


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
No. 31 Bijilo Annex Lay-out, Kombo North District, Western Region, P. O. Box 673, Banjul, The Gambia Tel: (220) (220) 441 05 05 /441 05 06, Fax: (220) 441 05 04 E-mail: achpr@achpr.org ; Web www.achpr.org		

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Consideration of Reports submitted by States Parties under the Terms of Article 62 of the African Charter on Human and Peoples' Rights

Concluding Observations and Recommendations on the Initial Periodic Report of the Republic of Congo

I- Introduction

1. The Republic of Congo (Congo) is a State Party to the African Charter on Human and Peoples' Rights (the African Charter) having ratified the same on 9 December 1982.
2. The present Report gives an account of the human rights situation in the Republic of Congo and encapsulates all the outstanding reports from 1984 to 2009, representing a total of 13 reports.
3. The African Commission on Human and Peoples' Rights (the African Commission) lauds the efforts made in the preparation of the report as well as its presentation during the 45th Ordinary Session by the Republic of Congo, represented by a Delegation led by His Excellency Mr. Alphonse Dinard Moubangat Moukonzi, Chief Director at the Ministry of Justice and also comprising Mr. Valentin Mavoungou, Director General responsible for Human Rights and Fundamental Freedoms, Mr. William Mviboudoulou, Director of International Legal Affairs, Mr. Norbert

Kengo, Head of the Directorate of Special Legal Affairs as well as Mr. Alexis Ekaba, Counselor.

4. These Concluding Observations are a follow-up to the report presented by the Republic of Congo and the answers provided by the Delegation in respect of questions addressed to the same. They also contain positive aspects found in the report as well as factors that are likely to restrict or curtail the enjoyment of human and peoples' rights in the Republic of Congo.
5. These Concluding Observations lay emphasis as well on the areas of concern, which in the opinion of the African Commission, require that measures be taken. Finally, these Concluding Observations also contain recommendations to the Congolese State, which centre on measures that need to be taken to strengthen the enjoyment of human and peoples' rights in Congo.

II - Positive Aspects

The African Commission:

6. Takes note of the fact that since its independence on 15 August 1960, the Republic of Congo has experienced a lot of regime changes, but since 1991, the country has been working towards the establishment of a State based on the respect of human rights and fundamental freedoms.
7. Also notes that the Republic of Congo is committed to the respect of participation of the citizens in the democratic process in furtherance of openness leading to multiparty rule since 1991.
8. Further notes that the Republic of Congo has ratified several international and regional instruments relating to human rights.
9. Notes with satisfaction the fact that the Constitution of 22 January 2002 has led to a conducive environment for the establishment of new institutions based on political pluralism, the separation of powers, the independence of the judiciary and the freedom of expression.
10. Notes that through the National Unity Charter and the Charter on Rights and Liberties adopted at the National Conference, Congo incorporated into its national legislation the provisions of the African Charter and some other international and regional human rights instruments which it has ratified.

11. Welcomes the fact that civil and political rights are guaranteed in title two of its Constitution. The same applies to the freedom of the press, of opinion and information which are guaranteed by the texts, both legislative and regulatory. Furthermore, it must be noted that freedom of association seems to be exercised without any hindrances, thus allowing the citizens to meet at the NGO and political party levels to discuss issues of public concern including those on human rights.
12. Appreciates the existence of institutions such as the National Assembly and the Senate which exercise control over Governmental action, thereby contributing to the development of democracy and governance in Congo. Furthermore, several Ministries are playing important roles in the implementation of human rights through their programs and action plans particularly the Ministry of Justice and Human Rights which has a Directorate in charge of human rights and fundamental freedoms.
13. Is satisfied that the Republic of Congo is giving a great deal of attention to the promotion of the rights of indigenous populations/ Communities.

III - Factors Restricting the Enjoyment of Rights Guaranteed in the African Charter

The African Commission identified several factors which curtail the enjoyment of human and peoples' rights in Congo, notably:

14. The chronic and inherent poverty, illiteracy and lack of popularization of the texts through adapted communication channels.
15. The socio-cultural bottlenecks which persist and constitute an impediment to the full enjoyment by Congolese women of their full rights.
16. The painful events suffered by Congo continue to weaken the economic fabric and they are not without consequences in terms of the realization of the economic, social and cultural rights of the various social segments of the population.
17. The lack of knowledge on the part of majority of the Congolese people of the relevant provisions of the international, regional and national instruments ratified by the Republic of Congo.

