	47

## **INTRODUCTION**

1. The Government of the Democratic Republic of the Congo presented its initial report on the implementation of the Convention on the Rights of the Child (“The Convention”) (CRC/C/3/Add.57) and responded to questions in the Committee on the Rights of the Child (“The Committee”) in Geneva in May, 2001.
2. Aware of the delay in fulfilling its international obligations, the Government established a new inter-ministerial committee, under the coordination of the Ministry of Human Rights, entrusted with preparing initial and periodic reports for all international instruments ratified by the Democratic Republic of the Congo.
3. In view of the time elapsed since the submission of the aforementioned initial report, the Government expresses its intention to continue the constructive dialogue that was initiated with the Committee.
4. This periodic report is the second whose preparation takes into account the concluding observations adopted by the Committee on 9 July 2001 (CRC/C/15/Add.153) following the presentation of the initial report. It also incorporates the concluding observations concerning children adopted by the Committee against Torture on 24 November 2005 following the presentation of the initial report (CAT/C/37/Add.6) of the Democratic Republic of the Congo (CAT/C/DRC/CO/1, paragraph 14), and those of the Human Rights Committee of 27 March 2006 during the presentation of the third combined periodic report (CCPR/C/COD/2005/3) on the implementation of the International Covenant on Civil and Political Rights (CCPR/C/COD/CO/3, paragraph 18).
5. The report also presents the progress achieved by the Democratic Republic of the Congo in the implementation of the Convention with a view to meeting the goals of the special session of the United Nations General Assembly for follow-up to the World Summit for Children. It is combined with the third and fourth periodic reports, and thus covers the period 2001-2007.
6. The present report has been organized according to the articles and topics of the Convention.

## **PART ONE GENERAL INFORMATION**

### **I. LAND AND PEOPLE**

#### **A. Land**

7. The Democratic Republic of the Congo (DRC), a central African country, straddles the Equateur. To the north lie the Central African Republic and the Sudan, to the east Uganda, Rwanda, Burundi and the United Republic of Tanzania, to the south Zambia and Angola, and to the west the Atlantic Ocean, the enclave of Cabinda and the Republic of the Congo.
8. The Democratic Republic of the Congo, a vast country (2,345,409 square kilometres) on a continental scale, possesses a largely flat relief. In the centre is a basin, with an average altitude of 230 metres, covered in equatorial forest and with many extensive marshes. The central basin

is bordered by staggered plateaux, except for the eastern part, which is dominated by mountains with volcanic soil with an average altitude in excess of 1,000 metres.

9. Crossed by the Equateur, the Democratic Republic of the Congo has a hot, humid climate (average temperature of 25°C) and abundant, regular rainfall. Rainfall and temperature decline towards the east. There are two seasons a year: a dry season of almost four months and a long rainy season.

10. The Democratic Republic of the Congo has an extensive network of rivers. The Congo river, 4,700 kilometres in length, and the second biggest in the world after the Amazon in terms of flow, crosses the country from south-east to north-west before emptying into the Atlantic Ocean. The river is fed by several tributaries and is navigable over most of its length.

11. The soil and subsoil contain significant and varied agricultural and mining resources.

## **B. People**

### **1. Demographic characteristics**

12. In 1956 the population was estimated at 12,768,705 inhabitants. By 1960 it had increased to 14,106,666; the administrative census of 1970 gave a figure of 20,700,500, and the scientific census conducted on 1 July 1984 established the population at 30,731,000. On the basis of projections by specialized bodies, in particular the United Nations Population Fund, the population was estimated at 43,000,000 in 1995, 47,500,000 in 1999 and 52,099,000 in 2000, with a projection of 57,589,779 for 2003. But according to information provided by the Central Bank of the Congo, it was 59,700,000 in 2005 and 61,487,300 in 2006. (Central Bank of the Congo. Statistical Abstracts, No. 52/2005 and 2006, p. 1)

13. The Democratic Republic of the Congo is one of the most populous African countries. The age and sex structure shows a broad-based pyramid with a wide base, concave flanks and a narrow summit, reflecting a young population. In 1997, 25.9 million inhabitants were under 18. The natural population growth rate is 3.4 per cent (1990-1998) with a fertility rate of 6.4. Life expectancy at birth fell from 45 years in 1970 to 41.4 years in 2002 (UNDP World Human Development Report 2004). According to place of residence, the population is composed as follows:

- (a) Since 1993, a population which is 60 per cent rural against 40 per cent living in urban centres with 5,000 or more inhabitants; the degree of concentration in urban centres varies considerably from province to province;
- (b) A low proportion of the population in urban areas in Maniema, compared with a high proportion in Kinshasa (a tenth of the entire population);
- (c) Rapid growth of the urban population (7 to 8 per cent), the concentration of 28 per cent of the entire urban population in Kinshasa, and a high rate of emigration from rural areas;
- (d) The uneven geographical distribution of the population - the highest population densities are in the city of Kinshasa and the provinces of Bas-Congo, Nord-Kivu, Sud-Kivu and Maniema.

## 2. Ethnic groups

14. The population is divided into over 450 tribes, which can be classified in major groups, each firmly established in a particular territory. The Luba or Baluba in south central Congo (18 per cent) outnumber the Kongo living in Bas-Congo (16.6 per cent). The north-west region is inhabited by the Mongo (13.5 per cent) and the Zande (6.1 per cent), the north-east by the Mangbetu, the Hema, the Lendu and the Alur (3.8 per cent). The east is inhabited by the Nande, the Hunde, the Bashi, the Bafulero, the Tutsi and many other ethnic groups. The Chokwe and Lunda are found along the frontier with Angola. The pygmies (less than 0.5 per cent) are found in Equateur and Orientale provinces.

## 3. Languages

15. In the Democratic Republic of the Congo the official language is French. Some 250 languages and dialects are in use. Of these, 90 per cent are of Bantu origin. Four languages are referred to as “national languages”, namely:

- Swahili (40 per cent) in the east, in Nord-Kivu, Sud-Kivu, Katanga, Maniema and Orientale province;
- Lingala (27.5 per cent) in Kinshasa, the capital, and the neighbouring region, and in Equateur and in Orientale province;
- Kikongo (17.8 per cent) in Bas-Congo and Bandundu;
- Chiluba (15 per cent) in the provinces of Kasai-Oriental and Kasai-Occidental.

16. It should be noted that in the northern part of the country many spoken languages belong to the Niger-Congo family (Ubangi subgroup) and the Nilo-Saharan family (central Sudanic group and Nilotic subgroup).

## 4. Religion

17. The Democratic Republic of the Congo is a secular State. Nevertheless, five traditional religious denominations are present: Catholic, Kimbanguist, Protestant, Orthodox and Muslim. There are also several religious sects within the country, and some animists.

# II. SOCIO-ECONOMIC INDICATORS

## A. The social situation

18. The weakening of the social fabric began at the end of the 1970s. It was aggravated by a series of unfortunate events, namely the 1973 Zairianization campaign and the two outbreaks of looting in September 1991 and February 1993, in addition to the two wars of 1996-1997 and 1998-2002. These adverse factors led to a contraction of production, generalized unemployment and extreme poverty. The social sectors worst affected by this crisis are health, education, agriculture and the road network.

## B. The economic situation

19. The economy is characterized by a structural imbalance in the output of goods and services, and economic development has been patchy. From 1983 to 1989 the situation was relatively stable. Between 1990 and 1996 the country went through a period of crisis in which the main economic equilibria were disrupted, resulting in inflation and rapid currency depreciation, a fall in output, widespread unemployment and large-scale poverty.

20. This situation, a characteristic feature of the latter years of the Second Republic, was primarily attributable to lax financial and budgetary management, together with unplanned expenditure met by printing money.

21. From May 1997 to July 1998, with the advent of the Alliance des Forces de Libération du Congo regime, there was a marked improvement in the principal economic indicators, particularly in terms of price levels, currency and public finances. This induced the Government to launch a new currency, the Congolese franc, which enjoyed an encouraging exchange rate against the major foreign currencies.

22. Unfortunately, since 2 August 1998 the principal economic equilibria have once again been disrupted as a result of the attack launched against the country by the Rwanda-Burundi-Uganda coalition, supported by certain multinationals, which had been joined by rebel movements. The war gave rise to hyperinflation, with serious repercussions for the purchasing power of the population, which was reduced to poverty. At the same time there was a significant fall in gross domestic product (3.15 per cent). The rate of inflation was 656.8 per cent in 1996, 13.7 per cent in 1997 and 2.2 per cent in July 1998.

23. In the absence of any revival of production and as a result of the climate of war, the results achieved in 1998 were at risk. Thus, the inflation rate rose from 196.3 per cent in September 1999 to 489 per cent in December 1999. This continued until February 2001, when President Joseph Kabila came to power. He adopted vigorous economic and monetary measures and liberalized the political situation, by relaunching the political negotiations known as the Inter-Congolese Dialogue which began in Lusaka after the ceasefire of 10 July 1999. Of particular note among these measures were the stabilization of public finances and the freeing of the exchange rate, which prompted a resumption of cooperation with the Bretton Woods institutions.

24. The Inter-Congolese Dialogue led to the signing of the Global and All-inclusive Agreement on 17 December 2002 in Pretoria, South Africa. A constitution was adopted on the basis of this political agreement and promulgated on 4 April 2003, facilitating the inauguration of a transitional Government including all the belligerent parties, the political opposition and civil society. According to information from the Central Bank of the Congo, the economic situation at the end of 2006 was as follows:

- Investments: with macro-economic fundamentals being brought under control since 2001, and as this trend is consolidated through the gradual return to peace, the investment sector has been gradually improving.
- Money supply in thousands of Congolese francs: 475,998,307

- Balance of payments (in millions of dollars):  
Exports: 5,004.44  
Imports: 5,382.15, i.e. a deficit of 377.71
- External debt: Stock of debt at 30 December 2004, in millions of US\$: 10,943.3
- Public finances, in thousands of Congolese francs:  
Revenues: 576,828,712  
Expenditures: 611,605,798
- GDP:  
In billions of Congolese francs: 4,029.44  
In millions of US dollars: 8,821.01
- GDP growth rate: 6.6 per cent
- Inflation rate: between 1.3 and 1.7 per cent
- Exchange rate: US\$1 = 507.24 to 540 Congolese francs
- Per capita income has fallen from US\$ 300 in 1991 to US\$ 120 in 2005.

### III. POLITICAL SITUATION

25. However, following independence on 30 June 1960, the Democratic Republic of the Congo experienced political instability marked by secession and rebellion over much of its territory. This impelled the Congolese army to take power on 24 November 1965 under President Mobutu.

26. President Mobutu instituted a single-party regime which lasted until 24 April 1990, when a return to a multiparty system was announced. The active forces of the country met in the Sovereign National Conference to debate the future of the nation and establish democratic institutions able to guarantee enjoyment of the fundamental rights of citizens and national development. But, against all expectations, this process of democratization took until 17 May 1997, on which date the Alliance des forces démocratiques pour la libération du Congo (AFDL) took power and neutralized the institutions which had emerged from the Sovereign National Conference.

27. A new, two-year transition was announced pending the organization of elections. But the war of 2 August 1998 overturned the entire political agenda and diverted attention until the signing of the Global and All-Inclusive Agreement and the new transitional Constitution, promulgated on 4 April 2003.

28. Articles 64 and 154 of this Constitution provided for a sui generis system of Government, made up of political institutions and democracy-supporting institutions.

(a) The political institutions comprised:

- A President of the Republic, whose executive authority is shared with four Vice-Presidents;
- A transitional Government comprising the belligerents, the political opposition and civil society;

- A bicameral Parliament: the National Assembly and the Senate;
  - The courts.
- b) The democracy-supporting institutions, which had the mandate of guaranteeing neutrality and impartiality in the organization of free, democratic and transparent elections, of guaranteeing the neutrality of the media, of consolidating national unity thanks to genuine reconciliation between the Congolese, of promoting and protecting human rights and of promoting the practice of moral and republican values, were comprised of:
- The Independent Electoral Commission;
  - The National Human Rights Monitoring Centre;
  - The Media Authority;
  - The Truth and Reconciliation Commission;
  - The Ethics and Anti-Corruption Commission.

29. The transitional Constitution had, in Article 196, prescribed a duration of 24 months for the transition with an extension of six months renewable only once for the purpose of holding elections. The post-transition period is governed by the new Constitution promulgated on 18 February 2006 after having been adopted by referendum in December 2005, but the institutions set up by the transitional Constitution remained operational up to the effective installation of the corresponding institutions provided for by the latter on 18 February 2006 and executed their mandate in conformity with the provisions of the transitional Constitution, and led the country to the general elections organized in July and November 2006, January and February 2007 respectively for the presidential, national and provincial legislative elections. The local ones were to be organized later.

30. The Constitution of 18 February 2006 had prescribed a highly decentralized State with central, provincial and democracy-supporting political institutions.

- (a) The central institutions comprise:
- The President of the Republic;
  - The bicameral Parliament: National Assembly and Senate;
  - The Government, directed by a Prime Minister, Head of Government accountable to Parliament;
  - The courts and tribunals, civil and military.
- b) The provincial institutions comprise:
- The provincial Assembly;
  - The provincial Government.
- (c) The democracy-supporting institutions comprise: the National Independent Electoral Commission, and the Audiovisual and Communications Council. These have the mandate



of guaranteeing and ensuring the regular holding of elections and of referendums, the freedom and protection of the media and all means of mass communication.

#### **IV. GENERAL LEGAL FRAMEWORK FOR THE PROTECTION OF THE RIGHTS OF THE CHILD**

31. Since the presentation of its initial report to the Committee, the Democratic Republic of the Congo has continued its efforts to strengthen the legal framework for the protection of the rights of the child. Accordingly, it has ratified new conventions, in particular:

- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (12 November 2001);
- The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (12 November 2001);
- The African Charter on the Rights and Welfare of the African Child (28 March 2001);
- ILO convention 138 Concerning the minimum age for admission to employment (28 March 2001);
- ILO Convention 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour (28 March 2001);
- The Rome Statute of the International Criminal Court (30 March 2002).