IV – Areas of Concern

While recognising the efforts of the Republic of Congo to promote and protect human rights and to create awareness on the principles and provisions of the African Charter, the African Commission remains concerned that:

18. The Report was not prepared in line with the African Commission's Guidelines for the Preparation of Periodic Reports.
19. The Report is brief for a document covering 13 outstanding reports and does not deal with the implementation of the rights enshrined in the African Charter.
20. The Report does not give any indication of the level of collaboration and contribution by civil society actors in the preparation and finalization of the document.
21. The Report does not provide statistics that show the progress made in the implementation of the rights prescribed under the African Charter.
22. The Report fails to indicate the various demobilization, disarmament, reintegration, peace-building and peace-making programs as well as agreements that are put in place and signed by Congo.
23. The issue of refugees, both nationals and foreigners, was not discussed in the Report.
24. The issue of those people who perished at the Brazzaville Beach as well as measures taken towards the execution of the civil provisions of the judgment given in favor of the victims' families in this case was not discussed in the Report.
25. The Report only talks about specific cases of posts occupied by women within certain jurisdictions in Congo but it does not state specific measures taken to ensure the active participation of women in decision-making at all levels.
26. The Report does not give any indication of measures and programs that guarantee reproductive health and access of women to safe, accessible and affordable health services with the aim of reducing the high rate of maternal mortality.

27. The Report does not indicate the measures taken to allow the Mediator's Office to contribute effectively to the promotion and protection of human rights in Congo.
28. The Report does not provide any information on the existence of programs for the translation of texts ratified by Congo into national languages with the view to disseminating them to the majority of the population.
29. The Report, to a certain extent, does not lay emphasis, on specific measures, apart from the legislative and regulatory measures, which were formulated to give effect to the provisions of the African Charter.
30. The proportion of girls and boys in schools including measures taken to address the disparity between boys and girls was not addressed in the report.
31. The table of texts ratified by Congo does not indicate African instruments ratified by Congo.
32. The Report gives no indication of measures taken towards the implementation of the rights and duties enshrined from Article 17 to 29 of the African Charter.
33. The Report does not discuss measures taken or that need to be taken to make the National Human Rights Commission more effective to enable it operate according to the Paris Principles.
34. The measures taken in relation to the United Nations Declaration on Human Rights Defenders and the Kigali and Grand Bay Declarations were not mentioned in the Report.
35. The Report does not mention the steps taken by the Government to resolve problems within the Congolese prison system though these problems were highlighted in the report.
36. No statistics in the provisional assessment recorded in the Report itself made particular reference to the enjoyment of economic, social and cultural rights.
37. The Report lays emphasis on a host of challenges but provides very scanty information on short, medium and long term solutions.

38. The Report does not deal with the issue of relations between the Ministry of Justice and the Bar and it is also silent on concrete measures taken in terms of legal assistance and the results achieved.
39. The Report does not discuss the ongoing reform in the judiciary and also measures adopted to bring justice closer to the people.
40. The independence of the judges, the functioning of the Judicial Council and possible sanctions to which certain judges could be subjected to are not mentioned in the Report.
41. The Report does not lay much emphasis on how timber logging which is one of the main sources of revenue of the Republic of Congo contributes to the improvement in the standard of living of the indigenous population/communities.
42. The Report is silent on measures taken by the Republic of Congo to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol Establishing the African Court), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Protocol on the Rights of Women in Africa) and the African Charter on Democracy, Elections and Governance
43. The Report does not state the measures taken by Congo to guarantee access to water and electricity by the population.
44. The Report does not indicate the nature of the problems that hinder the proper functioning of the National Commission on Human Rights.
45. The fate of detained children, treatment of prison inmates, plans for the renovation of prisons and the existence or non-existence of prisons for women, children, and minors were not discussed in the Report.
46. The problems relating to abuses during detention while awaiting trial as well as the complaints from detainees were not discussed and addressed in the Report.

V - Recommendations

The African Commission recommends that the Government of the Republic of Congo should:

47. Establish an interministerial team which shall collaborate with other actors involved in the promotion of human rights in Congo for the purpose of carrying out investigations and to prepare periodic reports.
48. Find out recurring human rights problems in Congo and provide statistics in the various cases in order to resolve them effectively.
49. Take measures to increase the rate of participation of Congolese women in all decision-making bodies.
50. Take measures and concrete steps to implement the provisions of the African Charter; that is in addition to the legislative and regulatory measures.
51. Resolve the problem that is impeding the proper functioning of the National Human Rights Commission to enable this institution to contribute to the promotion and protection of human rights in Congo.
52. Take appropriate measures for the implementation of the provisions of the United Nations Declaration on Human Rights Defenders as well as the Kigali and Grand Bay Declarations.
53. Guarantee the safety of human rights defenders in exercising their activities in accordance with the United Nations Declaration on Human Rights Defenders and the principles enshrined in the African Charter.
54. Incorporate in the next periodic report concrete steps taken to ensure the enjoyment of human rights prescribed in Articles 17 to 26 of the African Charter.
55. Incorporate in the next report practical measures taken by Congo towards the implementation of the provisions of Articles 27 to 29 of the African Charter relating to duties.
56. Provide a comprehensive list of treaties and agreements and other human rights instruments ratified by Congo.
57. Indicate in the next report measures taken by the Government relating to the implementation of the judgment on the victims of the Brazzaville Beach case and find appropriate solution for the payment of a fair and equitable compensation to their successors.
58. Provide statistics on prisons regarding the number of prisons and the different categories and take appropriate measures to ensure adequate and full care of prison inmates.

59. Take measures to ensure compliance with the Robben Island Guidelines by its law enforcement agents.
60. Provide disaggregated statistics on HIV/AIDS in Congo as well as solutions aimed at providing ARVs and care for children.
61. Provide statistical information on indigenous peoples and detailed information on concrete measures taken towards recognizing their rights.
62. Ratify the Protocol on the Rights of Women in Africa and take legislative as well as other measures to curb violence against women.
63. Ratify the African Charter on Democracy, Elections and Governance as well as the Protocol Establishing African Court, and ensure to make the required Declaration under Article 34(6) of the said protocol.
64. Incorporate in the next report disaggregated statistics to enable the illustration of the status of implementation of the rights enshrined in the African Charter.
65. Provide statistics on the different demobilization, disarmament, re-integration, construction and peacemaking programmes including the agreements signed by Congo concerning the said programs.
66. Provide disaggregated data on reproductive health.
67. Collaborate with the Mediator in the Republic of Congo and enhance his role to enable him contribute to the promotion and protection of human rights.
68. Start translating into local languages all relevant human rights instruments ratified by Congo with the aim of ensuring a better dissemination and promoting understanding among the general population.
69. Provide disaggregated statistics on the proportion of girls and boys in schools including measures taken to reduce the disparity between girls and boys.
70. Create conditions for the promotion of better working relations between the police detective officers and the Bar with the view to ensuring a better guarantee of rights of defense.

71. Collaborate with the Bar with the view to initiating measures to ensure effectiveness in providing legal assistance.
72. Adopt appropriate measures to resolve all problems within the Congolese prison system and report on the results achieved.
73. Provide information on the conditions and treatment of delinquent children in rehabilitation facilities.
74. Provide information on the conditions of treatment of inmates in prisons, plans for renovation of prisons and the existence or non existence of prisons for women and minors.
75. Take measures to reduce the problems relating to abuses in custody as well as properly address complaints made by detainees.
76. Provide statistical information on the enjoyment of economic, social and cultural rights in Congo by placing emphasis on gender, vulnerable groups and indigenous populations.
77. Provide short, medium and long term solutions to the challenges identified in the Report ;
78. Provide information on all programs relating to the reform of the justice system and provide precise information on the program of bringing justice closer to the people.
79. Take the necessary measures to ensure the independence of judges and the smooth functioning of the Higher Judicial Council.
80. Provide statistical information on measures taken and the results achieved in relation to access of the population to potable water and electricity.
81. Inform the African Commission, in its next Periodic Report, of the steps it has taken to address the areas of concern, as well as how it has implemented the recommendations in this Concluding Observations.

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