32. Internally, national Congolese legislation has also undergone important changes, through the adoption of the following laws, which have an impact upon the protection of the rights of the child:

- The Constitution of 18 February 2006;
- Act No. 023/2002 of 18 November 2002 enacting the Military Judicial Code;
- Act No. 015/2002 of 16 October 2002 enacting the Labour Code;
- Act No. 04/024 of 12 November 2004 concerning nationality;
- Act No. 04/023 of 12 December 2004 concerning the general organization of defence and of the Congolese armed forces;
- Act No. 06/019 of 20 July 2006 amending and supplementing the Decree-Law of 6 August 1959 enacting the Code of Criminal Procedure.

33. It should, moreover, be recalled that the Democratic Republic of Congo has a monistic legal regime. International agreements and treaties to which it has acceded or which it has ratified take precedence over domestic laws. Article 215 of the Constitution of 18 February 2006 provides that: "All duly concluded treaties and agreements shall, upon publication, take precedence over legislation subject, in the case of each treaty or agreement, to its implementation by the other party."

34. Article 153 (4) of the same law formally provides, for the first time, for the direct application of international conventions by judicial organs, thus confirming their superior status, as it provides: “Courts and tribunals, civil and military, shall apply duly ratified international treaties, laws, regulatory enactments (...)”.

35. The Democratic Republic of the Congo also follows United Nations rules and principles with regard to the protection of the rights of the child, namely:

- The United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines);
- The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules);
- The United Nations Rules for the Protection of Juveniles Deprived of Their Liberty.

36. Finally, the draft Code for the Protection of the Child, which is nearing completion, will have a positive effect upon certain laws whose provisions are not compatible with international child protection standards, i.e. the Family Code and Decree-Law of 6 December 1950 on juvenile delinquency.

37. The Democratic Republic of the Congo has also made headway with regard to institutions. In recent years, public structures entrusted with promoting and protecting human rights have been created or strengthened, notably the National Human Rights Monitoring Centre, provided for under article 154 of the transitional Constitution of 4 April 2003, and organized by Act No. 04/019 of 30 July 2004, of the Ministry of Human Rights and the National Council for Children.

38. The National Human Rights Monitoring Centre enjoyed complete political and administrative autonomy. Its mission was, specifically, to:

- (a) Monitor the application of national and international legal rules pertaining to human rights;
- (b) Ensure enjoyment of human rights for all persons;
- (c) Take legal action on all violations of human rights; advise complainants and assist them before competent jurisdictions.

39. It is true that the Monitoring Centre was no longer included amongst the democracy-supporting institutions under the new Constitution of 18 February 2006. However, the possibility cannot be ruled out that, following the presentation to Parliament of the final report on its activities, a law may be adopted to create a new national institution for human rights in keeping with the obligations set out under the Paris Principles. The Government is, at all events, committed to supporting that aim.

40. The Ministry of Human Rights is organized pursuant to Decree-Law No. 03/027 of 16 September 2003. Its mission is:

- (a) To promote and protect the fundamental human rights of Congolese and foreign persons residing in the territory of the Democratic Republic of the Congo and to help them to know their rights and to assert them under all circumstances;
- (b) To examine, through appropriate mechanisms, cases of flagrant violations of human rights, without displacing the role of courts and tribunals or administrative procedures instituted by law; it intercedes with administrative and judicial authorities with a view to redressing injuries to rights of citizens;
- (c) To act as an advisor to the Government with regard to promotion and protection of human rights. In this regard, it reviews the consistency of national law and governmental action with the international commitments assumed by the Democratic Republic of the Congo;
- (d) To manage activities pertaining to the promotion and protection of human rights throughout the national territory in conformity with national and international regulations concerning human rights;
- (e) To cooperate with the United Nations, the African Union, and other international, regional and national institutions competent in the sphere of the promotion and protection of human rights.

41. In keeping with its mission, the Ministry of Human Rights has created an inter-ministerial committee entrusted with preparing initial and periodic reports on implementation of international human rights instruments to which the Democratic Republic of the Congo is party (decision No. 013/MDH/CAB/MBK0005, of 13 December 2001).

42. As part of the implementation of the Government's policy of promotion and protection of the rights of the child, the Ministry on the Status of Women and the Family created a National Council for Children in 1998. The Council was decentralized in 2003 by the creation of local Councils for the promotion and protection of children's rights (decision No. MIN.AFF.SOC/CABMIN/004/2003 of 8 April 2003). These local councils in the country's communities and neighbourhoods provide a forum close at hand where violations of children's rights can be reported. They are made up of members from different walks of life: public institutions, civil society, judicial police officers, social educators, and children themselves.

## **PART TWO IMPLEMENTATION OF THE CONVENTION**

### **I. GENERAL MEASURES OF IMPLEMENTATION**

#### **A. Legislation**

43. Taking into account the concluding observations of the Committee, the Democratic Republic of the Congo began a reform of its legislation in order to render it more consonant with the provisions of international conventions. The reform included promulgation of the laws referred to in paragraph 32 of the present report concerning the general legal framework for the protection of the rights of the child. The contents of those laws will be addressed in connection with specific provisions of the Convention. It should be noted that a draft law containing a Code

for the Protection of Children initiated by the Government will soon be submitted to Parliament for adoption. But a compilation containing all the legislation pertaining to children has already been published by the Documentation and Studies Service of the Ministry of Justice.

### **B. Coordination of activities related to the implementation of the Convention**

44. The National Council for Children is entrusted with coordinating activities for implementation of the Convention and ensuring follow-up. More specifically, interventions with regard to protecting the rights of children are pursued in the framework of sectoral action plans developed in cooperation with all stakeholders both public and private.

45. The above holds true with regard to the national plan of action for recording of births in the Civil Registry, adopted on 24 July 2004 for the period 2004-2005, and the national plan of action for preventing and combating violence against children, of March 2007, which should be implemented during the period 2008-2012. In light of activities programmed, these plans identify the entities entrusted with implementation, the modalities and timing of execution, and the provisional budget.

46. With respect to the system for collection of data, the National Council for Children is entrusted with centralizing this task through provincial councils for children, but the lack of budgetary resources does not permit data to be collected nationwide.

47. With regard to general policy, one noteworthy aspect is the Growth and Poverty Reduction Strategy Paper (GPRSP), some elements of which contribute to the implementation of the Convention, for example: political stability, disarmament, demobilization and reintegration (DDR), equitable economic growth, good governance, gender, basic social services, and HIV/AIDS.

48. In addition, stakeholders in civil society transmit their activity reports to competent State organs such as the National Council for Children or the Ministry of Human Rights. Their independence is shown by the transmission of alternative reports, which makes it possible to evaluate the implementation of the Convention in the sectors in which they are active.

### **C. Allocation of budgetary resources**

49. The Government recognizes that budgetary resources earmarked for sectors that have a direct impact on promoting and protecting children's rights remain small, inasmuch as the national budget itself is not very large. Economic difficulties compounded by armed conflicts have not enabled the Government substantially to increase its means of action. Thus, the share of the national budget devoted to social sectors ranges from 7 to 8 per cent. Another example: school enrolment reached 5.44 million in 2001-2002, as against 3.91 million in 1978-1979, while financial and other resources allocated to the sector did not follow suit.

50. Nevertheless, a gradual increase in internal resources has occurred since 2001, especially in the key sectors of education and health. With respect to the education sector, the goal is to achieve the 1982 level, which represented 25 per cent of the overall budget and had fallen to an average of 1 per cent since 1984.

51. Until 2002, public expenditure concerned only the 7 provinces that were under Government control, out of the country's 11 provinces. In 2004, the share of the national budget earmarked for education was set at 10 per cent, but in the end only 3 per cent was achieved.

52. The resources of the Government are supplemented by financial support from bilateral or multilateral cooperation directed towards the implementation of specific projects. For example, in the sphere of education, the Project for Support to the Educational Sector (Projet d'appui au secteur de l'éducation (PASE)) received external funding in the amount of 5.3 million units of account. Up to May of 2006, the level of disbursements for PASE was of the order of 17 per cent of the commitments estimated at 69 per cent. With respect to the Project to Support Recovery of the Educational Sector (Projet d'appui au redressement du secteur éducatif (PARSE)), funding was provided by the World Bank in the amount of US\$ 130 million. During the period 2002-2003, the World Bank granted the Democratic Republic of the Congo funding in the order of US\$ 1 million for the project on reintegration of street children. Funding of US\$ 1,047,489 was provided during the period 2002-2005 for the project "Support for abused children and children leaving armed forces and armed groups."

53. With respect to programmes, the programme of cooperation between RDC and UNICEF for the period 2003-2005 benefited from an overall amount of US\$ 89,159,000.

54. The programme of cooperation between the Democratic Republic of the Congo and UNFPA for 2004-2006 provides for a sum of US\$ 6,686,360 under the rubrics of "Support for implementation of youth centres" and "Support for enhancing access to health and reproductive services".

55. Overall, the trend of credits (in US\$) allocated to the health and education sectors (primary and secondary) for 2002-2006 appears as in the table below:

**Table of credits allocated to education and health sectors**

<b>INPUT (Source)</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Education Government	7,111,105.58	3,320,154	12,969,812		
Health Government	1,568,064	4,185,697	19,964,975		
International Catholic Child Bureau (ICCB) 2002-2005	1,074,489				
Cooperation: RDC/UNICEF 2003-2005		29,693,000	29,733,000	29,733,000	
OXFAM G.B.			1,889,531.5		
Cooperation: RDC/UNFPA 2004-2006			6,686,360		
World Bank 2002-2003	1,000,000				

*Source:* Ministry for the Status of Women, Progress achieved in follow-up to the 2002-2005 special session.

#### **D. Cooperation with non-governmental organizations**

56. Through Act No. 004/2001 of 20 July 2001 containing general provisions applying to non-profit entities and entitles serving the public interest, the Government strengthened its cooperation with organizations of civil society involved in the development of policies and programmes. Their implementation requires public and private entitles to work together with synergy. By way of illustration, in the domain of social and economic reintegration of children involved with armed forces and armed groups, the executing entitles that are working as partners with the National Commission for Disarmament and Reintegration (Commission nationale de désarmement et réinsertion (CONADER)) belong exclusively to civil society.

57. With regard to the implementation of conventions concerning the rights of the child and assessment of their application, cooperation with non-governmental organizations (NGOs) takes place in two ways. Firstly, the NGOs, in keeping with article 45 of the aforementioned law, transmit their reports in particular to the National Council for Children and the Ministry of Human Rights; secondly, they are invited to give their views during the preparation of initial and periodic reports of the Government, such as the present report. It is clear that this cooperation will gradually grow, with a view to safeguarding the best interests of children.

58. In an effort to pursue synergies between NGOs in the sector of children's rights, coalitions of associations have been formed around the country, including:

- National coordinating forum for health sector NGOs (Coordination nationale des ONG du secteur de la santé (CNOS));
- Coalition of NGOs for the rights of the child (Coalition des ONG des droits de l'enfant (CODE));
- Network of educators of street children and youth (Réseau des éducateurs des enfants et des jeunes de la rue (REEJER));
- "Friends of Children" journalists' network (Réseau des journalistes amis des enfants);
- National coordinating forum of social workers in the sector of children in special need of protection (Coordination nationale des opérateurs sociaux du secteur des enfants nécessitant des mesures spéciales de protection).

59. With respect to the protection of human rights defenders, the Government, through the Ministry of Human Rights, has initiated a draft law to be presented to Parliament to enable them to pursue their activities without hindrance.

#### **E. Dissemination of the Convention**

60. Since its publication in the Official Journal in April 1999, the dissemination of the Convention has made remarkable headway. It is pursued in the general framework of dissemination embodied the Constitution, which provides in article 45 (6) and (7): "The authorities have a duty to ensure the dissemination and teaching of the Constitution, the Universal Declaration of Human Rights, the African Charter of Human and Peoples' Rights, and all the duly ratified regional and international conventions relating to human rights and

international humanitarian law” and “The State has an obligation to incorporate the rights of the individual into all the training programmes of the armed forces, the police and the security services.”

61. As early as 2005, the Directorate for school programmes and teaching materials (Ministry of Primary, Secondary and Professional Education), in cooperation with the Office of the United Nations High Commissioner for Human Rights (HCHR), had developed a new teaching manual entitled “National Programme for Civic and Moral Education Integrating Human Rights.” To date, only 34,000 copies have been printed, although the need is estimated to be in the hundreds of thousands. An effort must yet be made to produce a sufficient number of copies and distribute them to all schools in order to formally ensure, in the near term, the teaching of human rights throughout the country.

62. Programmes for training in human rights generally and children’s rights specifically are offered in virtually all Government ministries which have some responsibilities in this sphere, addressed to their personnel and to all staff of public agencies, such as ministries of human rights, justice, status of women, primary and secondary and vocational education, social affairs, etc. For example:

- (a) The Ministry on the Status of Women and the Family has designed the following six training modules and conducted training sessions throughout all provinces of the country:
  - Module for children;
  - Module for social workers (NGOs);
  - Module for journalists;
  - Module for trainers;
  - Module on techniques of advocacy for the application of children’s rights;
- (b) The Ministry of Justice organized training for 330 judicial and social services employees in 11 provinces on the following topics:
  - Marital status in relation to legal protection of children;
  - International instruments for protection of children, evaluation of their impact on internal law;
  - Penal protection of children;
  - Protection of children in trouble with the law;
  - Social coverage and protection of children;
  - Protecting children against socio-economic exploitation;
  - Methodology of training.

63. In addition, four thematic educational displays adapted for children, dealing with HIV/AIDS, malaria, citizenship, and sexual violence were distributed. The 7,650 children of the organizational units participating in this activity passed on the training to nearly 80,000 others.

In addition, 3,100 members of community organizations were trained and were equipped with 1,334 radio sets.

64. Educating the public regarding the Convention is done in the national languages, addressed to the community, through awareness-raising meetings, or through public and private news organs that have reserved air time specifically for dissemination of the Convention and for discussions on reported cases of violations of children's rights in the community. To that end, 235 journalists have been trained regarding the rights of the child. The Government has distributed more than 25,000 copies of the Convention and brochures about the situation of children.

65. This campaign, which began in the urban centres of all the provinces, is to be continued in order to reach the population of rural areas that are somewhat remote from the discussions about children's rights, although it is precisely in those places that the strongest obstacles exist to promoting the rights of the child.

## **II. REVIEW OF SPECIFIC PROVISIONS OF THE CONVENTION**

### **Article 1: Definition of the child**

66. For the first time in the history of the Democratic Republic of the Congo, the Constitution has set out a definition of the child, in article 41 (1), which provides: "A minor is any person, without regard to sex, who has not yet attained 18 years of age." This definition strengthens the definition contained in article 219 of the Family Code, which is framed much along the same lines. The definition in the Constitution applies to all sectors where there may yet remain gray areas regarding age that need to be addressed, e.g. marriageable age or age of criminal liability. The only exception remains the minimum age for admission to employment, which responds to different concerns. The Democratic Republic of the Congo has thus made considerable headway in harmonizing its domestic laws with international instruments.

67. With regard specifically to protection of children against early marriages and sexual abuse, the Democratic Republic of the Congo has adopted Act No. 06/018 of 20 July 2006. This law amends the Penal Code provisions pertaining to statutory rape with violence and indecent assault, extending the protection of the law to all persons under age 18, whereas only children under 14 years of age were previously covered (articles 170 and 167). This law also has an impact on the interpretation of the discriminatory provision of article 352, paragraph 1, of the Family Code, which provides that "Marriage may not be contracted by a man under age 18 or a woman under age 15." The same holds true with regard to article ter of the Decree-Law of 6 December 1950 on juvenile delinquency, as amended by the Ordinance of 4 July 1978, which provides: "A minor within the meaning of the present decree-law shall be any child who appears to be under age 16 at the time of the event."

68. The other legal enactments that provide specific protection for persons under age 18 are:

- (a) Decree-Law No. 066 of 9 June 2000, providing for demobilization and reintegration of vulnerable groups present within fighting forces, whose article 2 provides: "Vulnerable groups shall mean: child soldiers, girls or boys under age 18 (...);"



- (b) Act No. 04/023 of 12 December 2004, setting out the general organization of defence and the armed forces, whose article 7 provides: “Congolese of both sexes who have reached the age of 18 may be conscripted in the event of mobilization.”
69. The Military Judicial Code contained in Act No. 023/2002 of 18 November 2002, in article 114, provides that military jurisdictions may not try persons under age 18.
70. With regard to work, a distinction is made, in keeping with ILO conventions, between the worst forms of labour, from which all persons under age 18 are excluded, and light, healthy work, which may be done by children at least 16 years of age.
71. The new Labour Code, enacted by Act No. 015/2002 of 16 October 2002, includes several innovations, including the raising of the minimum age for admission to employment from 14 to 16 years. Article 6 (2) provides as follows: “Under the present Code, persons 16 years of age or older shall have the capacity to contract, subject to the following provisions:
- (a) A person 15 years of age shall not be retained in service except with the express permission of the Labour Inspector and that person’s parent or guardian;
  - (b) However, the opposition of the Labour Inspector and the parent or guardian to the exception set out in subsection (a) above may be removed by the court when justified by circumstances or by fairness;
  - (c) A person aged 15 shall be employed only in the performance of light and healthy work as provided for by a decision of the Minister in charge of labour and social protection, pursuant to article 38 of the present Code (...).”
72. The process of formal harmonization of all the laws which still contain provisions inconsistent with the definition of the child contained in the Constitution will be completed with the adoption of the new Code on the Protection of Children, which will amend, in particular, the provisions of the Family Code concerning children and the Decree-law of 6 December 1950.

## **Article 2: Non-discrimination**

73. Progress has been made with regard to legislation to overcome the issue of discrimination based on ethnic origin, sex or disability. It is true that, in practice, further efforts are needed, through awareness-raising and other long-term incentive measures in order to reduce prejudices arising from custom and social practices.
74. The Constitution contains several provisions which strengthen the prohibition of discrimination in all its forms:

*Article 13* provides: “No Congolese may, with regard to education or access to public service, or in any [other] matter, be subject to discrimination, whether by law or an act of the executive, on the grounds of religion, sex, family origin, social status, residence, opinions or political beliefs, or membership of a race, ethnic group, tribe or cultural or linguistic minority”.

*Article 45 (3)* provides: “Everyone shall have access to national educational establishments without discrimination on grounds of place, origin, race, religion, sex, political or philosophical opinions or his or her physical, mental or sensory condition, in accordance with his or her capacities.”

*Article 49 (1) and (2)* provides: “Older persons and persons with disabilities shall be entitled to specific measures of protection in accordance with their physical, intellectual and moral needs. The State shall have the duty to promote the presence of persons with disabilities within national, provincial and local institutions.”

75. With regard to the education of children living with disabilities (visual, auditory or motor), 71 special schools are in operation around the country, as indicated in the table below:

<b>Provinces</b>	<b>Motor handicap</b>	<b>Visual handicap</b>	<b>Auditory handicap</b>	<b>Total</b>
Kinshasa	11	15	3	29
Bas-Congo	4	2	1	7
North Kivu	1	2	0	3
Eastern	1	3	3	7
Equateur	4	1	0	5
West Kasai	3	4	1	8
Maniema	1	1	1	3
Bandundu	0	3	1	4
South Kivu	0	1	0	1
Katanga	0	3	1	4
East Kasai	0	0	0	0
<b>Total</b>				<b>71</b>

*Source:* Ministry of Primary, Secondary and Professional Education (EPSP), Office of Special Education, August 2007.

76. The Constitution also takes into account the question of nationality, which has arisen with regard to certain populations in the East of the country who speak Rwandan languages, by defining Congolese nationality as having been acquired not at the start of colonization (1885) but on the date of independence (30 June 1960). Article 10 (3) provides: “All persons belonging to ethnic groups whose persons and territory constituted what became the Congo (now the Democratic Republic of the Congo) at independence shall be considered of Congolese origin.”

77. On that basis, all Congolese who are at least 18 years of age were registered with a view to the referendum of December 2005 and the general elections held starting in July 2006, in which the populations of the East participated to the extent of over 95 per cent of those registered.

78. Act No. 04/024 of 12 November 2004 on nationality, which generally incorporates the aforementioned constitutional provision, strengthens the right of children to acquire Congolese

nationality, while reducing cases of statelessness. In article 9, it provides: “The following shall by law be presumed to be Congolese:

1. A child born in the Democratic Republic of the Congo of stateless parents;
2. A child born in the Democratic Republic of the Congo of foreign parents whose nationality is not transmitted to the child by virtue of the law of a state of origin which recognizes only *jus soli* or which does not recognize natural affiliation as having an effect on nationality.”

79. For its part, Act No. 015/2002 of 16 October 2002, enacting the Labour Code, lays down in Article 1 the principle of non-discrimination by providing that the law shall apply to all workers and to all employers regardless of the race, sex, marital status, religion, political opinion, national extraction, social origin and nationality of the parties, the nature of the services, the amount of compensation, or the place of formation of the contract, provided it is performed in the Democratic Republic of the Congo.”

80. Along the same lines, among the measures taken to reduce the educational gap between girls and boys, the Democratic Republic of the Congo adopted a national strategy with a view to accelerating the education of girls. Adopted on 15 December 2003, the strategy is to run until 2007 and includes the following main points:

- (a) Improvement of the quality of primary schooling in 2,200 targeted schools in of the country’s 11 provinces (Kinshasa, Bas-Congo, Equateur, Eastern, South Kivu, North Kivu, East Kasai, West Kasai and Katanga);
- (b) Broader access for and improved retention of girls in school;
- (c) Seeking partnerships and synergy with other stakeholders in the basic education sector.

81. Of the total number of children targeted, this strategy will ensure a quality basic education for at least 50 per cent of girls aged 6 to 11 in the formal system and 10 per cent of unschooled girls aged 9 to 15 in the non-formal system. More specifically, the goals are:

- (a) Providing access for 1.5 million children, half of them girls, to schools and/or non-formal “girl-friendly” education centres, by restoration of schools, clean-up of the school environment, provision of equipment and furnishings, teaching and play materials, overhaul of playground equipment, provision of cooking utensils and school cafeteria equipment for schools which pursue that initiative;
- (b) Strengthening the competencies of teachers and educational staff (17,000) in gender equity, classroom management and school administration, through revision and dissemination of curricula, training and re-training in pedagogy, elimination of discriminatory sexist stereotypes from school textbooks, provision of teaching materials for teachers and educational staff, follow-up and supervision;
- (c) Participation by parents and students in school management, in keeping with Article 7 of the framework law on national education, by:

- Organizing discussion meetings for “girl-friendly schools”;
  - Holding meetings to raise awareness regarding education of girls;
  - Training and re-training for members of parent and/or student committees, support for local initiatives such as income-generating activities aimed at supporting schools and non-formal “child-friendly” and “girl-friendly” centres;
  - Distributing school supplies, equipment and support for community-owned schools, sports clubs, health and HIV/AIDS prevention brigades, student government, and systems of girl-to-girl mentoring;
- (d) Strengthening institutional capacities of the formal and non-formal education sectors through organization of workshops to discuss and develop draft laws, organization of the management structure of the non-formal sector, surveys of schooled 6-11 year old children and unschooled 9-15 year old children, development of statistical yearbooks, and logistical support for decentralized structures.

82. The 2006 report prepared as part of the DRC-UNICEF programme of cooperation indicates an increase of 14.3 per cent in the number of children enrolled in first grade of primary school, out of nearly half the national school network, by comparison with 2004-2005, with a remarkable advance by girls (12.4 per cent).

83. In 2004-2005, the first year of the campaign, a nationwide increase of 32 per cent was noted in the number of children enrolled in first grade by comparison with 2003-2004, with a greater increase for girls (36 per cent) by comparison with boys (29 per cent). From 2005-2006 to 2007, out of a sample of 9,379 primary schools representing nearly 40 per cent of the national public school system, there was an increase of 8.8 per cent in enrolment of girls in first grade and 13.2 per cent in second grade (source: UNICEF, Information note on the enrolment campaign for the 2007-2008 school year).

#### **Articles 7 and 8: Registration of births**

84. Article 116 of the Family Code provides: “All births occurring in the territory of the Republic shall be declared to an officer of the Civil Registry of the place of residence of the father or mother within 30 days following the birth.” It should be noted that the Family Code does not refer to domicile with respect to recording of births, but rather to place of residence. Persons wishing to declare the birth of their children may do so at their places of residence.

85. According to the results of the cluster-sampling survey with multiple indicators conducted in the Democratic Republic of the Congo by the Ministry of Planning, 34 per cent of children on average are reported to the Civil Registry (National Survey on the Situation of Children and Women, MICS2/2001, p. 172). Ministry of the Interior statistics indicate a figure of 190,238 births recorded with the Civil Registry in 2001 for the provinces of Bandundu, Bas-Congo, Equateur, the two Kasai provinces and Kinshasa. (Summary table of Civil Registry statistics for 2001.)

86. This low rate of recording of births prompted the Government to take action with a view to increasing it. Activities geared to promoting the recording of births with the Civil Registry, which had a modest beginning in 1999 under the leadership of the Ministry on the Status of

Women, were expanded as from 2003 with the involvement of more Government entitles (Ministries of Justice, Interior, Health, Primary, Secondary and Professional Education), supported by UNICEF and by Belgian and South African cooperation.

87. The “Day of the African Child,” 16 June 2003, was placed under the theme of recording of births with the Civil Registry. The President of the Republic participated in person in the launching of the campaign devoted to this theme by presenting the new birth registers to the officers of the Civil Registry. These registers, the model for which was determined by the Ministry of Justice through Decision No. 419/CAB/MIN/J & GS/2003, of 14 June 2003, were distributed in the 1,060 main offices of the Civil Registry in the country. The format of the register was reduced by half in 2004 out of a concern for reducing printing costs and thus making it more easily available throughout the country.

88. Local authorities followed suit by issuing instructions at all levels. In particular, the Governor of the province of East Kasai addressed letters to provincial political-administrative and religious leaders (No. 01/0603/CAB.PROGOUV/K.OR/2002 of 23 November 2002 and No. 01/0345/CAB. PROGOUV/K.OR/2003 of 7 August 2003) urging them to be fully involved in activities to promote recording of births with the Civil Registry.

89. Following the first West and Central Africa Birth Registration Conference, held in Dakar in February, 2004, which assembled 24 countries of western and central Africa, and in which the Democratic Republic of the Congo took active part, a national plan of action was adopted in July 2004. The plan constitutes the standard framework guiding all actions to promote the recording of births with the Civil Registry.

90. To date, nearly 400 officers of the Civil Registry have been trained in Kinshasa, in provincial capitals and in certain localities around the country on procedures and laws governing the recording of births and the use of the registers. Magistrates whose duties include oversight of the operation of the Civil Registry participated in the training. To make the training cost-effective, measures were taken at the local level to prevent the untimely reassignment of Civil Registry officers. (Circular No. BGV/004/COJU/LP/2004 of 6 May 2004 of the Governor of the city of Kinshasa). The training programme is to be continued in order to cover the whole national territory.

91. In order to bring Civil Registry offices closer to the population, local initiatives have led to the setting up of auxiliary Civil Registry offices in neighbourhoods and in maternity wards, specifically in the communes of Masina, Kinshasa (3 auxiliary offices; 21 neighbourhood chiefs provided with special power-of-attorney forms by which parents can empower them to report births to the Civil Registry); and Kanshi, in the city of Mbuji-ayi (municipal decision No. 193/004/CIV2003 of 11 August 2003), as well as mobile offices (door-to-door approach) in 2003-2004, in the province of East Kasai. In the latter province, actions undertaken have made it possible gradually to increase the rate of recording of births with the Civil Registry: from 7.2 per cent in 2000 to 20.5 per cent in 2001, and reaching 30.2 per cent in 2003.

92. However, for the five provinces referred to in paragraph 85 as a whole, the summary table for 2006 of the Ministry of the Interior indicates that 835,823 births were reported to the Civil Registry, i.e. an increase of 400 per cent by comparison with 2001. Other statistical data are

being gathered to measure the progress made since that time in the country as a whole, including the five other provinces (Orientale, the two Kivus, Maniema, Katanga).

93. Nonetheless, there are still enormous challenges to be faced in the area of recording of births with the Civil Registry, in light of the size of the territory, the cost of setting up and maintaining an efficient Civil Registry system, and also in terms of awareness-raising among parents, who see no immediate gain from this apparently simple act and show very little enthusiasm for performing it, although recording of births is increasingly a reality on the ground and the law provides that it shall be free of charge.

94. Another challenge is that of putting in place a mechanism that will enable all children who have not been registered within the legal time-frame of 30 days to meet the requirement without having to pay costs for legal procedures and the fines which the law imposes for late registrations. Local initiatives have been taken in that respect, for example in the province of East Kasai, where, in keeping with the best interests of children as stipulated in Article 3 (1) of the Convention, the Chief Prosecutor (Procureur général) by decision No. 1360b/PG072/0087/SEC/2003 of 22 October 2003 suspended the application of “the penalties provided for by law for failure or tardiness in recording births of children aged from 30 days to 5 years,” said suspension to be effective for 4 months. The Civil Registry services also need to be decentralized in order to render them more accessible to parents.

#### **Articles 6 and 24: Right to life, survival and development**

95. The Government reaffirms its concern for saving the lives of children, as of all Congolese. Article 16 of the Constitution states: “The human person shall be inviolable. The State has an obligation to respect and protect it. Every individual has the right to life and physical integrity as well as the untrammelled development of his or her personality in a context of respect for the law, public order, the rights of others and public morality. (...)” With regard to infanticide, the draft Code for the Protection of Children contains specific provisions to address that concern.

96. The war, which had a very adverse effect on children’s rights, has ended through the conclusion and implementation of the Global and Comprehensive Agreement signed in Pretoria on 17 December 2002, although there remain to this day some isolated pockets of armed conflict in the East of the country.

97. The holding of free and transparent elections concluded the political transition resulting from the Global and Comprehensive Agreement and led to new democratic institutions auguring well for an era of peace and national development. Among the positive measures taken by the Government to maintain a lasting peace, the following should be noted:

- The reorganization of the army;
- The demobilization of children in armed forces and armed groups;
- The adoption by the National Assembly of the law dealing with the status of the political opposition;
- The reform of the national police.

98. The Government is likewise pursuing its efforts aimed at improving the health of all children. The health care system, in terms of access to primary health care, is integrated into more than 969 public and private health care centres used by an estimated population of 2.5 million children under age 5 and 2.8 million women.
99. The sectoral policy of primary health care for children is kept up to date and coordinated at all levels, translating into easier access by the population to primary health care structures. To date, there are 515 health care districts (zones de santé), as compared with 306 functioning health care districts in 2003 (Report of the office for development of primary health care services of the Ministry of Health, June 2004). Moreover, social security safety-nets, formal and informal, have been established, addressing in particular cooperative health associations and other health services.
100. Vaccination coverage of children aged 0 to 1 has gradually increased since 2000. At the end of 2006, coverage stood at: 87 per cent for Bacillus Calmette-Guérin (BCG), 77 per cent for children having received the third dose of vaccines to prevent diphtheria, tetanus and pertussis (DTC3), 78 per cent for the three doses of oral anti-poliomyelitis vaccine (VPO3), 73 per cent for the anti-measles vaccines (VAR), 74 per cent for the anti-amaril (yellow fever) vaccine, and 73 per cent for the anti-tetanus vaccine (VAT2+). (Annual Report of the Expanded Vaccination Programme (PEV) 2006.) Among pregnant women, coverage in 2004 was as follows: 68 per cent for BCG, 49 per cent for VPO3, 55 per cent for DTC3, 54 per cent for VAR, and 48 per cent for VAT2 (Report for the first quarter, 2004, Expanded Vaccination Programme (PEV)).
101. For the country as a whole, vaccination coverage of children aged 12 to 23 months stands at about 66 per cent, measured from one mass vaccination campaign to another (National Vaccination Campaign (Journée nationale de vaccination, (JNV)). In recent years, vaccination campaigns have reached more children in urban areas than in rural areas.
102. Through combined efforts (monitoring and mass campaigns), the Democratic Republic of the Congo remained free of polio from 2001 to 2005. In 2003, over 7 million children under age 5 had been vaccinated. (DRC-UNICEF cooperation programme, 2003-2005, Master operational plan, March 2003). But since 2006, cases of polio have been reported due to re-introduction from neighbouring countries.
103. In addition, mass campaigns have been organized:
- (a) Against measles, for more than 30 million children since 2000;
  - (b) Against malaria, for which over 300,000 children benefited from distribution of insecticide-impregnated mosquito-nets in 2006, as part of the National Programme to Combat Malaria (PNLP). With regard to pregnant women, the Democratic Republic of the Congo adopted a new policy in 2007 to combat malaria by administering artesinate associated with Amodiquine;
  - (c) Against intestinal parasites affecting 8 million children aged 1 to 5, who receive one capsule of Mebendazole twice a year. The table below shows the proportion of children aged from 12 to 59 months who have been freed of parasites.

Year	Number of children 1 <sup>st</sup> phase	And Percentage 2 <sup>nd</sup> phase
2005	7,661,552 (75.2 %)	8 170 761 (81.2 %)
2006	9,277,869 (82.3 %)	8,305,028 (83.1 %)

*Source:* National Programme of Nutrition (PRONANUT), Activity Report 2005-2006.

104. With regard to vitamin A supplements, at least one campaign was organized since 1998. And beginning in 2002, two campaigns six months apart reached nearly 10 million children aged 6 to 59 months. Out of a total of 9,540,607 children, 9,349,795 received vitamin A supplements, i.e. 98 per cent (PRONANUT Report, June 2004 and official summary of The State of the World's Children, 2004). The table below shows the situation for 2005 and 2006:

Year	Number of children and percentage	
	1 <sup>st</sup> phase	2 <sup>nd</sup> phase
2005	10,017,247 (87.4 %)	9,951,791 (87.8 %)
2006	9,028,006 (80.2 %)	9,277,869 (82.3 %)

*Source:* National Programme of Nutrition (PRONANUT), Activity Report 2005-2006.

105. In order to encourage mothers to only breast-feed their children up to the age of 6 months, PRONAUT organized six training workshops from 2002 to 2004 covering a package of basic nutrition activities. To that end, nearly 200 awareness-raising broadcasts per year were organized nationwide. For the country as a whole, the rate of infant feeding exclusively through breast-feeding was 24 per cent in 2005 (UNICEF, The State of the World's Children, 2007, p. 106)

106. Initiatives are also being pursued to support food and nutritional security for families of vulnerable children. As a result, the nutritional condition of children under age 5 and of women has improved through a reduction of at least 30 per cent of the prevalence of Protein-Energy Malnutrition (PEM) and ferriprivate anemias, as well as a virtual elimination of vitamin A deficiency and disorders due to iodine deficiency. Combining vaccination programmes with promotion of breast-feeding made it possible to lower the infant-juvenile mortality rate from 213 per thousand before 2002 to 205 per thousand after 2002.

107. The elimination of disorders due to iodine deficiency is the result of regular and virtually generalized consumption of iodized salt, pursuant to Inter-ministerial Decree No. CAB/MIN/ECO/ICP/ME/SP/APE/41/2003 of 16 May 2003, enacting a revision of rates of iodization of salt in the Democratic Republic of the Congo. As a result, the rate of use of iodized salt stands at 72 per cent as of 2005 (UNICEF, The State of the World's Children, 2007, p. 106).

108. Promoting consumption of iodized salt had already substantially reduced the rate of goitre, which fell from 42 per cent to 5.7 per cent between 1995 and 2000. It should nonetheless be



noted that studies conducted on this subject by PRONAUT pertained only to school-age children found in a school setting in 8 of the country's 11 provinces (PRONAUT, 2003 Report). Surveys conducted in the other provinces in 1998 revealed that the goitre rate was also at 5 per cent. They also revealed that 80 per cent of families applied feeding and hygiene practices for nursing infants and young children and administered vitamin A and iron-folic acid as part of community-based nutritional programmes.

109. The National Programme to Combat Diarrhoeal Diseases (PNLMD), established under ministerial decision No. 1250/CAB/MIN/S/CJ/BAL/46/2003 of 16 May 2003, aims at:

- (a) Strengthening key practices in implementing comprehensive care of childhood diseases in order to combat diarrhoea;
- (b) Strengthening the capacities of health districts in combating simple and acute diarrhoea;
- (c) Cooperating with implementation of school health programmes, through the National Programme for School Health instituted by ministerial decision No. 1250/CAB/MIN/S/AJ/BAL/20/2002 of 20 August 2002, to combat diseases caused by dirty hands;
- (d) Cooperating with the Water and Sanitation Programme for Healthy Drinking Water consumption, in order to combat diarrhoea.

110. Between 2004 and 2005 the epidemiological situation with regard to bloody diarrhoea and cholera was as follows:

Year	Bloody diarrhoea		Cholera	
	Cases	Deaths	Cases	Deaths
2004	27,774	116 (4.17 %)	7,983	0 (0 %)
2005	26,231	114 (4.34 %)	7,381	93 (12.5 %)

*Source:* PNLMD, Epidemiological Situation, 2004-2005.

111. Following the implementation of these programmes, notably through training, thousands of children have benefited from quality integrated health services in all health specialties and at the community level in revitalized health districts. In the area covered by these programmes, mortality due to diarrhoeal diseases has been lowered to 25 per cent. In addition, the incidence of diarrhoea has gone from 22 per cent to 17 per cent (PCIME/PNLMD 2002-Sept 2004 Training Report). To date, 124 service points spread across 71 community care sites are operational in 9 health districts, within the framework of the strategy for Integrated Management of Childhood Illnesses (IMCI), aimed at reduction of mortality among children under age 5 (WHO Monthly Bulletin No. 5, January 2007).

112. Access to drinking water declined from 37 per cent in 1990 to 22 per cent in 2004 for the country as a whole. According to the National Action Committee for Water and Sanitation (CNAEA), this rate in 1990 was 68 per cent for urban areas and 27 per cent for rural areas.

113. In the country as a whole, 46 per cent of the population use hygienic toilets (61 per cent in urban areas and 39 per cent in rural areas). In urban areas, 97 per cent of these have toilets located in the dwelling, courtyard or parcel, but given the proportion of the population that uses hygienic latrines (46 per cent), it must be acknowledged that the majority of the country's urban population is living in an unhealthy environment, nearly 54 per cent of the latrines used being located in the dwelling, courtyard or parcel. According to CNEA, the rate of sanitation for the country as a whole was about 10 per cent in 1990 and 9 per cent in 2004. For the same period, that rate broke down as follows: 9 per cent and 8 per cent for urban areas; 11 per cent and 10 per cent for rural areas.

114. From a nutritional standpoint, 66 per cent of households report that they have a nutritional reserve, i.e. a stock of food, a vegetable plot, or money. This proportion is very high in rural areas (76 per cent) due to the peasant mode of production based essentially on agriculture.

115. On the other hand, in the major urban centres such as Kinshasa, three fourths of inhabitants live from hand to mouth, having no foodstuffs in reserve or money to provide for food. Consequently, food security is not ensured. It is also precarious in the provinces of South Kivu (66 per cent of households are without food reserves), Maniema (47 per cent), Equateur (37 per cent), East Kasai (36 per cent) and Katanga (35 per cent).

116. The National Reproductive Health Programme (Programme national de santé de la reproduction (PNSR)) has made quality low-risk maternity services accessible to at least 80 per cent of mothers and children, providing reproductive health products to maternity services and training staff and service providers in management of reproductive health services.

117. This programme has increased the prevalence of contraception in the health areas by 4.6 per cent. From 2001 to 2004, the programme provided 890 training sessions in various domains which have an impact on improving provision of health care for children:

- 31 for reproductive health trainers (Kinshasa, Bas-Congo, Equateur);
- 211 for reproductive health providers on protection against mother-child transmission of HIV/AIDS (Kinshasa, Bas-Congo, Equateur);
- 19 on emergency gynecological and neonatal care (Bas-Congo);
- 68 on prevention of infections in clinical settings (Bas-Congo, Bandundu);
- 354 on communications techniques (Kinshasa, Bas-Congo);
- 78 on management of supplies (Kinshasa, Bas-Congo, Equateur);
- 95 for midwives (traditional midwives in Kinshasa);
- 18 on Operational Research;
- 16 on echography (Kinshasa, Bas-Congo).

118. In addition, 1,500 students in their last year of secondary school were given awareness-raising training on combating HIV/AIDS and on the consequences of induced abortions; and support was provided for the training of reproductive health providers and for community service points involved in family planning (Reports of PNSR, 2001-2004).

119. With respect to provision of care to persons affected by HIV/AIDS, it should be noted that 80 per cent of pregnant women, especially those at risk, are detected and given care (access to antiretroviral treatments) through childbirth and during the post-partum period, according to standards prevailing in the zones of intervention (zones of convergence).

120. Moreover, the establishment of the National Programme on Population and Development and on Reproductive Health, supported by UNFPA, which runs through 2007, aims at enhancing the use of quality reproductive health services, including HIV/AIDS prevention.

121. Other programmes and projects to combat HIV/AIDS have been adopted and implemented. One is the National Sectoral Programme to Combat HIV/AIDS and Sexually Transmitted Diseases (Programme national multisectoriel de lutte contre le VIH/sida et les infections sexuellement transmissibles (PNMLS)) and, to that end, work has been done on the mapping of risk and vulnerability to HIV/AIDS.

122. With regard specifically to young people, the National Programme for Adolescent Health was created by ministerial decision No. 1250/CAB/MIN/S/CJ/001/2003 of 13 January 2003, in response to resolution AFR/RC51/R3 of the World Health Organization (WHO), African Region, concerning the regional strategy for adolescent health. This programme is a component of reproductive health, seeking solutions to the reproductive health problems and sexual life of adolescents and young people. A national strategic framework for HIV/AIDS prevention among young people was developed. Moreover, a national forum was held entitled "Young People and AIDS." Following this event, 10,000 adolescent/educator pairs were trained, who, in turn, educated 1 million young people in the framework of the world campaign "Unite for children, unite against AIDS." Also of note is the creation of a young people's network to combat HIV/AIDS.

123. Throughout the country, centres for adolescents and young people are offering specific reproductive health services, including promotion of the use of condoms to prevent sexually transmitted diseases (STDs) and HIV/AIDS. Prevention is also the focus of integrated school programmes at the pre-school, primary and secondary levels.

124. In 2005, 2,321,452 young people, 55 per cent of them girls, used the following services made available to them:

- Awareness-raising concerning HIV/AIDS and STDs;
- Prevention of unwanted pregnancies;
- Information on family planning;
- Responsible parenthood through educator pairs.

125. The National Programme for Adolescent Health has:

- (a) Enhanced awareness among students completing secondary education, without discrimination as to sex, through lectures and debates regarding knowledge, attitudes and practices in reproductive health for adolescents and youths;
- (b) Implemented the youth centres project;

- (c) Through NGOs active in youth health, ensured community-based distribution of 216,000 condoms;
- (d) Conducted post-test evaluations of knowledge, attitudes and practices concerning HIV/AIDS and STDs among child soldiers;
- (e) Organized four training programmes focusing on:
  - Telephone counselling;
  - Calendar-based method family planning;
  - Development of materials for collecting data on beneficiaries;
  - Production and dissemination of Information, Education and Communication (IEC) materials on sexual and reproductive health of adolescents and youths.

126. Thanks to the provision of information adapted to the local context concerning the risk of HIV/AIDS and the means of guarding against it, 46 per cent of children (aged 15-24) know that condoms can prevent HIV/AIDS, and 13 per cent used condoms during their last sexual contact involving risk (official summary, *The State of the World's Children*, 2004).

127. The number of children living with HIV/AIDS is estimated at 300,000, and about 1 million Congolese children have lost at least one parent due to an HIV/AIDS-related cause. These children affected by HIV/AIDS are integrated into foster families and into the community.

128. Finally, a noteworthy development is the creation within the Ministry of Health of a National Committee to combat harmful traditional practices and female genital mutilation (decision No. 1250/CAB/MIN/S/AJ/BAL/21/2002 of 20 August 2002). This Committee's mandate is to reach out to national and international decision-makers and other opinion makers, churches, NGOs and women's associations to advocate implementation of programmes to combat all forms of female genital mutilation; and to prevent and eliminate not only female genital mutilation but also other traditional practices harmful to the health of women and girls.

#### **Articles 5, 9 and 18: Family environment and alternative care**

129. In the sphere of protection and of public support for strengthening families' capacity, in order to enable parents to fulfil their responsibilities toward their children, the Government is aware that much remains to be done in order to improve the living conditions of families weakened by the long and multi-faceted crisis of the 1970s, which grew worse into the 1990s.

130. Programmes aimed at reducing poverty thanks to the stabilization and economic recovery begun since 2001 may make it possible modestly to increase household incomes. To achieve that goal, a minimum wage equivalent (then) to US\$1 per day was established by Decree No. 080/2002 of 3 July 2002 for workers in the private sector. This minimum wage is adjusted according to the conditions laid down in Decree No. 079/2002 of 3 July 2002 defining the modalities for setting and adjusting the minimum wage, minimum family allowances, and the corresponding housing value.

131. In addition, the Emergency Multi-sectoral Programme of Reconstruction and Rehabilitation for 2002-2005 (Programme multisectoriel d'urgence, de reconstruction et de réhabilitation 2002-2005 (PMURR)) shows the Government's commitment to satisfying the recommendations of the Committee on the Rights of the Child and constitutes one of the more promising elements for the realization of the rights of children in the Congo. Also significant is the reform of public administration with support from the World Bank, which will have an impact on the working conditions of career civil servants and will lighten the burden on parents with respect to education of their children. In this regard, the Government signed an agreement with public sector unions in 2004 which aims at improving the terms of employment of civil servants in three phases.

132. More generally, the Government has developed its Poverty Reduction and Growth Strategy Paper (PGRSP), whose main pillar is the involvement of households and of the community in order to engender self-sustaining development.

133. Specifically, during the period covered by the present report, awareness-raising efforts have been conducted throughout the country with a view to promoting the family as the ideal setting for protection of children. Such was the case with the National Campaign for the Family, whose aim was to combat separation of parents and children. This campaign took place in the major cities and urban centres in 2002 and facilitated the reintegration of some street children.

134. The most worrisome trend with respect to the right of children to live in a family and enjoy the family's protection relates to children from disrupted families who live and work in the street. Estimated currently to number over 40,000 in the country's large urban areas, 13,643 of them in Kinshasa, these children live on the margins of society (source: REEJER, Summary of results of survey of street children in the city and province of Kinshasa, October 2006 and March 2007). Among the main causes of this scourge are the following:

- (a) Political factors (political instability, persistent armed conflicts);
- (b) Economic factors (growing urban unemployment, urban drift, collapse of agriculture);
- (c) Social factors (intra-family violence, marital re-arrangements due to the death of a parent, divorce, poor relations between parents and children);
- (d) Cultural factors (influence of the media, particularly radio and visual media, heritage of African traditions, influence of certain evangelical churches which often single out children accused of "witchcraft").

135. Following repeated incidents, some of which led to the deaths of street children, a joint commission of inquiry on "witch" street children needing special measures of protection was created by decision No. 002/04 of 27 April 2004 of the Ministry of Social Affairs. It was chaired by that ministry and comprised delegates of the ministry, national and international NGOs working in the sphere of child protection, as well as religious denominations and United Nations system institutions.

136. The Commission's mission comprises, in particular:

- (a) Serving as an advisory body to the Government;
- (b) Ensuring implementation of national policy with regard to protection of street children and children accused of "witchcraft";
- (c) Proposing actions to be pursued with a view to protection of those children, in accordance with the Convention on the Rights of the Child;
- (d) Mobilizing all active forces in the country working for the protection of this category of children.

137. On that basis, guidelines for the protection of children in disrupted families are being prepared with a view to giving actors on the ground an operational instrument. Eight lines of action have been identified:

- Preventing separation and working with parents and families;
- Protection and assistance on the ground (work in the streets, medical-social aid, open centres, early warning systems);
- Reunification and reintegration of children;
- Urban safety and child protection;
- Children in trouble with the law, social work;
- Supervision of children (foster families, transition centres);
- Coordinating interventions and actions;
- Reporting cases of child abuse.

138. A programme for development of vocational training and employment for young people is under preparation by the Ministry of Youth and Sports in order to wean young people away from living in the streets. Its goals, *inter alia*, are:

- (a) To rehabilitate vocational training centres for school-leavers, thanks to cooperation from international partners;
- (b) To foster the creation and enhancement of clubs and associations of young people in different sectors;
- (c) To grant micro-credits to young people and associations for establishment of small business ventures;
- (d) To awaken young people to the ideals of peace, tolerance and solidarity.

139. In seven provinces surveyed (Bas-Congo, Kinshasa, Equateur, East Kasai, Katanga and Bandundu), 36,410 children from disrupted families were identified in 2003, of whom 27,307, i.e. 75 per cent, were under 15 years of age. Girls numbered 17,112, i.e. 47 per cent and orphans numbered 13,107, i.e. 36 per cent. A strikingly large number of these children (about 90 per cent) are generally accused of witchcraft.

140. Through the school catch-up programme established by the Ministry of Social Affairs, only 5,334 children (2,296 in Kinshasa and 3,038 in other provinces), i.e. 14.6 per cent, have been reunited with their families. The others are placed in open or closed housing centres pending completion of the family reunification programme or until foster families are found. But 22,300 of them are already in school. The challenge remains enormous and substantial resources need to be mobilized in order to eliminate the phenomenon of “street children.”

141. The difficulties in social reintegration of street children are due especially to certain causes: the breakdown of emotional bonds with their families; how far some children find themselves from their place of origin; the erosion of the clan solidarity that could provide care for orphans; and the adamant refusal of some families to take back children who are accused of witchcraft and blamed for all the ills of the family. The Government has thus, in some cases, been led to order the bringing in of some of these children who are most exposed to the danger of delinquency and all manner of trafficking in the streets, and to entrust them summarily to NGOs or return them to parents who come forward to claim them afterwards.

### **Articles 12, 13, 14, 15: Right to participation**

142. Since 2001 the Democratic Republic of the Congo has been implementing a programme of participation by children in all decisions that affect them. The programme, which is under way in all provinces, through schools (student committees) and youth NGOs, is to lead to a children’s parliament. The children’s committees are represented at the community, provincial and national levels. They constitute mechanisms for the defence and advancement of children’s rights at the grass-roots level, by the children themselves.

143. To date, the geographical and sectoral distribution of the children’s committees is as follows:

- 1 national committee;
- 11 provincial committees (one per province);
- 2,307 school committees, 1,800 in Kinshasa and 507 in the provinces;
- 133 committees supervised by NGOs, 80 in Kinshasa and 53 in the provinces;
- 51 community committees, 24 in Kinshasa and 27 in the provinces. (source: National Council for Children, 2006 Report)

144. Child committee members are also represented in national and provincial councils for children as well as at the grass-roots level in local councils for protection and promotion of children’s rights, where they express their views on all issues. It should be noted that 15 children of those committees took part in the work of the twenty-seventh special session of the United Nations General Assembly for follow-up to the World Summit for Children, in New York in 2002.

145. The National Council for Children has established a programme of information and awareness-raising on the Convention, including a module intended for training of children as actors in the promotion and defence of their rights.

146. Where families are concerned, promoting children's right to participation depends on popularizing an understanding of the Convention, which is increasingly the case. Given the traditional attitudes which would confine children to acquiescing in adults' decisions, it is significant that discussion is already taking place within society on the desirability of giving children a voice and advocating recognition of their rights.

**Articles 19, 28, paragraphs 2, 37 and 39: Protection against torture, violence, abandonment and negligence**

147. Violence against children is of the utmost concern to the Government and other public authorities in the country. To put an end to it, legislative, regulatory and other measures have been taken at both the central and local levels.

148. The Constitution of the Democratic Republic of the Congo, in Article 41 (4), (5) and (6), specifically provides for protection of children against violence and negligence. It reads as follows:

“Abandonment and mistreatment of children, especially paedophilia, sexual abuse and accusations of witchcraft are prohibited and shall be punished by law.

Parents have the duty to take care of their children and ensure their protection against all acts of violence, both within and outside the home.

The public authorities have the obligation to provide protection to children in difficult situations and to bring to justice the perpetrators and accomplices of acts of violence against children.”

149. Following the request made by the Committee to the Secretary General of the United Nations to conduct a comprehensive, in-depth study on violence against children following the Bamako Concertations convened in 2005, which were preceded by the first and second World Congress against Commercial Sexual Exploitation of Children (Stockholm, 1996 and Yokohama, 2001), the Government of the Democratic Republic of the Congo prepared a national plan of action for preventing and combating violence against children. It is on the basis of that plan that the following awareness-raising activities are being conducted:

- (a) In schools, to eradicate the corporal punishment practices that are often tolerated in violation of school regulations (decision No. MINEPSP/CABMIN/00100940/90 of 1 September 1990 setting forth internal regulations for students, where the only penalties provided are: immediate suspension without convening a disciplinary hearing, temporary suspension, loss of points, and recovery of five points);
- (b) In families and the community (churches, traditional chiefs, opinion leaders), especially to combat early marriages, and to break silence and report violence against so-called “witch” children and sexually abused children;
- (c) With regard to magistrates, police officers and other law enforcement personnel, to ensure that they punish these acts of violence.



150. As part of the work on the revision of the Family Code, a debate is under way on the interpretation of the term “corrections” used in article 326 (4) of the Family Code, which provides in substance that “a person exercising parental authority may inflict reprimands and punishments on the child to an extent compatible with its age and the improvement of its conduct”. This provision should not be interpreted as allowing parents to inflict corporal punishment on their children.

151. Among all these forms of violence, those inflicted upon so-called “witch” children have taken on disturbing proportions. Fuelled by poverty, mystical beliefs and the proliferation of religious sects, they now spare no urban area, however small, and often leave children bereft of protection.

152. Such is the case in the town of Kindu, in the province of Maniema, in the eastern part of the country, which has less than 250,000 inhabitants but where, in 2006, the association for the Protection of Abandoned Women and Children (Association pour la sauvegarde des enfants et des femmes abandonnées (ASEFA) counted 539 so-called “witch” children, 146 of them girls, being held in churches or in the homes of pastors where they were subjected to forced fasting and all manner of mistreatment on the pretext of exorcising them (breaking the spell). Of these, 537 (99.6 per cent) are from very low-income families.

153. Following awareness-raising campaigns conducted by public entities in cooperation with local NGOs, 120 children were reunited with their families, while the persons in charge of the churches where the children were abandoned agreed to assume the task of mediating with their families to accept the children back into the home.

154. Similarly, 448 so-called “witch” children in Kinshasa, Katanga and Mbuji-Mayi benefited from the following:

- Physical protection and psycho-social rehabilitation;
- Medical care;
- Legal aid;
- Socio-educational and vocational reintegration;
- Food and clothing support. (source: 2006 Annual Report, pp.12 and13).

155. Elsewhere, it is pastors who commit kidnappings and torture against so-called “witch” children that are being prosecuted. For example, the Public Prosecutor’s Office of Ndjili in Kinshasa received a report from the Social Affairs Department (letter No. 1190/MAS/SG.AS/DISPE/015/2004 of 6 September 2004) which, in August 2004, had found 49 cases of kidnapping of children in one commune of the city of Kinshasa. The Public Prosecutor’s Office in Mbandaka, in Equateur Province, received reports of similar acts from local charities. In the latter town, the Congregation of Our Lady of the Sacred Heart took in more than 150 children during the year 2006.

156. Pursuant to one local initiative, the Governor of Equateur Province, on the occasion of the African Day of the Child in June 2006, issued Circular No. 001/CAB/PROGOU/EQ/2006 of 4 September 2006, which prohibited:

- Projection of pornographic films and scenes of violence against children;
- Corporal punishment and the worst forms of child labour;
- All forms of exploitation of children.

157. Sexual violence is also a very disturbing trend which especially affects women and girls. During the war, it took on barbaric forms, in that it involved mainly members of armed forces and groups, but it is now increasingly committed by civilians. Since mid-2005, more than 30,000 victims of sexual violence have been reported nationwide. Between the start of 2005 and January, 2006, a health service centre in North Kivu counted 174 cases of rape, 80 per cent of which pertained to girls. In June, 2006, 14 cases of sexual violence committed in the territory of Mueneditu were reported by the divisional head of the Ministry on the Status of Women and the Family.

158. With a view to preventing and severely punishing violations involving this type of violence while at the same time ensuring systematic care for victims, Acts No. 06/018 and No. 06/019 of 20 July 2006 were adopted to take more vigorous action against sexual violence. They amend, respectively, provisions of the Penal Code and the Code of Criminal Procedure.

159. Act No. 06/018 strengthens penalties for rape and criminalizes other forms of anti-social behaviour which had heretofore gone unpunished. Certain violations were drawn from the Statute of the International Criminal Court, others from the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

160. Thus, the definition of rape now encompasses several situations which had heretofore been characterized simply as indecent assault. Mention should be made of the following new offenses: corruption of a minor, forced prostitution, sexual harassment, sexual slavery, forced marriage, genital mutilation, bestiality, intentional transmission of incurable sexually transmitted diseases, sexual trafficking and exploitation of children, forced pregnancy, forced sterilization, child pornography, child prostitution.

161. Act No. 0619 provides for an expedited procedure for investigation and trial of sexual violence cases. It contains the following provisions:

*Article 7 bis:*

“Without prejudice to legal provisions concerning procedure in cases of *flagrante delicto*, the preliminary inquiry with respect to sexual violence shall take place within a period not exceeding one month from the date of filing of the case with the judicial authority. The investigation and the issuance of a judgment shall take place within a period not exceeding three months from the date of filing of the case with the judicial authority.

The investigation by the officer of the judicial police shall be immediate. It shall be conducted without interruption in such a manner as to supply the officer of the public prosecutor’s office the main elements needed to form a view of the case.

During all phases of the procedure, the victim shall have the assistance of counsel.”

*Article 9 bis:*

“The alternative fine (*amende transactionnelle*) provided for in Article 9 above shall not apply to offenses related to sexual violence.”

*Article 14 bis:*

“[...] the officer of the public prosecutor’s office or the judge shall, *ex officio*, summon a physician and a psychologist in order to evaluate the state of a victim of sexual violence and to determine appropriate care to be provided, as well as to assess the extent of the injury she suffered and its subsequent aggravation.”

*Article 74 bis:*

“The officer of the public prosecutor’s office or the judge presiding over a case of sexual violence shall take the necessary steps to protect the security, physical and psychological wellbeing, dignity and respect for privacy of the victims or of any persons involved.

In this regard, proceedings shall be conducted in camera at the request of the victim or of the officer of the public prosecutor’s office.”

162. The adoption of these laws was preceded and followed by broad-based awareness-raising campaigns, advocacy with political and judicial decision-makers and training sessions for thousands of law-enforcement personnel, with a view to ending impunity. These activities are carried out as part of what is known as the “Joint Initiative to combat sexual violence against women, youth and children in the Democratic Republic of the Congo” (“Joint Initiative”) launched in March, 2004.

163. The Joint Initiative is a multi-sectoral framework for coordination and action in preventing and responding to violence against women, young people and children. The participants are: the Government (Ministries of Human Rights, Status of Women and the Family, Social Affairs, etc.); United Nations organizations (UNFPA, UNICEF, UNDP, HCHR, United Nations Development Fund for Women (UNIFEM), World Food Programme (WFP), United Nations Food and Agriculture Organization (FAO), United Nations Organization Mission in the Democratic Republic of the Congo (MONUC)); and non-governmental organizations.

164. The actions of the Joint Initiative fall under five headings:

- (a) Advocacy, which led in particular to adoption of laws on sexual violence;
- (b) Awareness-raising, to prompt victims to report perpetrators in order to break the circle of silence that surrounds this subject, which is considered taboo in their social setting;
- (c) Psycho-social care, in order to address the victims’ trauma, including aid to victims in finding income-generating activities;
- (d) Medical attention, by creating or strengthening capacities at health-care centres to provide appropriate treatment to rape victims;

- (e) Legal aid, by establishing legal clinics (orienting victims to judicial organs and providing legal assistance), including reform of the judicial system (combating impunity, strengthening capacities among magistrates).

165. Of 30,000 victims identified since mid-2005, 70 per cent received aid in one form or another, as indicated below. In the two Kivu provinces, since the launch of the initiative to aid victims of sexual violence in 2003, 27,460 people have received psycho-social attention, 17,089 have received specialized medical care, 6,134 have been guided towards economic re-integration activities, and 34 have received legal and judicial assistance. It should be noted that the 14 victims referred to in paragraph 157 above also received psychological and clinical care.

166. Following the awareness-raising efforts concerning the fight against sexual violence, the adoption of these laws, and dissemination of information about them among the public, the perpetrators of rape and other sex offenses are being prosecuted and convicted, especially in military jurisdictions. Among the cases decided, the following are noteworthy:

- RP 086/005 - RP101/006, of 20 June 2006, a judgment handed down by the military tribunal of the garrison of Mbandaka (Equateur Province) against nine soldiers found guilty, in particular, of rape of 46 persons in Bokala, and who were sentenced for crimes against humanity to penal servitude for life, based on articles 7, 9, 21, 25, 31, 32, 33 and 37 of the Statute of the International Criminal Court;
- RP 084/2005 of 12 April 2006, a judgment handed down by the military tribunal of Mbandaka against 12 soldiers prosecuted for the rape of 31 persons in Songo Mboyo and sentenced to penal servitude for life, based on the Statute of the International Criminal Court;
- RP 011/05 of 26 October 2005, a judgment handed down by the military tribunal of the garrison of Kindu, in Maniema Province, against two Mai-Mai militia members who committed acts of rape and sexual slavery against four women in the locality of Kimanda, and who were sentenced to death based on articles 5, 6, 165, 169 (7) and 172 of the Military Penal Code.

167. Also noteworthy is the conviction of two soldiers to 10 years' penal servitude for the rape, respectively, of a 5-year-old girl and a 13-year-old girl, by the military tribunal of the garrison of Kalemie (Katanga Province) in May, 2006. However, it should be noted that judicial decisions are few in light of the number of crimes committed. Logistical difficulties in particular hamper thorough surveys. But the determination of the Government to combat impunity is real and will become increasingly manifest through the reform of the justice system that is now under way, supported by the international community.

168. In connection with the awareness-raising campaign, the theme chosen for International Women's Day 2007 is: "Ending violence against women, demanding application of the law."

169. Efforts need to be stepped up and maintained over time. From that perspective, in the framework of the Joint Initiative, an annual action plan has been developed for 2007, with support from the Office of the High Commissioner for Human Rights, including the following salient points:

- (a) Establishment of legal clinics to strengthen judicial aid to victims of sexual violence;
- (b) Awareness-raising campaigns for the application of the new laws, addressed to legal practitioners and to the population;
- (c) Training sessions for traditional leaders regarding the fight against different forms of sexual violence, and assistance to victims, in light of their role in the persistence of long-standing harmful practices such as early marriage, genital excision or initiation to sexual life.

### **Article 28, paragraph 1: Right to education**

170. Since the presentation of the initial report, the Government has taken initiatives aimed at ensuring education for all children. It is aware that the schooling rate at present is low, standing at 40 per cent of the total number of school-age children (statement of the Minister of Primary, Secondary and Professional Education (EPSP), 2007). In that regard, the Constitution has for the first time introduced free basic education. In article 43 (4), it provides: “Primary education shall be compulsory and free in public establishments.” It is true that making that measure effective is a challenge which the Government intends to take up by gradually increasing resources allocated to the educational sector with the support of international cooperation.

171. However, in decision No. 082 of 15 May 2006, the Government had already determined the priorities for education, setting as a short-term goal the establishment of a legal and regulatory framework favourable to meeting the Millennium Development Goals.

172. The persistence of areas where security is lacking also constitutes a hindrance to the education of children, not only because of constant displacements of families and children but also because of destruction of school infrastructure resulting from armed clashes and troop deployments, as happened in northern Katanga Province, in Ituri or in Beni in the province of North Kivu in 2005. Urgent interventions have been under way in that part of the country since October, 2004, with the support of UNICEF and the United Nations Office for the Coordination of Humanitarian Affairs, in order to provide immediate assistance to damaged schools, in the form of restoration and provision of school supplies. Between 1993 and 2006, 199 schools were restored with support from the World Bank, the African Development Bank, and resources for Highly Indebted Poor Countries (HIPC).

173. As part of its goal of education for all, the Democratic Republic of the Congo has established, in particular, a Project to Support Recovery of the Educational Sector (Projet d’appui au redressement du secteur éducatif (PARSEC)) and a Project to Support the Educational Sector (Projet d’appui au secteur éducatif (PASE)). It has also endorsed “Initiative 25 for 2005” to accelerate education of girls and thus ensure girl/boy parity.

174. Specifically:

- (a) Over 416.000 students, including 175,000 girls, received school supplies, textbooks and school materials, and 8,800 teachers and educational staff prepared 87,000 children and adolescents, including 33,000 girls, better to succeed in their schoolwork and in their lives as adolescents;

- (b) 22,300 orphans and vulnerable children were integrated into the school system;
- (c) Enrolment fees were reduced by half for the 2004-2005 school year for children beginning primary school (first and second grade);
- (d) Given the relatively high cost of schooling and the modest incomes of parents, school officials are regularly instructed by the Government to be flexible with regard to collection of school fees, thus stressing the priority of providing education to children;
- (e) With a view to improving school supervision of children, the mission of the Corps of Inspectors of EPSP was expanded, and the function of counsellors was upgraded. Kinshasa, the capital, has 700 counsellors and plans are under way to establish them throughout the country, although their numbers remain low in relation to real needs.

175. The Corps of Inspectors, organized under ordinance No. 91-231 of 15 August 1991, is entrusted with supervision, monitoring and promotion of national education in the primary, secondary and vocational sectors, as well as teacher education. The Corps has been enhanced in terms of its operation, pedagogical management, observance of school calendars, school evaluation, and monitoring of viability of schools.

176. Encouraging results have been forthcoming during the last five years, in keeping with the goals set. For example, during the 2001-2002 school year, enrolment in primary schools increased by 15 per cent on average in 500 target schools, in cooperation with UNICEF, totalling 420,000 students, with a substantial increase in the number of girls, while the school-leaving rate fell to under 10 per cent. Enrolment in first grade increased 32 per cent.

177. The Government has likewise established a national programme of non-formal education to enable students who lacked access to standard primary education to catch up. This programme has been applied in 720 functional centres around the country since 2002, and 24,376 vulnerable children, 30 per cent of them girls, had free, regular access to health care and education from 2001 to 2003. As part of the same programme, school cafeterias supported by the World Food Programme were established for children from disrupted families. In parallel, 70 schools and 304 heads of households were given help with income-generating activities.

178. In terms of overall strategies and programmes, the Government has taken several measures aimed at achieving its educational goals. In addition to the strategy for accelerating schooling of girls, they include the following: education and development of human capital; basic education; early childhood education and development.

179. With regard to education and development of human capital, the goal is to ensure access by children from especially disadvantaged settings to education in the three existing educational systems (the public system, the private for-profit system, and the dynamic community-based system). Each one responds to specific needs. The development of the national strategy reflects that reality and is given special attention in the Growth and Poverty Reduction Strategy Paper (GPRSP). Accordingly, the Government is seeking to promote access to education through the following initiatives:

- Allocating at least 10 per cent of the Government budget to education (5 per cent in 2005 and 6.8 per cent in 2006)
- Achieving generalized education among all children at the primary level, while seeking over the long term to make that education free of charge;
- Restoration of infrastructure and equipment of schools and of secondary and higher-education establishments;
- Creating vocational schools;
- Promoting technical, vocational and scientific competence in order to harmonize training, employment and development;
- Restoration of training and vocational training institutions;
- Enhancing teaching careers: ongoing actions, improving capacities for re-training, working and living conditions.

180. It should also be noted that between 2001 and 2004 the National Library, supported by French cooperation, supplied 20,690 works to school and private libraries around the country (National Library, Report on Distribution of Books in the Democratic Republic of the Congo).

181. With regard to basic education, it must be noted that the educational institutions created by private initiatives are taking on greater importance in comparison with those established by the Government, whose operation is no longer satisfactory, especially in rural areas. In this sector, the Government intends to support grass-roots organizations through the following actions:

- (a) To lead efforts by the population to undertake maintenance and restoration of school infrastructure and equipment;
- (b) To facilitate access to low-cost supplies, notably through a better-adapted fiscal and para-fiscal policy;
- (c) To provide vocational training opportunities for young people who show aptitudes.

182. Concerning abuses committed by teachers against students (improperly withholding points, sexual harassment against girls) the Government, since 2003, has organized awareness-raising campaigns among students to prompt them to report any form of exploitation used against them. Campaigns are under way to combat corruption and to change attitudes, conducted as part of the effort to disseminate information regarding Decree-Law No. 017/2002 of 3 October 2002 enacting the Code of conduct for State officials. In addition to prosecutions, disciplinary sanctions are provided for under that Code against any public employee who intentionally violates his professional duties.

183. The project on early childhood schooling seeks to provide 400,000 children aged 0 to 5 years (the most important period in a child's development) with access to quality learning settings, through the following measures:

- (a) Setting up community child care centres near the girl-friendly schools;

- (b) Integrating early childhood educational activities within the community-based nutritional scheme;
- (c) Equipping child care centres and nursery schools with furniture, educational materials, hygiene equipment, and play equipment;
- (d) Supplying schools with sports equipment for vacation activities.
- (e) Promoting, through parents of children aged 0 to 5, practical knowledge regarding early childhood education and integrated development of the young child in targeted health areas, through:
- (f) Taking stock of cultural practices beneficial to early childhood education;
- (g) Organizing interpersonal communication activities, especially talks, to educate parents in knowledge and practice of early childhood education;
- (h) Supporting community initiatives to support venues for the teaching of early childhood education and related events, in coordination with the community programme.
- (i) Strengthening the capacities of the managers of early childhood learning centres with regard to integrated development of young children, through development of modules, training programmes, re-training and experience-sharing, development or revision of integrated early childhood activity plans, follow-up and supervision.

184. To date, 361 community-based spaces for early childhood education, accommodating nearly 26,000 children, have been created on an experimental basis in three provinces (Kinshasa, Bas-Congo, Katanga).

#### **Articles 32, 34 and 38: Work, sexual and social exploitation of children**

185. The new Labour Code of 2002 raised the minimum age of admission to employment from 14 to 15. In addition, it prohibits all of the worst forms of child labour, taking its cue from article 3 of ILO Convention No. 182 (1999) concerning the prohibition of the worst forms of child labour and immediate action with a view to their elimination. Pursuant to article 3 (2) of the Code, the term “worst forms of child labour” includes, in particular:

- (a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs;
- (d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.



186. Article 137 provides that labour inspectors may compel medical examinations of children, women and persons with disabilities, in order to verify whether the work entrusted to them exceeds their abilities. Such examinations shall be mandatory at the request of the persons concerned. Children, women or disabled persons shall not be kept in employment which is found to be beyond their abilities and must be assigned to a suitable job. If that is impossible, the contract must be rescinded at the initiative of the employer, with notice pay.

187. Article 4 establishes a National Committee to combat the worst forms of child labour, whose mandate is:

- (a) To develop a national strategy for the eradication of the worst forms of child labour;
- (b) To ensure by follow-up that the strategy is implemented and to evaluate the degree of application of the measures prescribed.

188. Pursuant to article 5 of the Labour Code, inter-ministerial decision No. 12/MIN/TPS/AR/34/2006 of 10 June 2006, signed jointly by the Ministers of Labour and Social Security, Status of Women and the Family, and Social Affairs, sets out the organization of the National Committee to combat the worst forms of child labour. Under Article 2, "The Committee is entrusted, in particular, with the following tasks:

- (a) Developing national programmes of action aimed at:
  - (i) Identifying and reporting the worst forms of child labour;
  - (ii) Preventing the employment of children for performance of the worst forms of child labour or, if necessary, removing them there from;
  - (iii) Protecting children from all reprisals and ensuring their re-assimilation and social integration through measures in keeping with their educational, physical and psychological needs;
  - (iv) Giving special attention to young children, especially girls and other vulnerable groups of children;
  - (v) Identifying communities where children are especially at risk;
  - (vi) Informing, educating and mobilizing public opinion and concerned groups, including the children and their families;
- (b) Coordinating awareness-raising activities addressed to employers and child workers;
- (c) Organizing training programmes on child labour addressed to labour inspectors and strengthening the capacity of public services, employers' organizations, workers organizations and NGOs, in order to lead them effectively to combat child labour;
- (d) Compiling detailed information and supplying statistical data on the nature and extent of labour by children in order to set priorities for national action aimed at abolishing child labour and, in particular, prohibiting and eliminating its worst forms;

- (e) With the assistance of the Labour Inspector's Office, monitoring enterprises that have employed child labour and applying sanctions if necessary for any recurring violations;
- (f) Following up with regard to the International Programme on the Elimination of Child Labour (IPEC) launched in 2003 with the support of the ILO;
- (g) Developing school systems and provision of social services in poor communities.”

189. The Government is aware of the fact that child labour continues to exist throughout the country. Studies conducted in the provinces listed below, in the mining sector, show that more than 60,000 children (30 per cent to 40 per cent of them girls, varying from place to place) are working in diamond, copper and gold mines, either performing mining labour proper or engaged in related activities involving informal commerce, gardening, carrying, household work, or even prostitution, especially among girls:

- East Kasai (University of Mbuji-Mayi, Survey of work by children in mines and quarries of East Kasai, October 2006)
- West Kasai (University of Lubumbashi, Work by children in the mines and quarries of Lubumbashi, June 2006)
- Katanga (University of Lubumbashi, Work by children in the mines and quarries of Lubumbashi, June 2006)
- Province Orientale (Study on the worst forms of child labour in the mines of Bafwasende and Banalia).

190. The children's age ranges from 5 to 17. Over 60 per cent of them are no longer going to school; but, above all, most of those who strive against all odds to combine work and study do not go beyond primary school. In Lubumbashi, capital of Katanga Province, 65 per cent of children in a sample of 177 are not attending school, and the school-leaving rate for primary schools is estimated at 78.6 per cent.

191. The study conducted in ten labour-intensive diamond mining operations in Banalia and Bafwasende (Province Orientale) reveals that the number of children working in the mines rose by more than 200 per cent between 1999 and 2006. The increase is 24 per cent for the 24 diamond quarries of the city of Mbuji-Mayi and the territory of Tshilenge (East Kasai), where the number of children went from 9,607 in 1998 to 11,880 in 2006.

192. Working, living and housing conditions in the open-pit mines are very harsh and very dangerous. The East Kasai survey shows that 13 per cent of fatal accidents recorded in recent years in the mines, resulting from cave-ins of shafts, involved children. 70 per cent of the children receive only one meal per day. In Province Orientale, as in Katanga, the children work on average 10 hours per day, without any real rest breaks.

193. It has been found in Province Orientale that the daily pay varies considerably. It ranges from \$ 0.81 to \$ 2.41 or \$4.69 depending on whether the children are paid by the month, week or day. But 58 per cent of them are not paid at all. In any event, this meagre and irregular pay does not compensate for the physical and mental effort exerted. Often, the economic exploitation

goes hand in hand with ill-treatment inflicted by employers when there are disputes about the value of the diamonds or the remuneration.

194. The open-pit mines are a breeding-ground for diseases, notably typhoid, cholera, dysentery, abdominal complaints, respiratory illnesses, etc. The children sleep in the open air along river banks or in forest clearings. In Lubumbashi it is found that 71.6 per cent of the children drink polluted water from rivers or wells. These mines are also places where tobacco, alcohol and drugs are consumed and where sexually transmitted diseases are passed on. In the mining quarries of East Kasai, 30 per cent of the children smoke, 25 per cent drink alcoholic beverages or take drugs mainly to numb themselves or forget their unhappy lot, and 25 per cent have unprotected sex, thus inevitably exposing themselves to HIV/AIDS.

195. This child labour is taking place in the context of an economic crisis that has lasted for more than three decades and has left families hard pressed to provide for their children's most basic needs, such as food and schooling. Surveys also show that the majority of children in the mines (82.5 per cent) live with at least one of their two parents. They also reveal that 88.8 per cent of them would be willing to leave their harsh jobs, especially to return to school. Aware of this opportunity, the Government is setting up appropriate strategies over the medium term to return these children to school.

196. Extreme poverty among families is also at the root of sexual exploitation of children. It is not uncommon for young girls in urban areas like Kinshasa or Mbandaka to turn to prostitution, sometimes encouraged by their own parents. The long-term solution to this situation lies in improving household incomes through the governmental economic recovery programme, which will provide for job creation and favour improvement of the economic and social fabric. But in the short term, initiatives are being taken at the local level (e.g. in Mbandaka in Equateur Province), bringing together public services and NGOs with a view to identifying these girls, conducting social surveys, and providing a framework for learning a trade that will preserve their dignity and ensure their social and economic reintegration.

197. The country's economic and social difficulties and its geographical position with borders open on nine sides also explain a trend that has been observed for some time, namely the trafficking of children for sexual or economic exploitation. Cases have been reported between Kinshasa and Brazzaville to the west and between the city of Bukavu and Burundi to the east of the country. This phenomenon is not yet very well defined, but, from a legislative and institutional perspective, the mechanisms referred to earlier in this report provide a means of addressing it.

198. With regard to legislative measures, it should be noted that Article 68 of the Penal Code provides: "The penalties and provisions of the preceding article shall be applied to anyone who abducts, arrests or detains, or who brings about the abduction, arrest or detention, of any person in order to sell such person as a slave, or who disposes of persons placed under his authority for that purpose."

199. Article 174 of the same law, introduced in July of 2006, expressly provides: "Any act or transaction relating to trafficking in or exploitation of children or any other persons for sexual purposes, in return for compensation or any other advantage, shall be punished by ten to twenty years of penal servitude."

200. In addition to the legal arsenal described above, actions are to be pursued on the ground especially to bring into play appropriate monitoring mechanisms, such as judicial oversight of international adoptions or border controls carried out by services of the Directorate General for Migrations (Direction générale des migrations (DGM)).

201. The extreme poverty faced by families accounts for the massive enlistment of children in armed groups since the war of 1996. Having thus been prematurely put through the traumatizing experience of war, these children have been denied the enjoyment of their fundamental rights to education, health and integrated development. In order to extricate these children from that harmful environment in the future, the Government, with significant support from international cooperation, has exerted considerable efforts to remove from armed groups and forces all children involved in them in one way or another (soldiers, bearers, pages, household aides, etc.), whose number has been reckoned at over 30,000, including about 15 per cent girls.

202. Since Decree-Law No. 066/2000 of 9 June 2000 providing for demobilization and reintegration of vulnerable groups present in the armed forces, legislative and regulatory measures have unequivocally prohibited the involvement of children in armed conflicts. Thus, Article 190 of the Constitution of 18 February 2006 provides: “No one shall, subject to punishment for high treason [...], keep youths under arms,” while Article 7 of Act No. 04/023 of 12 December 2004, setting out the general organization of defence and the armed forces, provides: “Congolese of both sexes who have reached the age of 18 may be conscripted in the event of mobilization.”

203. The application of Decree-Law No. 066/2000 had been entrusted to the National Office for Demobilization and Reintegration (Bureau national pour la démobilisation et la réinsertion (BUNADER)), which was replaced by the National Commission for the Demobilization and Reintegration of Child Soldiers (Commission nationale pour la démobilisation et la réinsertion (CONADER)), created under Decree No. 03/042 of 18 December 2003. Accountable to the Ministries of National Defence, Demobilization and Veterans’ Affairs, Social Affairs and Solidarity and Humanitarian Affairs (article 39), CONADER is entrusted with coordination and follow-up of all actions pursued for the benefit of children involved in armed forces and groups. This activity is carried out in parallel with the reorganization of adults from the regular armed forces and from armed groups who are fit to continue in military service. The DDR Programme is supported by a trust fund managed by the World Bank.

204. On 30 April, 2006, 29,291 children certified in orientation centres were withdrawn from armed forces and groups; 15,220 are beneficiaries of a programme of social and economic reintegration being carried out on the ground by about 9 international NGOs and 35 national NGOs, which are also receiving support from UNICEF. Thus, the presence of children in some largely un-integrated military units is dwindling.

205. However, surveying the number of girls and ensuring their removal remains a fairly delicate issue. Many girls who were conscripted or who voluntarily enlisted now consider themselves the “wives” of soldiers and thus place themselves outside the DDR programme. Moreover, those who are completely free to leave the armed groups are reluctant to come forward and to seek aid from the DDR programme. Fear of social ostracism if they reveal their association with the armed forces, and a concern to preserve their dignity, lead them to prefer a discreet return to civilian life.

206. Also noteworthy is the implementation of the inter-regional programme to prevent involvement of children in armed conflicts and to provide for their reintegration, as part of the International Programme on the Elimination of Child Labour (IPEC).

207. With a view to facilitating their reception, a Community Programme to foster family reunification and socio-economic reintegration of children from armed forces and groups has been implemented in all of the country's provinces. In summary, the national programme for disarmament, demobilization and reintegration of children comprises the following stages:

- (a) A campaign for the release of children involved in armed forces and groups;
- (b) Training functional partners in temporary reception and reintegration activities;
- (c) National and local awareness-raising on the issue of children involved in armed forces and groups;
- (d) Identification of children in the hands of armed forces and groups;
- (e) Reception of children in transitional centres;
- (f) Seeking out families and arranging family reunification;
- (g) Social and economic reintegration activities.

208. However, the programme of economic reintegration of children is currently hampered by the lack of opportunities for children to improve their economic situation in general and by financial difficulties due to the lack of a long-term source of support. As a result, children run the risk of falling into delinquency and some are even tempted to enlist again in the regular armed forces or in armed groups that are still active in some parts of the country, such as the North (Equateur Province) or the East (Eastern, North-Kivu and South-Kivu Provinces). The Government intends to resolve this financial problem with the support it anticipates from its partners in order to give renewed impetus to the programme of social, vocational and economic reintegration of these children.

209. With regard to measures for psychological readjustment of children involved in armed forces, it should be noted that temporary resettlement in "peace villages" (structures d'encadrement transitoire (SET)) through which children transit before reunification with their families does not completely satisfy that need because the programme for disarmament, demobilization and reintegration provides for only a short stay (30 days at most) in those facilities, and the facilities in any event lack qualified psychologists. The consequences of this state of affairs are such that some children have difficulty in adjusting to family life and show behavioural problems that translate into acts of violence against those close to them.

210. The solution envisaged consists of giving international and national NGOs providing for the re-education of children in temporary centres and for their reunification with their families the means to do systematic follow-up work with children withdrawn from armed forces and groups and to provide psychological counselling for those who need it.

211. The Government's commitment to ending conscription of children in armed groups also finds expression in the fact that it has initiated within the country, or in cooperation with the International Criminal Court, judicial proceedings against the perpetrators of those acts, as in the case of Thomas Lubanga, against whom charges were confirmed on January, 2007 in The Hague.

212. Internally, in May, 2005, the Headquarters of the Armed Forces expressly ordered all officers not to recruit children under the age of 18 and instructed them that all offenders would be severely punished. The Auditor General of the Congolese armed forces then expressly instructed all senior auditors and garrison auditors to prosecute any individual who broke the law and the aforementioned military orders.

213. It is on that basis that, on 17 March 2006, the military tribunal of the garrison of Bukavu convicted Major Biyoyo (formerly of the Mudiundu 40 Movement), a member of the Tenth Military Region, on charges of insurrection, desertion, arbitrary arrest and illegal detention of children in South Kivu in April, 2004.

214. Paradoxically, the progress that has been made in suppressing conscription of children has made it more difficult to take stock of the children still present in various groups involved in the process of reorganization of the army. Fearing that they may be prosecuted for conscripting children, most commanding officers who decide to take part in the reorganization simply abandon the children who were still present in their ranks. That in turn deprives those children of the benefit of social and economic reintegration activities. This has been noted especially in Katanga, South Kivu and Equateur Provinces. It must needs be acknowledged as well that the persistence of zones of fighting increases the risk that children will be conscripted. That is so in Ituri and the Kivu provinces, where there have recently been reports of abduction of some thirty children, including girls.

### **Article 33: Protection against drug use and substance abuse**

215. The Government recognizes that use of drugs and alcoholic beverages is a reality, especially in Kinshasa, where cannabis is consumed most. To curb the danger which consumption of these substances represents for young people, the Constitution provides in Article 42 that the public authorities have an obligation to protect young people against all threats to their health, education and integrated development.

216. Against that background, a National Inter-ministerial Committee to combat the use of drugs and other narcotic substances was created (Ministerial decision No. 91-107 of 23 August 1991). The mandate of this Committee is to define, advance and coordinate the Government's anti-drug policy. During 2006, the Committee proceeded against 613 persons in Kinshasa and seized 995 kilograms of cannabis, 664 grams of heroin, and 127.5 grams of cocaine.

217. One of the preventive measures which the Committee has adopted with a view to raising awareness in the population in general and children in particular about the harmful consequences of drugs and liquor on children's health and future is organizing national television and radio broadcasts and holding lectures in schools and churches.

218. Further, inter-ministerial decision No. 001/CAB/MIN-ECO/2007 and 001/CAB/MIN/IND/2007 of 12 April 2007 enacting the prohibition of trade in alcohol, eaux-de-vie and prepared liquor mixes makes these substances less easily available to children. Pursuant to that decision, there have been seizures of inventories of these beverages manufactured in violation of this prohibition.

219. The Ministry of Health, through the ministerial decisions listed below, has also integrated the protection of children into its programme of action:

- Ministerial decision No. 1250/CAB/MIN/SPF/014/1997 of 17 March 1997 enacting public health enforcement measures concerning tobacco consumption;
- Ministerial decision No. 1250/CAB/MIN/S/CJ/25/2003 of 03 May 2003 enacting the creation and organization of a National Programme to Combat Drug Addiction (Programme national de lutte contre la toxicomanie (PNLCT)) in the Democratic Republic of the Congo;
- Ministerial decision No. 04/MCP/009/2002 amending and supplementing ministerial decision No. 04/DIP/05/90 of 21 January 1990, which lays down criteria for evaluation of advertising for tobacco and alcoholic beverages.

220. Other measures also recommended that packs of cigarettes bear the following messages:

- Sale to minors and by minors prohibited;
- Smoking is harmful to health;
- Tobacco seriously injures your health;
- Warning: smoking kills;
- Smoking creates a powerful dependency.

#### **Articles 37 and 40: Children in trouble with the law**

221. The system of juvenile justice in the Democratic Republic of the Congo has heretofore been organized under the Decree of 6 December 1950 concerning juvenile delinquency. At the present time, the system is experiencing operational difficulties, of which the main ones are:

- (a) The persistent tendency of some magistrates to deny the 16-to-18 age group the benefit of the special measures contained in the Decree, relying on Ordinance No. 78/016 of 4 July 1978, which had lowered the age of criminal liability from 18 to 16, although the international standard is 18;
- (b) Slowness in handling cases of minors, due in large measure to a generalized lack of qualified personnel but also due to the inherent requirements of this type of case, which precludes judgments by default;
- (c) The lack of adequate structures for temporary detention or for detention pending execution of a final decision concerning children in trouble with the law;

- (d) The lack of systematic legal aid for children;
- (e) The lack of social workers to help judges with case investigations and to follow up with children during the application of measures decided by the judge.

222. The number of children arrested and held is difficult to determine, in view of the shortcomings of the system for collection and centralization of statistical data. However, a rather incomplete survey in September 2004 by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) noted the arrest of some 40 children per month on average (MONUC, *Arrestations et détentions dans les prisons et cachots de la République démocratique du Congo, partie II: La détention des enfants et la justice pour mineurs, mars 2006* (Arrests and detentions in the prisons and secret detention centres of the Democratic Republic of the Congo, Part II: Detention of children and juvenile justice, March 2006)). The International Catholic Child Bureau (ICCB), for its part, estimates that 2,150 children per year are deprived of their liberty in Kinshasa, Kananga and Mbuji-Mayi (ICCB, Annual Report, 2006, pp. 10-11).

223. The survey conducted of all detention centres in Kinshasa by the Justice Now Association (Action Justice Maintenant (AJM)), with funding from UNICEF, reveals that 186 juvenile cases were processed by public prosecutors' offices and police courts in 2005, while juvenile cases recorded by the police numbered 423 for the same period. However, the lack of rigour with which police records are kept suggests that about one fourth of arrests of children are not recorded. Moreover, it is difficult to ascertain how many police files were transmitted to the decision-making fora, i.e. police courts (AJM, Brief survey of children in trouble with the law in Kinshasa in 2005, December 2006 (AJM, *Bref état des lieux sur les enfants en conflit avec la loi à Kinshasa en 2005, décembre 2006*)).

224. With regard to the question of the age of criminal liability, it should be noted that, owing to several factors, the judicial practices referred to in paragraph 213 are on the wane, the trend being to consider all persons under age 18 as minors from a penal perspective. Noteworthy among these factors are the principles laid down by the new Constitution of 18 February 2006, namely the definition of the child contained in Article 41 (1); Article 114 of Act No. 023/2002 of 18 November 2002, enacting the Military Judicial Code, which provides that military tribunals shall not have jurisdiction to try minors; monitoring by the Amigos association with support from NGOs such as UK Save the Children; training and awareness-raising organized in particular around the country's provincial capitals, since 2003 by the Ministry of Justice with the cooperation of NGOs, addressed to more than 690 magistrates, judicial police officers, lawyers and members of public and private entities concerned with children in trouble with the law. In this regard, the MONUC report stresses the "Sound practices by prosecutors and courts in Kisangani, Mbuji-Mayi and Bunia, which deal with children aged 16 to 18 as minors, giving primacy to the definition spelled out in the international standards ratified by the DRC."

225. The Government is convinced that adoption by Parliament of the Code of Child Protection, which formally harmonizes national laws applicable to minors with international standards, will thoroughly unify the rules applicable to juvenile justice. This draft contains, in particular, the following innovations:

- The definition of the child as any person under the age of 18 years;



- Placing in parallel the rights and duties of the child;
- Setting the marriageable age at 18;
- Setting the age of criminal liability at 18;
- Creation of juvenile courts;
- Introduction of extrajudicial mediation mechanisms;
- Agencies for child protection.

226. Concerning the requirement to process juvenile cases expeditiously, the aforementioned survey by AJM revealed that in Kinshasa, only 37 per cent on average of cases that came before the judge ended in a final decision during the year 2005. The laws in force do not provide for specialized judges for juvenile cases.

227. With regard to acts alleged against minors, the two aforementioned surveys agree in noting that rape is high on the list, after battery and theft. In Kinshasa especially, of 186 cases recorded by the offices of public prosecutors and the police courts, 32, i.e. 17 per cent, pertained to rape.

228. With a view to re-socializing children in trouble with the law, the Decree of 6 December 1950 provides for three kinds of special measures, among which the judge has discretion to choose, namely:

- To reprimand the child and return him to his parents, enjoining them in future to better supervise him;
- To entrust the child to an educational institution or public or private charity;
- To remand the child to the custody of the Government to be placed in a custodial educational facility of the State (Etablissement de garde et d'éducation de l'Etat (EGEE)).

229. With a view to the execution of the latter measure, and based on Ordinance No 13/140 of 23 April 1954, a number of custodial educational facilities have been established. However, it should be noted that at present, due to lack of sufficient financial resources and following the political instability and the disorder that followed, these establishments have been destroyed, abandoned, or occupied by other services. The table below gives a complete list of the EGEE facilities in the Democratic Republic of the Congo.

#### List of EGEE Facilities

N°	Egee	Province	Capacity	Created by
1.	Madimba	Bas-Congo	800	Ord. n° 13/20 of 13 Jan. 1954
2.	Kasapa	Katanga	300	Ord. n° 11/400 of 3 Aug. 1959
3.	Mbenseke-Futi	Kinshasa	600	Dec. n° 30 of 16 March 1966
4.	Kipuka	Bandundu	350	Dec. n° 287 of 25 Oct. 1967
5.	Bikoro	Equateur	250	Dec. n°126 of 10 Oct. 1971
6.	Nyangezi	Kivu	300	Dec. n° 029 of 2 March 1972

N°	Egee	Province	Capacity	Created by
7.	Kanda-Kanda	East Kasai	300	Dec. n° 119 of 19 June 1975
8.	Bifay-Fay	Orientale	300	Dec. n° 173 of 13 Oct. 1975
9.	Tshibashi	West Kasai	200	Dec. n°
10.	Kinshasa (for girls)	Kinshasa	300	Dec. n° 014/72 of 2 Feb. 1972
2710				

*Source:* Ministry of Justice, Office of Juvenile Delinquency, Report, June 2004.

230. The fact that virtually all of these facilities are not operational has led to harmful judicial practices for children. With regard to the police, it is generally acknowledged that children are being held together with adults. When they come before the judge, if he decides to impose provisional or definitive detention, children are generally placed in a prison which does not always have special quarters, as required by the Decree of 6 December 1950 or Ordinance No. 344 of 17 September 1965 on prison regulations and conditional release. Thus, according to the MONUC report, from July to December of 2005, 37 cases of children were recorded at the Mbujimayi Prison; on 31 December 2005, 35 children, including one girl, were imprisoned in Bunia; and on 5 January 2006, there were 60 minors in the Kinshasa penitentiary and re-education centre.

231. Among governmental interventions with a view to regulating to some extent the system of juvenile justice, a series of circulars from the Ministry of Justice was addressed to judges and prosecutors, dated 10 July 2002, with a view to enhancing protection for children in trouble with the law:

- Circular No. 003 on strict application of Article 17 of the Decree of 6 December 1950 concerning preventive detention of minors and delinquents;
- Circular No. 004 concerning police lock-up of juvenile suspects to compel their guardians to appear;
- Circular No. 005 concerning observance of the triennial revision of measures provided for under Article 18 of the Decree of 6 December 1950;
- Circular No. 006 concerning optional attendance by an officer of the Department of the Public Prosecutor at police court hearings pursuant to the Decree of 6 December 1950 on juvenile delinquency;
- Circular No. 007 concerning the determination of the competent jurisdiction with respect to juvenile delinquency;
- Circular No. 008 concerning arbitrary determination of the age of juvenile delinquents.

232. It should also be noted that the Ministry of Justice has assigned social workers to each police court and juvenile judges have been appointed to police courts or to courts of first instance in places where police courts have not yet been established.

233. In addition, increasing cooperation with NGOs such as Save the Children and the International Catholic Child Bureau (ICCB) has helped to limit abuses against children in trouble

with the law. Organizing activities aimed at affording humane and dignified treatment to minors has led to the following:

- (a) Legal aid at all stages of procedure;
- (b) Improvement of conditions of detention for minors by arrangement of special quarters in police stations, prosecution offices and prisons in Kinshasa and Mbuji-Mayi;
- (c) Opening of private centres for re-education of children as an alternative to imprisonment (e.g. the ICCB Rescue Centre in Kinshasa);
- (d) Psychological and educational services and vocational training combined with cultural and sports activities organized at these centres.

234. These measures, it must be acknowledged, are reaching only a tiny minority of children in some of the country's provinces. The Government is aware that a radical overhaul of the juvenile justice system is imperative. It has been working to that end for over five years, in the context of the revision of the Code on Child Protection. But the more immediate task at hand is to restore existing facilities, in order to end the mixing of detained minors and adults.

-----